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Adapting Criminal Law to Technological Developments and Transnational Crime

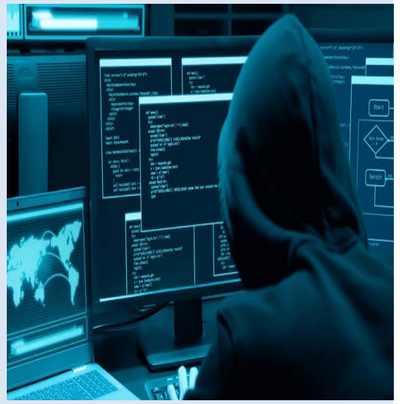
Hendronoto Soesabdo



Common Forms of Cybercrime



Cyber financial crime



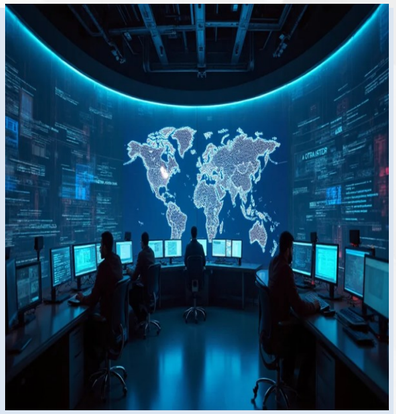
Hacking / illegal access



Identity & data theft



Ransomware



Attacks against critical infrastructure

A single cybercrime may involve:

- an **offender** in state A
- **victim** in state B,
- **server/data** in state C, and
- financial **assets** in state D.

A single cybercrime can cross multiple national borders and challenge traditional, territory-based jurisdictional frameworks

Article 2, Indonesian ITE Law

> *"This Law shall apply to any Person who performs an act as regulated under this Law, whether within or outside the jurisdiction of Indonesia, where such act has legal effects within and/or outside the jurisdiction of Indonesia and prejudices Indonesia's interests.*

- **Extraterritorial by design**
- **Consequence-based trigger**
- **Covers all actors**
- **Rationale: borderless tech**

Conventional Jurisdiction Principles

International law recognizes five principal bases on which a state may assert criminal jurisdiction

T	**Territoriality**	The primary and most widely accepted basis: a state may exercise jurisdiction over offences committed wholly or partly **within its territory**.
N	**Nationality (Active Personality)**	A state may prosecute crimes committed abroad by its **own nationals.**
P	**Passive Personality**	A state may claim jurisdiction because **the victim of the crime is its national**, even if the offender and the act are foreign.
PR	**Protective Principle**	Jurisdiction is asserted over acts abroad that **threaten a state's core security**, sovereignty, or vital interests.
U	**Universality**	For offences considered crimes **against humanity** as a whole, any state may prosecute.

The Effects Doctrine in Cybercrime

Jurisdiction attaches to where the harmful effects were felt

1

Act Committed Abroad

Offender act from outside the forum state

2

Conduct Crosses Borders

Electronic information transits or targets systems in another territory

3

Effect Felt in Forum State

Financial loss, data breach, or harm materializes within the forum state's territory

4

Jurisdiction Is Asserted

The affected state may claim authority because the impact occurred on its soil

WHY IT MATTERS FOR CYBERCRIME

Cybercrime rarely respects borders: an offender may act from one country while the victim, server, or financial harm sits in another.
The Effects Doctrine may provide a basis for asserting jurisdiction, but it does not by itself solve the enforcement problem.

International Legal Framework on Cybercrime

Budapest Convention on Cybercrime

UN Convention against Cybercrime

Current Asia-Pacific cooperation against cybercrime

ASEAN SOMTC

Senior Officials Meeting on Transnational Crime coordinates the ASEAN Plan of Action to Combat Transnational Crime, including cybercrime.

INTERPOL ASEAN Desk

Provides cybercrime intelligence, joint operations support, and a secure regional information-sharing workspace for all 10 ASEAN member states.

INTERPOL Asia-South Pacific (ASP) Desk

Runs the ASPJOC framework, an intelligence-led, coordinated joint operations against cybercrime across the wider Asia-Pacific.

Operation HAECHI

INTERPOL's flagship joint operations across Cambodia, Indonesia, the Philippines, Singapore, Thailand, Vietnam, China, and Korea — hundreds of arrests and tens of millions of dollars intercepted.

Cooperation already exists but largely on operational mechanisms. Not on further enforcement phase.

CONCLUSION

Moving forward, Asia-Pacific stakeholders should:

Develop a dedicated Asia-Pacific framework

Promote the development of a regional convention or equivalent legal framework specifically addressing cybercrime, electronic evidence, jurisdiction and cross-border cooperation.

Strengthen regional cooperation

Encourage Asia-Pacific States to harmonise laws, strengthen information-sharing mechanisms, facilitate mutual legal assistance, and conduct joint investigations and operations.

THANK YOU

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