

## THE LAW GLOBALIZATION IN CYBERCRIME PREVENTION

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### **Abstract**

*Globalization makes the world without borders, countries compete freely in various fields, and sometimes cross the jurisdictional limits of a country, overcoming cybercrime in legislation is absolutely necessary. Related to the jurisdiction of this crime which is a global crime, it is necessary to have a separate law that regulates cybercrime. The approach method using normative juridical. The results of research and discussion stated that The law globalization and politics provides cybercrime countermeasures in the application of legal norms between nations, which increasingly play an important role, especially how to regulate all forms of advances in information technology, communication, and transportation. This is inseparable from the foreign policy that has been woven between nations so far. Cybercrime regulation in legislation is absolutely necessary. Regarding jurisdiction over this crime, which is a global crime, it is necessary to have a separate law that regulates cybercrime, namely cyber law, which also regulates its jurisdiction by including the principle that allows cybercrime actors who harm the state even though they are outside the territory of the country.*

**Keywords:** *Cybercrime; Globalization; Law; Prevention.*

### **A. INTRODUCTION**

The development of science and technology increasingly encourages renewal efforts in the utilization of technological results.<sup>1</sup> The development of information and communication technology is progressing rapidly both globally and regionally. These developments ultimately made it easier for the world community to access all information and communication without knowing the boundaries of space and time so that the boundary lines of accessing information were lost. However, the development of information and communication technology not only brings positive impacts such as easy access to information or communicates freely but also brings negative

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1 Nurhaidah, M. Insyah Musa, Dampak Pengaruh Globalisasi Bagi Kehidupan Bangsa Indonesia, *Jurnal Pesona Dasar*, Vol. 3 No. 3, April 2015, page.1-14

impacts that can threaten the country's sovereignty. This can be illustrated through the many crimes that occur in cyberspace (cybercrime).<sup>2</sup>

From the beginning people are always looking for ease in carrying out the activities in achieving life. It has been fulfilled with the advancement of technology. Nonetheless, people are still not satisfied, so always look for the possibility to easily meet their needs.<sup>3</sup> The rapid development of technology brings progress in almost all aspects of human life.<sup>4</sup> All aspects of human life are inseparable and cannot even be separated from technological developments. Especially entering the era of globalization, where various types of changes are offered or sold by the world market and any nation, so that people in different parts of the world still reap the impact according to the information and changes that are penetrated. Through the globalization of information that has really entered homes, schools, and religious institutions, people are dragged into accessing and enjoying various forms of information on the cultural revolution in other countries or nations on earth. People are constantly given a dish called the "menu of change" which directs people to become another human being, a human style that is in accordance with the targets of the globalization regime.<sup>5</sup>

Globalization in this case can be said to be a major shift of economic and political power which is mainly caused by technological inventions.<sup>6</sup> Barbara Parker give the following definition of globalization:<sup>7</sup> There is a growing sense that events occurring throughout the world are converging rapidly to shape a single, integrated world where economic, social cultural, technological, business other influences cross traditional borders and boundaries such as nations, national cultures, time, space, and business industries with increasing ease.

There is an increasing meaning that events around the world are rapidly coalescing to form a single and integrated world where economic, socio-cultural, technological, business and other influences on traditional boundaries such as countries, national cultures, time and space and business industries are increasing easily.

Globalization is a consequence that cannot be avoided by any country. Globalization makes the world without borders, countries compete

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2 Dessy Permatasari Saputri, Surryanto D. W., Helda Risman, Indonesian Cyber Diplomacy: Asean-Japan Online Cyber Exercise, *Technium Social Sciences Journal*, Vol. 9, July 2020, page.453-464

3 Andri Winjaya Laksana, Cybercrime Comparison Under Criminal Law in Some Countries, *Jurnal Pembaharuan Hukum*, Vol V No.2 April-August 2018, page.217-226

4 Andi Aina Ilmih, Kami Hartono, Ida Musofiana, Legal Aspects Of The Use of Digital Technology Through Sharia Online Transactions In Traditional Markets In Increasing Community Economy, *International Journal Of Law Reconstruction*, Volume 3, Issue 11, September 2019, page.114-122

