

Cybercrimes

- main problems and analysis -

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What is Cybercrime?

- Unclear concept
- International Agreements or Instruments
 - Council of Europe Cybercrime Convention on November 2001
 - G8 meetings regarding High-tech crimes
- Cybercrime Convention as an international treaty but not a local agreement inside of European area

- Main Cybercrimes

- Illegal access (CCC Art.2)
- Illegal interception (CCC Art.3)
- Data interference (CCC Art.4)
- System interference (CCC Art.5)
- Misuse of devices (CCC Art.6)
- Computer-related forgery (CCC Art.7)
- Computer-related fraud (CCC Art.8)
- Offences related to child pornography (CCC Art.9)
- Offences related to infringements of copyright and related rights (CCC Art.10)

etc.

- However, What is “Cyber”? What is “Crime”?

- “Network” is not a necessary element of cybercrime.
- There is no cybercrime where any substantive law doesn't exist.
- Without any international mutual assistance, transnational cyber criminals will never be caught and sentenced under domestic criminal laws.

How do we think and choose actions?

- Technology
 - Security tools
 - But, there is no such a complete technology
- Laws
 - Criminal laws (Penal Code in Japan)
 - But, it can not protect before crimes occur
- Self regulations
 - Guidelines regarding cybercrimes
 - But, it should not be compelled to apply or use
- What is the best balance?

Contradictions

- Matrix
 - The world where the security should be protected in the highest level is “the Death World” like a heaven
- 1984
 - Complete execution of laws means a realizing of complete controlled society
- Anti-P2P bill in US
 - Complete development of technology may bring the last War
- Self regulations
 - Complete reliance is equal to the Chaos

How do we have to maintain well balanced thinking?

- Better combination of 3 methods (Technology, Law and Self Regulation)
- Better balance between criminal conducts and non-criminal behaviors
- Relation between a purpose and its method
- The rule of law
 - Substantive reasonability of the criminal law itself
 - Reasonable but law-based criminal procedure and sentencing
 - Free area – Our world is not a prison!