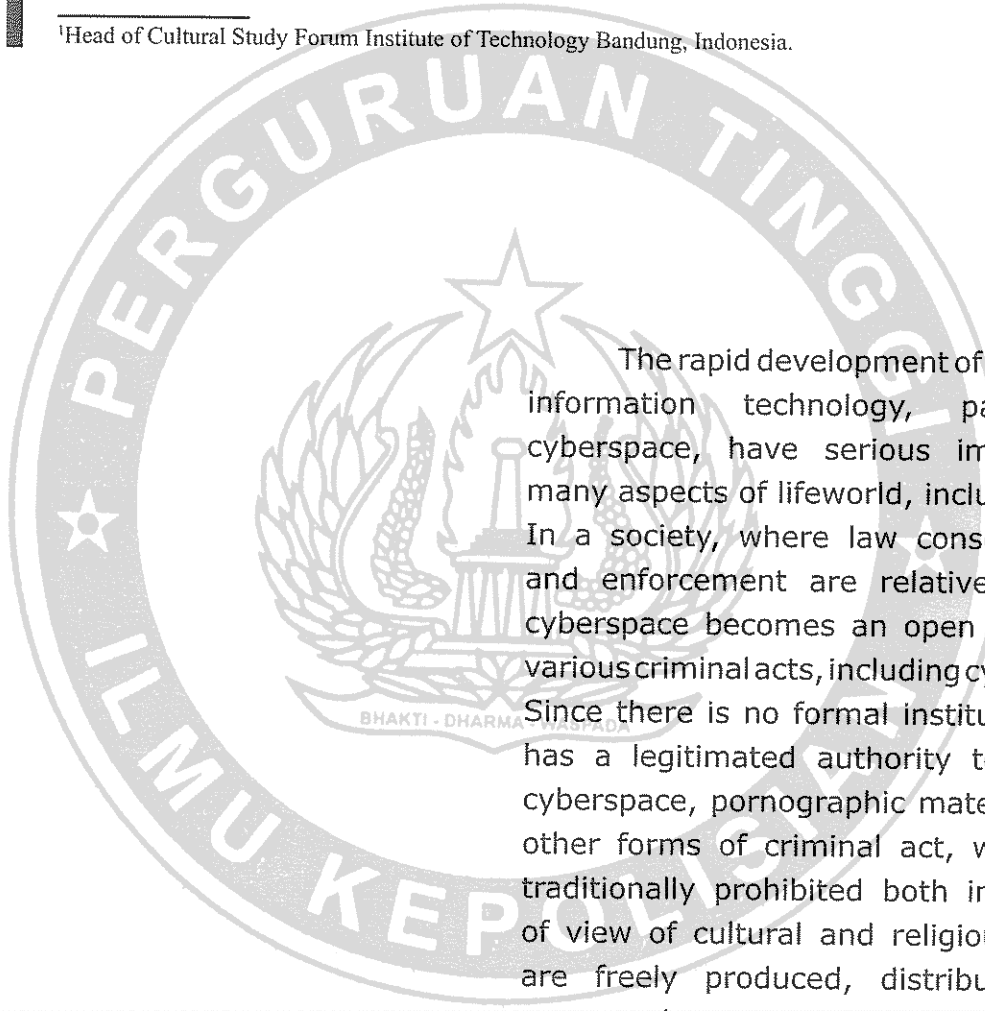# CYBERPORN AND MULTICULTURAL LAW: A RELIGIO-CULTURAL PERSPECTIVE

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The rapid development of advanced information technology, particularly cyberspace, have serious impacts to many aspects of lifeworld, including law. In a society, where law consciousness and enforcement are relatively weak, cyberspace becomes an open place for various criminal acts, including cyberporn. Since there is no formal institution that has a legitimated authority to control cyberspace, pornographic materials and other forms of criminal act, which are traditionally prohibited both in a point of view of cultural and religious norm, are freely produced, distributed and consumed.