5 Abdul Wahid & Mohammad Labib, *Kejahatan Mayantara (Cybercrime)*, Refika Aditama, Bandung, 2005, page. 2.

6 Ade Maman Suherman, *Aspek Hukum Dalam Ekonomi Global*, Revision Edition, Ghalia Indonesia, Bogor, 2005, page. 168.

7 Barbara Parker, *Evolution and Revolution from International Business to Globalization in Hand Book of Organization Studies*, London, 1997, page. 67.

freely in various fields, and sometimes cross the jurisdiction of a country. Globalization of the world is seen as a result of the development of information technology, especially in the use of cyberspace as an electronic communication medium to disseminate information throughout the world. The discovery of information technology has an impact on several aspects of a country, such as national sovereignty, for example in relation to the elimination of trade barriers with criminal cases in cyberspace.

One of the products of science and technology is information technology or commonly known as telecommunications technology. In its development, with the discovery of the computer as a product of science and technology. Then there was a convergence between telecommunications technology, media, and computers. The convergence of communication technology, media, and computers has resulted in a new tool called the internet. Technological progress which is the result of human culture, in addition to having a positive impact, in the sense that it can be utilized for the benefit of mankind, also has a negative impact on human development and civilization, namely saving vulnerabilities which are certainly very dangerous, namely the emergence of crime in cyberspace which has become a reality world community known as cybercrime.

Crimes using technology, namely information technology, especially computers and the internet (cybercrime) have reached an alarming stage. Advances in information technology, in addition to bringing to the business world a revolutionary (digital revolution era) that is all practical, turns out to have a terrible dark side, such as pornography, computer crime, even digital terrorism, waste information wars, and hackers.<sup>8</sup> Additionally, it is important to understand the societal and legal response to emerging cybercrime for the design of new prevention and protection methods.<sup>9</sup>

This crime is transnational in nature, so it requires proper regulation to fight this crime that crosses the jurisdiction of a country, because this crime brings enormous losses in various fields, namely the political, economic, social, cultural, and defense and security fields. Jurisdiction is the authority of a country to carry out regulations which are manifested in the executive, judicial, and legislative powers. A state has the authority to regulate all individuals (*ius in personam*), objects (*ius in rem*), and events that are within the scope of its legal authority. The enforcement of jurisdiction is not only limited to geographic or physical state scope, but can be applied to things/objects that are outside its territory.

In today's era of globalization, legal norms between nations are increasingly playing an important role, especially how to regulate all forms of advances in information technology, communication, and transportation. The three sides of progress eliminate all forms of distance, time, and space. With all that, geographical constraints no longer apply. This is inseparable from the foreign policy that has been woven between nations so far. So, law

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8 Ade Maman Suherman, *op.cit.*, page. 189.

9 Catherine friend, Lorraine bowman grieve, Jennifer Kavanagh, Marek Palace, fighting cybercrime: A review of the Irish Experience, *International journal of cyber criminology*, Vol 14 Issue 2 July-December 2020, page. 383-399

and politics cannot be separated, especially in this era of globalization with all the sophistication it has to offer.

Satjipto Rahardjo stated that the law has now become a conditional tool with political decisions.<sup>10</sup> Soetandyo Wignjosoebroto also argues that law as a product of the legislature is actually not neutral in the true sense because the process is full of aspirations and political interests.<sup>11</sup> Therefore, legislative activities (lawmakers) pay more attention to political decisions than to carry out actual legal works.<sup>12</sup> Furthermore, Mulyana W. Kusuma stated that law as a means of political power occupies a more dominant position,<sup>13</sup> compared to other functions.<sup>14</sup> In terms of legal and political relations Moh. Mahfud MD proposed three kinds of alternative answers, namely:<sup>15</sup>

1. Legal determinants of politics, in the sense that political activities are governed by and must be subject to legal rules;
2. Political determinants of law, because law is a crystallization of political wills that interact and even compete with each other;

Politics and law as social sub-systems are in an equal position with equal determination between each other, because even though law is a product of political decisions, once law exists, all political activities must be subject to legal rules.

In historical studies, if carefully examined from every existing legal concept, it is always inseparable from the influence of political and economic conditions. Therefore, in addition to the political situation, in making and implementing the law, in addition to conventional considerations such as justice, legal certainty, order, human rights, morality, economic interests are also considered,<sup>16</sup> and pay attention to the extent of the consequences arising from the source of the problem.

Cybercrime as an impact of globalization that causes many losses in various fields, must be handled optimally, considering that perpetrators of violations often become difficult to be caught because the law and courts do not have jurisdiction over the perpetrators and legal actions that occur, considering that violations of law are transnational in nature but the consequences actually have implications law in that country, Indonesia is no exception.

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10 Satjipto Rahardjo, *Sosiologi Hukum, Perkembangan Metode & Pilihan Masalah*, Universitas Muhammadiyah Press, Surakarta, 2004, page. 81.

11 Soetandyo Wignjosoebroto, *Hukum & Masyarakat*, Bayumedia Publishing, Malang, 2008, page. 81.

12 Dahlan Thaib, Jazus Hamid, Ni'matul Huda, *Teori & Hukum Konstitusi*, Raja Grafindo Persada, Jakarta, 2004, page. 78.

13 Mulyana W. Kusumah, *Perspektif Teori & Kebijakan Hukum*, Rajawali, Jakarta, 1986, page. 19.

14 Marwan Mas, *Pengantar Ilmu Hukum*, Ghalia Indonesia, Jakarta, 2004, page. 80-94.

15 Moh. Mahfudz MD, *Politik Hukum Di Indonesia*, LP3ES, Jakarta, 1998, page. 2.

16 Munir Fuady, *Dinamika Teori Hukum, Ghalia Indonesia*, Bogor, 2007, page. 16 & 17.

## **B. RESEARCH METHODS**

In writing this journal using normative juridical research methods, using secondary data, and data from journals that have been published then further analyzed by literature study. The normative juridical approach is an approach that refers to the prevailing laws and regulations.<sup>17</sup> Normative Juridical Research is a legal research method conducted by examining library materials or secondary materials.<sup>18</sup> Legal research with a normative doctrinal approach, or normative juridical legal research or normative legal research is basically an activity that examines the internal aspects (to solve problems that exist in) the internal of positive law. This is done as a consequence of the view that law is an autonomous institution that does not have any relationship with other social institutions.<sup>19</sup>

## **C. RESULTS AND DISCUSSION**

### **1. The Influence of Globalization in Cybercrime Prevention**

In the era of globalization, information technology plays a very important role. By mastering technology and information, a country has sufficient capital to become a winner in global competition. The life of today's society, slowly began to experience a very big change. The change is the change in the industrial era into the era of technology and information behind the influence of the advancing era of globalization which makes computers, the internet, and the rapid development of information technology the main part that must exist or should not be lacking in people's lives today, because in the era of globalization, if not mastering information technology is synonymous with illiteracy.

From the beginning, people have always looked for convenience in carrying out activities in achieving their needs. This has been fulfilled with the advancement of technology. However, people are still not satisfied, so they are always looking for the possibility of convenience in meeting their needs. On the other hand, in achieving their needs, it often happens that someone actually does something despicable.<sup>20</sup>

Advances in technology and information that are marked by the emergence of the internet, and are the result of a technological revolution that collaborates synergistically with information technology and computers, in their development have caused rapid changes to the structure of society from agrarian to industrial, industrial to informational, which in the end brought and created new patterns, models and lifestyles in a new world, namely the virtual world (cyber).<sup>21</sup>

The internet has integrated with human activities ranging from

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17 Bambang Sunggono, *Metodologi Penelitian Hukum*, PT Raja, Jakarta, 2003, page. 32.

18 Henni Muchtar, *Analisis Yuridis Normatif Sinkronisasi Peraturan Daerah Dengan Hak Asasi Manusia*, *Humanus* Vol. XIV No.1, 2015, page.80-91

19 Kornelius Benuf, Muhamad Azhar, *Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer*, *Jurnal Gema Keadilan*, Volume 7 Edition I, June 2020, page.20-33

20 Loebby Loqman, *Kapita Selekta Tindak Pidana Di Bidang Perekonomian*, Datacom, Jakarta, Tt, page. 43.

21 Umar Tirtarahardja & La Sula, *Pengantar Pendidikan*, Rineka Cipta, Jakarta, 2000, page.35.

small and simple activities to important and complex activities. This reality is a plus of technology. With internet technology services, many companies carry out several business activities such as online marketing, distance selling, and e-commerce.