Cyberspace is a transparent space, in which everyone can freely satisfies their desiring impuls in a kind of secretless space. In the pearly space of cyberspace everyone are free to express their opinion, emotion and other psychic drives, without respect to certain law and cultural restrictions. The transparency and boundlessness of cyberspace is a

great chalenge to culture or religion, which is a traditional form of the regulation of desire, emotion and action. The conventional duty of legal system is to solve contradiction between a 'logic of desire' and a 'logic of law' in various forms of social discourse.

The development of cybercrime and cyberporn has necessitated that culture, religion and law systems themselves are redefined, as their conventional systems have no longer been effective in judging recent situations created by cyberspace. The pornoghrapic materials vulgarly displayed in cyberporn have created serious impacts to the world of culture and religion, particularly to their value and meaning systems. The values developed in cyberporn are not only in contradiction to cultural values (ethics, taboo, custom) and religious doctrines (faith, scripture), but moreover threaten the continuity of the values and doctrine themselves. Culture and religion that have traditionally been concerned with rules, norms and restrictions, today have to face a kind of a normless and lawless world.

Although cyberspace-and cyberporn within its system-has been convincedly claimed to be designed 'beyond' cultural and religious systems, but it can not be totally separated from these systems. It is in this sense that cultural and religious dimensions are very significant in the discussion of cyberlaw. Although cyberspace is a global phenomenon, which calls for an international regulation, but there are certain aspects of cyberporn, which contextual to local knowledges, believes, ideologies, and values, which demand a kind of 'contextual cyberlaw'.

The Subject of Law in Cyberspace

In the Western modern culture, art (for example erotic or nude art) is differentiated from pornography. The first is perceived as an exploration of aesthetic experiences, whereas the later is a manipulation of human desire. 'Pornography' is the use of representation of women (writing, picture, video) as a way of manipulation of desire of men, in which there is a process of degradation of women as sexual objects of man.[2] It is also described as every object produced and distributed in order to take profits, through the arousal of our sexual impulse.[3] Pornography is perceived as a language of vulgarity or an aesthetic 'bad taste', because of its lower aesthetic quality.[4]

Cyberspace was originally a medium for global communication, through which a more rapid and effective human discourse is created. However, in its recent development, cyberspace has become a massive network for various forms of criminal acts, including the production of cyberporn. Through it's multiple gates and windows, cyberporn is seen as an artificial 'desiring machine', through which multiple desiring satisfactions and libidinal drives are artificially canalised.

The development of cyberporn has undeniably challenged the conventional definition 'body', 'sex', 'sexual object', 'sexual relation' and 'sexual satisfaction'.

2Mark Bracher, *Lacan, Discourse , and Social Change*, Cornell University Press, Itacha, 1993, p. 84.
3Carl B. Homberg, *Sexualities and Popular Culture*, Sage Publication, London, 1998, p. 146.
4Gillo Dorfles, *Kitsch: An Anthology of Bad Taste*, Studio Vista, London, 1969, pp. 224-250

There are multiple windows in cyberporn leading to various forms of virtual 'sexual simulacra' (photo, video, film), which offer multiple virtual sexual activities: voyeurism, adult sexual gaming, role-playing, cyber-fetishism (sexual act with the computer itself), and teledildonic (tele-sexual relation through internet medium). Multiple 'virtual pornographic materials' are subjects of legal discourse, since they nakedly disturb public perception about goodness and truth:

First, voyeurism, as activities of seeing body or body images (women or men), which leads to what is called by Laura Mulvey as a 'visual pleasure'. Certain man or woman is be able to reach sexual *jouissance* or event orgasm, when he/she silently looks naked, semi-naked women, women discloses her trouser, or a couple in a sexual intercourse. The voyeur, as defined by Louise J. Kaplan, is " . . .the man who achieves sexual arousal while secretly viewing a half-dressed, undressed, or undressing women" .[S]ome women are sexually aroused by watching couple engaging in sexual intercourse or mutual masturbation or simply dressing and undressing".[5] Various forms of virtual voyeurism (video, film, life show, life sex) open much 'wilder' fantasy rather than still images in magazine or photography. Voyeurism can be a subject of law because it is performed illegally and secretly, which violate the right of individual of his/her own body.

Second, 'exhibitionism', that is, activities of showing one own body or body images in media screen, especially in Internet, in order to provoke visual pleasure and sexual arousal. Exhibitionism is a self-presentation of body images in various media, including cyberspace, in order to obtain a mutual pleasure of being seen (the exhibitionist) and a pleasure of seeing (the men who see). Some exhibitionists try to present his/herself in cyberspace in a live show or real time model, where a camera is connected directly to computer screen and women body is presented in various poses and positions for a consumption of men's eyes. Exhibitionist materials can be a subject of law, because they involve a 'provocative act', that is, to provoke public eyes to watch men/women's body, body parts or genitals, in order to provoke sexual arousals. The private bodies of men and women are displayed to the public eyes, including the eyes of children, who are legally not allowed to do so.

Third, virtual masturbation, as activities of seeing body or body images in certain media while doing masturbation. According to Lacan, masturbation cannot be separated from fantasy, through which one own genital pointed to certain imagining body or genital images. In masturbation that accompanies voyeurism, orgasm is only obtained if images (sexy, pretty, sensual, etc.) and imagining 'signifier' (for example particular woman) coexistent in constructing sexual excitement.[6] As body, facial or genital images in cyberspace can be presented as something 'animate' (moving, reacting)—instead

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[5]Louise J. Kaplan, *Female Perversions*, Penguin Books, 1991, London, p. 30.

[6]Jacques Lacan, *The Seminar of Jacques Lacan: Books I*, W.W. Norton & Company, 1991

of still images—this leads to the more explorative and 'wild' fantasies.

Fourth, adult sexual gaming, that is, an interactive game program in cyberspace, through which a man or woman can make 'intercourse' with images in the screen. For example, a sexual game, in which a woman is simulated in a position of lying on a bed with body language that invites a man to make intercourse with her. Through role-playing, a man as an Internet user can make a virtual intercourse with the woman through a 'virtual penis' provided in the screen. The virtual woman reacts according to the way the man treats his virtual penis, which can produce sexual arousal or orgasm[7]. There are abundant versions of such adult sexual game in cyberspace, through which various form of sexual fantasies can be produced: Fantasy Land, Studettes, Sexquiz, etc.[8]

Fifth, fetishism, as a form of sexual abnormality or perversion, both in women and men.[9] In men sexual discourse, fetish objects—likes women shoes, corset, underwear, slipper, or handkerchief—can produce sexual arousal or event orgasm, because the objects are regarded as substitutions of real women body. Sexual fetish, as identified by Louise J. Kaplan, in *Female Perversion*, represents " . . .artificial or imaginary genitals, and sexual fetishism is about the creation of fictitious and artificial genitals".[10] A certain mechanism of cyberspace leads to the development of what can be called a 'virtual fetishism', that is, fetish objects in their digital being, as substitutions of real bodies of women or men. Digital fetishism might be a potential subject of cyberlaw, because of its abnormal character in terms of sexual practices and norms.

Sixth, 'virtual sex', as an activity of distant sexual intercourse through mediation of computer. In the future, sexual pleasure produced by cyberspace will be much more complex, which involves a tele-sexual technology, or what is called by Howard Rheingold as 'teledildonic'.[11] The main idea of teledildonics, as suggested by Steve Aukstakalnis is, that, if all parts of our body, particularly genitals and other erotic zones, are covered by a kind of a 'virtual reality suits, which is equipped by several sensors (equipment for sending signal to cyberspace) and effectors (channel to send back information to the user)—then, we can simulate artificial sexual intercourse.[12] This creates serious legal problems, because sexuality in cyberspace is so far 'beyond' authority of family, religion and state, as traditional institutions for sexual regulation.