Another example is the use of internet media as a means of support in booking/reserving tickets (airplanes, trains), hotels, payment of telephone bills, electricity, has made consumers more comfortable and safe in carrying out their activities. Consumers do not need to leave the house and queue to get the service they want because the ordering/reservation process can be done at home, office, even in a vehicle, as well as the level of security in transactions is relatively guaranteed because transactions are carried out online.<sup>22</sup>

Economic globalization network activities caused by advances in information technology not only change patterns of economic productivity but also increase productivity levels, and at the same time also cause structural changes in political life, culture, social life of society and also the concept of time in various layers of society.

Information technology in addition to having a positive impact, it has a negative impact on the social life of its users. This negative impact is called the dark side of advanced technology. This negative impact is the emergence of various anti-social behaviors, deviant behavior, and internet-based crimes in cyberspace.

The emergence of crime in cyberspace or cybercrime is a justification, that this global era is synonymous with the era of malignant mines. An imaginary and virtual space, an area or zone for everyone to carry out activities that can be done in everyday social life in an artificial way. Everyone can communicate with each other, enjoy entertainment, and access whatever he thinks can bring pleasure or perhaps satisfaction. There are various offers in cyberspace according to global information sold by capitalists who are willing to justify any means to make a profit. Even ironically, they also intend to undermine the moral, ideological, and religious resilience of other nations on earth that are different from themselves.

The qualification of cybercrime, as quoted by Barda Nawawi Arief, is a cybercrime qualification according to the 2001 Convention on Cybercrime in Budapest, Hungary, namely:<sup>23</sup>

- a. *Illegal access*: intentionally entering or accessing a computer system without rights;
- b. *Illegal interception*: intentionally and without rights overhearing or capturing secretly the transmission and transmission of non-public computer data to, from, or within a computer system using technical aids;
- c. *Data interference*: intentionally and without rights destroying,

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22 Didik M. Arif Mansur & Elisatris Gultom, *Cyber Law: Aspek Hukum Teknologi Informasi*, Refika Aditama, Bandung, 2005, page. 85.

23 Barda Nawawi Arief, *Masalah Penegakan Hukum & Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan*, Kencana Prenada Media Group, Jakarta, 2007, page. 24.

- deleting, changing or deleting computer data;
- d. *System interference*: intentional unauthorized interference or serious interference with the functioning of a computer system;
- e. *Misuse of devices*: namely misuse of computer equipment, including *computer programs, computer passwords, access codes*;
- f. *Computer related forgery*, namely falsification (intentionally and without rights entering, changing, deleting authentic data to be inauthentic with the intention of being used as authentic data);
- g. *Computer related fraud*, namely fraud (intentionally and without rights causing the loss of goods/wealth of others by entering, changing, deleting computer data or by interfering with the functioning of computers/ computer systems, with the aim of obtaining economic benefits for themselves or others);
- h. *Content related offences*, namely offenses related to child pornography;
- i. *Offences related to infringements of copyright and related rights*, namely offenses related to copyright infringement.

Information technology and telecommunications have succeeded in changing the order and pattern of production, trade and investment of multinational companies and global companies.

Radically, cyber space has changed the relationship between legally significant (online) phenomena and physical location. The increase in global computer networks (global computer networks) has destroyed the relationship between geographic location and:

- a. Government authority to impose control over online behavior;
- b. The influence of online behavior on individuals or goods;
- c. Government legitimacy to regulate global phenomena; and
- d. The ability of the territory to inform people who cross the border regarding the applicable law.

This radical change as stated by Jessica Lipnack and Jeffrey Stamps is a smash the boundaries, tear down the hierarchy and dismantle the bureaucracy. Of course, this change causes anything that comes into contact with information technology to undergo adjustments, so that globalization also demands changes in trade, investment, information technology, and so on policies that provide more freedom of movement so that capital, technology, and labor can move easily between countries territorial sovereignty of the state.