[7]See Rudy Rucker (ed), *Mondo's 2000*, Thames & Hudson, London, 1992

[8]See Kelly Maloni (et.al), *Net Games: Your Guide to the Games People Play on the Electronic Highway*, Random House, New York, 1994.

[9]For a definition of 'fetisisme', see Sigmund Freud, 'Fetishism' dalam *On Sexuality*, Penguin Press, 1987. See also Louise Kaplan, *Female Perversions*, Penguin Books, 1991. For a definition of 'anthropological fethishism' and 'commodity fetishism', see Karl Marx, *Capital Vol I*, Penguin Books, 1976. See also Jean Baudrillard, *For a Critique of the Political Economy of the Sign*, Telos Press, 1981.

[10]Louise J. Kaplan, *Female Perversions*, p. 35

[11]See Howard Rheingold, *Virtual Reality*, Mandarin, 1991

[12]See Steve Aukstakalnis & David Blatner, *Silicon Mirage: The Art and Science of Virtual Reality*, Peachpit Press, London, 1992

External and Internal Cultural Factors

The formation of a cyberlaw, particularly as it is related to cyberporn, cannot be separated from a culture discourse, with all its symbolic, semantic and value systems. Although cyberspace is a global network with its domain is claimed beyond the boundary of any culture, religion or ethnicity, but in its application in certain cultural place, certain cultural differences must be considered, in order that some contradiction between global and local values can be reduced:

First, difference in ethnic perspective about justice, truth or rationality in a more plural and multicultural society. As identified by Alasdair McIntyre in *Whose Justice? What Rationality?* there is a kind of 'local rationality' and 'local ethics', that plural in its nature, including ethics concerning the use of body. The difference in ethical perspective is a dominant factor, which make several ethical cases cannot be resolved by global or national ethical system.[13] Custom in a local cultural system is concerned with imposition, regulation and restriction of 'body' (i.e.: behaviour, body language, gesture, fashion and body appearance), through certain rule, taboo or social conventions. It regulates the degree of intimacy between bodies.[14] Ethnic 'cultural ethics' also makes judgements about what is proper and improper, shame and shameless as a form of 'social contract'. Walls, partitions or rooms are used to protect 'sexual secrets' from public eyes. In contradiction to local ethical system, cyberporn is a way of taking intimacy and privacy as part of public domain, by transforming body as property of tradition to become a public property.

Second, difference in religious perspectives. Religious doctrine regulates human relations, which are also regulated by a culture, particularly in four areas: body, eyes, emotion and desire. Body, according to a certain religious belief is a property of God, which regulates a boundary between proper and improper about body. However, different religion has different point of view about body. In Islamic doctrine, for example, a regulation of body is relatively strict and detail, which includes the presentation of body, boundary of *aurat* (part of the body which may not be visible by others), styles of intercourse, and restriction of masturbation. Indeed, Islam prohibits 'abnormal' sexual activities, likes masturbation, homosexuality, lesbian, perversion, and sexuality with animals. Gaze, in the Islamic doctrine, is regarded as a true source of 'soul diseases', which is called 'eye prostitution'. As stated by the Prophet Mohammed, "there is a prostitution between two eyes, and the source of prostitution is seeing (body)"[15] Therefore, Islam warns its people to "......bend the gaze and to guard their genitals"[16]. Islam also regulates and restricts desire,[17] so that it is not trapped in a 'degraded desire' (*al-nafs al-amara*), which is the source of every evil and

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[13]Alasdair McIntyre, *Whose Justice? What Rationality?*, Duckworth, London, 1996.
[14]See Edward T. Hall, *The Hidden Dimension*, Anchor Book, 1969

[15]HR Bukhari
[16]*Al-Qur'an*, Surah An-Nur 30: 31
[17]Dr. Javad Nurbakhsy, *Psikologi Sufi* , (translation.), Fajar Pustaka Baru, Yogyakarta, 1998, p. vii.