It is not wrong if globalization demands so, because it is related to advances in information technology that creates cybercrime, the potential to cause harm in several fields such as politics, economy, social and culture which is significantly more concerning than other high-intensity crimes and even in the future can disrupt the national economy through infrastructure networks based on electronic technology (banks, telecommunications, satellites, electricity networks, and aviation traffic networks).

Given the nature of the internet that transcends national borders, solves problems of time and place and operates in cyberspace, the internet gives birth to various forms of activities that are not fully regulated by the existing law. This fact has made people aware of the need for regulations governing activities on the internet.

In a state of law (*Rechtstaats* and rule of law), power which is a reflection of politics manifested in every policy requires a regulatory/legal basis so that the legitimacy of the policy (politics) can be accounted for. In a global context, legal politics cannot only protect national interests, but must also protect cross-border interests, as is the case with cybercrimes that are transnational in nature.

The law globalization and politics causes the regulations of developing countries regarding investment, trade, services, information technology, and other economic fields to approach developed countries (convergence), as well as regulations regarding cyber space activities that cannot be separated from relations with other countries.

The urgency of national regulation of activities in cyber space is based on three main thoughts, namely: <sup>24</sup>

- a. The need for legal certainty for perpetrators of activities in cyber space because it has not been adequately accommodated in existing regulations;
- b. Efforts to anticipate the implications arising from the use of information technology; and
- c. The existence of global variables, namely free competition and open market (WTO/GATT).

According to Soerjono Soekanto, advances in technology will go hand in hand with the emergence of changes in the social sector. Changes in society can be about social values, social rules, patterns of behavior, organization, and structure of social institutions. <sup>25</sup>

Generally, a society that experiences changes due to technological advances, gives birth to many social problems. This happens because the condition of the community itself is not ready to accept change or it can also be because the values of the community have changed in assessing the old conditions as conditions that are no longer acceptable.

These legal issues are closely related to the development of information technology regulation (cyber space) today. As it is known that in facing the era of information technology which is getting faster without being limited by time and territory of the country (timeless and borderless), the law in Indonesia is very far behind, there are many problems that have not been solved through this legal instrument.

The development of the legal sector is expected to be able to

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24 Mieke Komar Kantaatmaja, *Menyongsong Penyusunan Peraturan Perundang-undangan Telematika (Cyber Law)*, Makalah pada Seminar Nasional tentang Aspek Hukum Transaksi Perdagangan via Internet di Indonesia (E-Commerce), SEMA FH Unpad, Bandung, 22 July 2000, page.7.

25 Soerjono Soekanto, *Pokok-pokok Sosiologi Hukum*, Rajawali Pers, Jakarta, 1980, page. 87 & 88.



contribute to the development of the information technology era and the acceleration of economic development. General conditions in Indonesia have not supported Indonesia's readiness to face the current global competition.

The influence of law on the acceleration of economic development in Indonesia plays a very strategic role, through legal instruments all economic activities in their various manifestations have a basis of validity (legality). Through legal instruments, protection in activities is increasingly guaranteed.

All economic activities that are carried out without having a strong legal basis will easily lead to various problems, in which these problems when calculated economically (profit and loss) will lead to high costs.

The will for a safe and clear international trade climate for the international community and for creating sustainable trade liberalization in the fields of investment, labor, services to encourage increased rates of economic growth and development throughout the world, has been started since the establishment of GATT through a series of negotiations that led to the formation of the World Trade Organization (WTO).

Security and clarity (certainty) in transactions cannot be ignored in ensuring the continuity of transactions, especially in the current era of globalization, where trade transactions are no longer limited by differences in distance, national background, legal system, position, capital, education level, domicile, and so on.

Problems that arise if not addressed immediately will give rise to various conflicts that cause the purpose of the transaction to be unattainable, both from an economic point of view and from a good relationship. Legislation/law regulations as one part of the supporting elements of economic development activities can make a significant contribution to the acceleration of economic development. Economic development requires a solid juridical basis, so that the existence of laws and regulations has a positive influence.

Regulations in the field of information technology that are comprehensive in nature must contain all problems related to their use, such as legal, economic, institutional issues, dispute resolution, and so on. The regulation of information technology will facilitate the implementation of development as well as evaluation of the use of the technology.

Related to the regulation of information technology (cyber space), there are factors driving the need for the immediate establishment of a law that regulates activities in cyber space, among others:

- a. The factual conditions that show that almost every human life has been influenced by the use of information technology activities. Starting from the needs of children to the needs of adults, ranging from household equipment to the needs of sophisticated state defense and security, so it is ironic that for such complex activities there is no legislation that regulates them;
- b. Existing regulations (the existing law) have not been able to answer

the problems that arise in the field of information technology. The logical consequence of this situation is that the use of technology is hampered;

- c. There are concerns from some groups (especially those who are in the business world), regarding the absence of legal guarantees in carrying out activities through information technology facilities if the regulations in question have not been established. It should be noted that safety in activities is one of the determining factors for the creation of a good business climate;
- d. Indonesia, as a part of the world community, cannot avoid improving its legal instruments, especially those related to information technology, so as not to be excluded from the international arena;
- e. Competition in the fight for foreign investment is getting tighter, many countries in the world in an effort to attract foreign investors to enter their country provide various kinds of facilities. The unpreparedness of a country to draft an information technology law is one of the factors inhibiting the entry of foreign investment.

The influence of the formation of the information technology law is as follows:

- a. Guarantee of certainty and security in doing business. In developing countries such as Indonesia, the issue of business certainty and security is a top priority that needs to be realized. The fear of nationalization as happened several decades ago is a bad experience that every company that intends to invest in Indonesia can avoid as much as possible. Therefore, it is hoped that through the establishment of an information technology law, guarantees of security and certainty in doing business, especially with regard to information technology-based activities, will be more realized.

In Indonesia, there are now many individuals and companies that provide Voice over Internet Protocol (VoIP) services, which is a protocol used on the internet to communicate. Even though there is no provision regarding this matter, as a result, several years ago it was reported that there had been an arrest of a person providing VoIP services, as if the person in question stole credit from PT. Telkom. This condition should be avoided as much as possible if the information technology law has been made.

- b. Entering the era of information technology, of course, conventional economic activities can gradually be avoided. This fact has begun to be applied in stock trading on the stock exchange floor, where trading has been carried out paperless. Also at the Customs office, document processing is completely computerized. The same thing will be found when internet media is used in electronic commerce activities.

Physical meetings between the parties will not be found, agreements will no longer be made on a piece of paper, signatures will no longer be made on a piece of paper and will not be in

handwriting. Due to the trend towards virtual phenomena, the establishment of an information technology law/cyber law that provides the basis for the validity of contracts electronically will have an impact on increasing the number of transactions because business partners can negotiate only through computer devices, no need to come to Indonesia;

- c. Protection of personal rights, both individuals and companies that have not been regulated in the existing laws (the existing law) can be a factor driving the entry of foreign investment.

Experience in Switzerland or Singapore has proven that with the preservation of personal rights (even if they are sometimes used by people who violate them), the economic activity in these countries shows relatively encouraging numbers. Therefore, it is hoped that in the formation of the information technology law, the regulation of personal rights is included in one of its provisions;

- d. Economic activities, both domestic and international in nature, are always haunted by the possibility of disputes arising. The dispute resolution mechanisms that have been adopted by the parties are often unsatisfactory, even though supporting evidence is available.

The problem that arises is how the position of evidence in transactions with the internet which is mostly in the form of codes and all digital can be equated with evidence that has been known so far, such as written/written evidence. This is where the role of the information technology law/cyber law will provide certainty to the evidence, so that the parties can anticipate it when a dispute arises in the future;

- e. Determination of jurisdiction is also prone to causing problems. Each party always wants any disputes that arise to be resolved in their own country, in the hope that it will be more profitable for them.

The problem that arises regarding the determination of jurisdiction is to determine which court is authorized to resolve the dispute if the dispute arises as a result of a transaction carried out via the internet, whether the court where the recipient is or the sender is located or what if the transaction is carried out in an international area.

For example, an agreement to make a transaction is made while boarding an airplane or ship because it uses a computer. The information technology law/cyber law would be able to provide clarity regarding the issue of determining jurisdiction;

- f. The field of taxation is a very important thing to consider when carrying out a business activity, because this problem will greatly affect the running of a business activity. Tax is an obligation for business actors.