sin.[18] In spite of difference in several principles, however, all main religions (Jewish, Christian, Islam) basically see media like cyberspace as a great source of sins. Christians experience the worry about bad impacts of cyberspace. As was said by Baker, "The results of the fall are seen in all aspects of society, including the online world. Despite the numerous benefits of cyberspace, it is far from perfect. Christians should be prepared for the sin-scarred reality they will face online".[19]

Fourth, difference in psycho-social system. Certain social convention regulates boundaries between normal and abnormal, sane and insane, legal and deviance in social discourse. However, the regulation is different from one society to another. Actions, which are regarded as 'deviance' in one society, for example, homosexuality, masochism or alcohol drink, are perceived as 'normal' in another society. Body contact between different sexes in a public sphere, which is restricted in one society, for example Islamic society, is acclaimed as normal in a more liberal-western society. The development of cyberspace has challenged the authority of social institutions in regulating body. Cyberspace has created artificial sexual relations, in which 'social boundaries' that traditionally separates between social groups are disappeared. As suggested by Dieter Lenzen, in a recent transparent information age, there is no longer boundary between adulthood and childhood.[20] While in a more traditional society, children did not have an easy access the world of adult, in today media age (television, video, internet) children have a relatively free access to enter the world of the adult, in which there is no longer any part adult sexual materials that cannot be secretly or event openly seen, viewed, and used by children. In cyberspace, abnormal sexual tendencies, likes homosexuality, lesbianism, masochism, sadism, fetishism, masturbation, sex with animals, are naturalised in front of innocent eyes of children.

Third, difference in cultural ideologies. 'Ideology' is a mechanism, through which subject is represented and represents itself through discourse that determine its social position.[21] Ideology is constructed in certain discourse (newspaper, television, film, video, internet), in a complex relation between social action and structure, meaning systems, cultural contexts and concrete textual relations.[22] Subject is constructed socially through certain processes of symbolic signification and representation in an existed cultural system.[23] Cyberporn is one of these symbolic signification and representation, through which one not only 'produces' body images of other, but also his/her own body images, to obtain sexual pleasure. Behind 'social body' there are different cultural

[18]Al-Hujwiri, *Kasyful Mahjub: Risalah Persia Tertua Tentang Tasawuf*, (terj.) Penerbit Mizan, Bandung, 1994, p. 17

[19]Jason D. Baker, *Christian Cyberspace Companion*, Baker Books, 1995, p. 165.

[20]Dieter Lenze, "Disappearing Adulthood', dalam Dietmar Kamper & Christoph Wulf, *Looking Back on the End of the World*, Semiotext(e), New York, 1989, pp. 64-78.

[21]Rosalind Coward and John Ellis, *Language and Materialism: Developments in Semiology and the Theory of the Subject*, Routledge & Kegan Paul, 1977, p. 2.

[22]Terry Threadgold, *Language, Semiotics, Ideology*, Sydney Association for Studies in Society and Culture, 1986, p. 17.

[23]See Anika Lemaire, *Jaques Lacan*, Routledge & Kegan Paul, 1977.

ideologies (subculture, religious sects, new ages, artists), which concerned with signification, representation and control of body. Body is a field for the exercise of 'power' as described by Foucault, in order to control it in social life.[24] In cyberporn, everyone has a relative power of his/her own body, in a kind of a 'liberation of body'. As suggested by J. F. Lyotard, there is a kind of a political economy of body, as a liberation of body from any social, cultural and religious power, in order to use it for economic profit.[25]

Third, difference in gender perspective. Gender is a cultural construction, which creates a dynamic relation between man and women. In a patriarchal society, for example, woman becomes an object of man gaze and pleasure. However, through a movement of feminism, women have tried to establish a new gender relation, as a way to win emancipation in a democratic society. The development of cyberspace has opened new possibilities in gender relation and identity. As has been identified by Sherry Turkle, cyberspace is a place for a virtual game of gender identity, in which a man can play the role of a woman, and vice versa,[26] and acknowledgement of both gender identities as part of his/her self.[27] However, for certain groups of feminists cyberspace is not as an ideal place for women emancipation, because of the continuous domination of men in the space. As remarked by Nancy Kantrowitz, "cyberspace . . .isn't much of an Eden after all. It's marred by just as many sexist ruts and gender conflicts as the Real World".[28] Cyberspace is a wild, lawless and cruel electronic frontier,[29] in which women are positioned as 'objects' for the visual pleasure of men,[30] through a great amount of women erotic materials. Hence, for certain feminists, cyberspace is no more than a place for 'pseudo emancipation'.[31]