Therefore, in practice, the parties tend to reduce tax expenditures as much as possible. In transactions with the internet, it is possible to impose double taxation, because the tax subject in his country has been levied tax, while in other countries he is also

subject to tax on the transactions he does.

Likewise, the need for clarity on what activities can become objects of taxation, the tax aspect also requires clarity in the regulation of the information technology law, so that business actors in the information technology sector should not discourage their intention to invest in Indonesia due to unclear tax regulations.

## **2. Cybercrime Prevention Policy**

The importance of the law on information technology that covers all cybercrimes (cyber law) which is expected to regulate the use of information technology comprehensively is something that cannot be delayed any longer. The factual conditions in the lives of Indonesian people have proven that the absence of cyber law results in the emergence of various forms of concern in carrying out virtual activities, such as confidentiality, certainty, security, and so on.

Allowing this concern to continue is very influential on economic growth in Indonesia, both micro and macro. Experience in developed countries shows that there is a significant relationship between optimal use of information technology and accelerated economic development. In the end, economic development will lead to increased economic growth. Experience in developed countries can be used as a reflection for Indonesia to immediately form an information technology law/cyber law that covers all cyber space activities, given the large influence the formation of cyber law has on accelerating economic development.

Regarding the regulation of cybercrime, Muladi saw from three approaches, namely:<sup>26</sup>

- a. A global approach which requires a new general regulation of computer crime which includes various forms of acts such as manipulation, destruction, theft and use of computers against the law and without authority (access to data processing system). This can be seen, for example, in the Swedish Data Act 1973;
- b. An evolutionary approach (evolutionary approach) which seeks to reform or amend the formulation of traditional crimes by adding objects and ways of committing computer crimes in its formulation. Addition in this case can mean modification or in the form of supplementation. Examples are the Penal Code Amendment Act 1985 in Canada; and
- c. Compromise between the global approach and the evolutionary approach, which is done by including computers in the codification of criminal law.

Globalization makes it easier for humans to relate, including in establishing cooperation in the diplomatic field with other countries. This is possible because cooperation, both in trade and in politics, is able to make Indonesia better known to other nations, with visits and communications, both direct and indirect, able to strengthen relations

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26 Agus Raharjo, *Cybercrime, Pemahaman & Upaya Pencegahan Kejahatan Berteknologi*, Citra Aditya Bakti, Bandung, 2002, page. 226 & 227.

between two or more countries. So, if a country does not want to be alienated by the world community, it must be willing to open itself so that it does not fall behind in any case. Globalization makes it possible to make countries more open to the economy of a nation and even in terms of ratifying certain laws to address transnational problems. One of them is cooperation in dealing with cybercrime.

Cybercrime regulation in legislation is absolutely necessary. Regarding jurisdiction over this crime, which is a global crime, it is necessary to have a separate law that regulates cybercrime, namely cyber law, which also regulates its jurisdiction by including the principle that allows cybercrime actors who harm the state even though they are outside the territory of Indonesia.

Regarding the issue of jurisdiction, Barda Nawawi Arief recommends applying the principle of "ubiquity". The principle of ubiquity is the principle which states that offenses that occur in part of the territory of the state and partly outside the territory of the state must be brought into the jurisdiction of the state concerned.

Facing this cybercrime, Indonesia has regulated it through Act No. 11 of 2008 concerning Information Technology and Electronics. However, the law does not regulate all crimes in cyberspace, so it is necessary to modernize the law. In addition to modernizing the law, Indonesia must also be active in international agreements which are a form of political cooperation with other countries, especially in the context of eradicating this cybercrime. Especially against the convention on extradition relating to cybercrime. Without an international agreement, such as extradition, of course, it will not be able to impose national law on other countries.

The development of the legal world that regulates cybercrime is widely promoted by international institutions. In its resolution at the VIII/1990 United Nations Congress, the United Nations put forward several policies in order to tackle cybercrime, namely:<sup>27</sup>

- a. Calling on member countries to intensify efforts to tackle computer abuse more effectively by considering the following steps:
  - 1) Modernizing material criminal law and criminal procedural law;
  - 2) Develop computer security and preventive measures;
  - 3) Take steps to sensitize citizens, court officials and law enforcement, to the importance of preventing computer-related crimes;
  - 4) Conduct training efforts for judges, officials and law enforcement officers regarding economic crimes and cybercrime;
  - 5) Extend the "rules of ethics" in the use of computers and teach them through information curricula;
  - 6) Adopt a policy to protect victims of cybercrime in accordance with the UN declaration on victims and take steps to encourage reporting of cybercrimes.