Fourth, difference in art systems. In an individualistic-liberal society, in which art is regarded as an autonomous institution separated from social, political, economic, cultural and religious institutions, art enjoys a relative freedom from any restrictions. In such society, erotic art, sensual art, or nude art are regarded as acceptable expressions of art. The difference is only made between 'art' as a system that emphasizes aesthetic experience, and 'pornography' that emphasizes sexual or sensual experience. However, the main problem is that there are no clear boundaries between 'erotic art' and 'pornography'. Despite hidden motives of sexual arousal, several creators of cyberporn have made convincing claims that their works are 'art works'. But, in a more religious society, art is perceived as an integral part of religious belief, in

[24]See Michel Foucault, *The History of Sexuality: an Introduction*, Penguin Books, 1978

[25]See J.F. Lyotard, *Libidinal Economy*, Athlone Press, New York, 1993

26 Shery Turkle, 'Constructions and Reconstructions of Self in Virtual Reality', dalam Timothy Druckery, *Electronic Culture: Technology and Visual Representation*, Aperture, 1996, p. 355

[27]*Ibid.*, p. 363.

[28]Nancy Kantrowitz, *Newsweek* (May 16 1994), as quoted by Laura Miller in 'Women and Children First: Gender and the Settling of the Electronic Frontier', in James Brook, *Resisting Virtual Life*, p. 49

[29]See Bruce Sterling, *The Hacker Crackdown: Law and Disorder on the Electronic Frontier*, Penguin Books, 1992

[30]Laura Mulvey, "Visual Pleasure and Narrative Cinema", paper in French Department of University of Wiscounsin, Madison, 1973

[31]See Cathy Schwichtenberg (ed), *The Madonna Connection: Representational Politics, Subcultural Identities, and Cultural Theory*, Westview Press, 1993

which there is no need to differentiate between 'erotic art' and 'pornography', because both expressions are regarded as degraded forms of expression, which transgress and in conflict with religious values. In a more pluralistic society like Indonesia, which consists of different ethnic groups, the discourse about pornography and cyberporn is much more problematic and controversial, because of difference cultural values, principles and conventions used in the their cultural judgements.

The Future of Cyberporn and Cyberlaw

Beside some negative, dark and destructive impacts of cyberspace, like cyberporn and other cybercrimes, there will be several positive, constructive and productive benefits that can be obtained, if cyberspace is used properly. What might be needed to avoid are destructive effects of cyberspace, particularly cyberporn. To comprehensively solve negative impacts of cyberspace, legal approach alone is not enough. A wider religio-cultural approach and strategy may be employed to understand broader human dimensions that beyond the law itself:

First, a re-empowerment of 'real community' as a counterculture to the virtual community, which is anonymous, shameless and lawless in its nature. The development of virtual-sexual relations has destroyed real-sexual bonds between concrete man and woman, to be replaced by various forms of artificial sexual relations. Empowerment of real community is aimed at reconstructing and reinforcing the sense of togetherness and communality related to 'real places' (house, village, town, state) in which face to face relation among real people are established, which stimulate the use of moral and ethical foundations of every social acts. Various cultural festivals, sport competition, art exhibitions, community market *(pasar rakyat)*, 'evening market' *(pasar malam)*, music show, social gathering at the level of community can be seen as alternative way to build a 'real world' as a counterbalance to the more virtual world, which is no more than a hallucination.