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27 Abdul Wahid & Mohammad Labib, *op.cit.*, page. 118-119.

- b. Calling on member countries to increase national activities in efforts to combat cybercrime;
- c. Recommend to the United Nations Committee on Crime Prevention and Control to:
  - 1) Disseminate guidelines and standards to assist member countries in dealing with cybercrime at national, regional and international levels;
  - 2) Develop further research and analysis to find new ways to deal with cybercrime problems in the future;
  - 3) Consider cybercrime when reviewing the implementation of extradition treaties and cooperation assistance in the field of crime prevention.

In addition, efforts to overcome cybercrime are also carried out by 41 countries that are members of the Council of Europe, namely by harmonizing criminal law policies to tackle cybercrime with the following steps:<sup>28</sup>

- a. In November 1996, the European Committee on Crime Problems (CDPC) formed a committee of experts in the field of cybercrime which was later called the Committee of Experts on Crime in Cyber space (PC-CY) and succeeded in compiling a Draft Convention on Cybercrime;
- b. In April 2000, the draft convention was published on the internet for public discussion. The initial published draft was Draft No. 19. As of December 2000, it has become Draft No. 25 and in February 2001 a Draft Explanatory Memorandum against the Draft Convention was successfully drawn up. In May 2001, the final draft of the Convention and its Explanatory Memorandum (ie Draft No. 27. Rev.) was submitted for approval by the European Committee on Crime Problems (CDPC) at the 50th meeting (dated 18-22). June 2001);
- c. The draft of this cybercrime convention consists of four chapters:
  - 1) Regarding terminology;
  - 2) Regarding actions taken at the domestic national level (member countries) in the field of material criminal law and procedural law;
  - 3) Regarding international cooperation; and
  - 4) Closing.

The influence of globalization on the advancement of information technology for the Indonesian people, among others, can develop technology and information at an international standard, can use technology to publicize the potential of the Indonesian state, and open access to information from the international community as a comparative study and as a collaboration with other countries. In addition, as previously mentioned, information technology also has a negative side, namely the emergence of a new type of crime called cybercrime.

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28 Barda Nawawi Arief, *Kapita Selekta Hukum Pidana*, Citra Aditya Bakti, Bandung, 2003, page. 255-258.

Because cybercrime is cross-border and causes enormous losses, international cooperation is needed in handling this cybercrime as a form of Indonesian foreign policy so that the risk of political stability is maintained, which is then regulated in several international conventions or agreements. Indonesia complies with the legal regulations and international agreements, ratifies international legal agreements in cybercrime matters, and respects international justice and cooperates with Interpol.

The influence of globalization in Indonesia's national legal order, which is so large, must be balanced with the strong will of the entire Indonesian nation in the context of developing a better national law. This is increasingly understandable considering that globalization is a phenomenon that cannot be denied or avoided by any country that does not want to be isolated in the international arena.

#### **D. CONCLUSION**

Globalization of the world is seen as a result of the development of information technology, especially in the use of cyberspace as an electronic communication medium to disseminate information throughout the world. This change causes anything that comes into contact with information technology to undergo adjustments, so that globalization also demands changes in policy settings for trade, investment, information technology, and so on that provide more freedom of movement so that capital, technology, and labor can move easily between sovereignty of country territory. The law globalization and politics provides cybercrime countermeasures in the application of legal norms between nations, which increasingly play an important role, especially how to regulate all forms of advances in information technology, communication, and transportation. This is inseparable from the foreign policy that has been woven between nations so far. Cybercrime regulation in legislation is absolutely necessary. Regarding jurisdiction over this crime, which is a global crime, it is necessary to have a separate law that regulates cybercrime, namely cyber law, which also regulates its jurisdiction by including the principle that allows cybercrime actors who harm the state even though they are outside the territory of the country.

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