Second, a rebuilding of a 'shame culture', which has been eroded in the domination of a transparent world of cyberspace. The development of cyberporn gradually but surely erodes the sense of shame and shame culture, which was previously built in the foundation of custom, social ethics and religious belief. Shamelessness is caused by a certain condition of anonymity, invisibility and 'secretlessness' built in the structure of cyberspace, which motivate everyone to express all feelings, emotions and desires without the boundary of shame. The tendency towards the disappearance of the shame culture must be prevented, so that it cannot be reproduced in the everyday world. Perception and consciousness about the importance of 'sense of humiliation' and 'shame' when one shows or presents his/her body images or sees body images of others in cyberporn, should be rebuilt, by enforcing social sanctions.

Third, a cultural-spiritual empowerment, by creating a condition conducive for the revitalisation of supreme cultural and spiritual values, through various forms of communication media, cultural promotion and social networks. The cultural power created by cyberspace and cyberporn has led to a situation quite risky for the continuity of cultural and spiritual values, which make everyone to be vulnerable to negative effects of cyberporn. The virtual community established by cyberspace has created a critical distance in the relation between individuals in society. On the one hand, two individuals who are far spatially can be very close emotionally in their virtual interaction; on the other hand, the individuals who are very close spatially, can be very far emotionally, because of the lose of physical intimacy between them in their social space. The empowerment of culture and spirituality can be enforced by creating various activities of 'real culture' and 'real spirituality' to be more interesting, challenging and enjoyable.

Fourth, the creation of a creative cyber culture, in order to change passive and consumptive attitudes of the users. Cyberculture traps less critical people to a passive consumption of entertainment and pornographic materials. Hence, it is necessary to build a more productive cyberculture, which emphasizes creative expressions and works, in order to distract

people from a banal world of cyberporn. Cyberspace can be a potential space for the creation of what so called a 'creative industry'. Creative industry is an industry created by enthusiast, talented and creative individual or groups, in order to create economic values from various virtual cultural resources. Information technology, including cyberspace, is one of the main resources of the creative industry when used properly, through which various creative information, images, knowledge, entertainments, games, learning materials can be positively and constructively produced.

Fifth, the establishment of a powerful cyberwatch, that is, a powerful mechanism of control by community themselves concerning the negative effects of cyberspace usage, particularly cyberporn, from a level of family, school, village, town and state. The watching function can be built in a multilevel and stratified watching system, from a level of individual (self-watching), family, neighbourhood, school, village, town and state. A surveillance system and technology can be intensively used in order to make the process of watching and control more effective, which make the primary detection of the use of cyberporn materials possible, particularly in public facilities like an internet booth or counter. So far, there is no such control mechanism, so that everyone, including children, has free access to the gate of cyberporn. The sense of being watched at least can lead to the feeling of shame or fear of being seen, which creates a 'feeling of guilty' in everyone who try to enter the world of cyberporn.

Sixth, the need for a multicultural law perspective, in which there are problems of minorities/majorities and dominant/subordinate. Like regulation of pornography, the regulation of cyberporn through cyberlaw should take real cultural environment and territorial as its main consideration, particularly in the development of contemporary culture in a frame of pluralism and multiculturalism. As the subjects of cyberlaw are originated from different cultural traditions, different ethnic groups, and different religious believes in a plural or multicultural society, particularly as it is related to the judgement about body and sexuality, cyberporn law should be constructed based on this plural or multicultural issues. In the context of reformation and democratisation process in Indonesia since the last decade, political, economical and cultural autonomies are real conditions, which should be comprehensively considered in an attempt to construct various forms of regulation, including cyberlaw. Cultural autonomy means that various forms of cultural expressions are more local in its nature, existence and regulation. Cultural expressions are more and more contextual in their character, which also need a more contextual law for their regulation. Cultural autonomy is a political acknowledgement of cultural diversity, pluralism and multiculturalism, which becomes a necessary consideration in the formation of law, including a cyberlaw. The law should take different opinions and judgements about cultural signification, for example signification about body and sexuality in different cultural traditions, in order to establish a more 'multicultural law'.