

Conference

Legal Responses to Transnational and International Crimes: Towards an Integrative Approach?

Amsterdam, 4 & 5 December 2014

Background and Aim

This Conference will increase academic knowledge and insight in the concept of transnational crime, and gather practical experience in criminal law enforcement. More specifically, the Conference will explore whether the distinction in legal regime between supranational crimes (aggression, genocide, crimes against humanity and war crimes) and transnational crimes (terrorism, trafficking in human beings, illicit drugs trafficking, piracy etc.) is still warranted, in view of the blurring boundaries between both categories.

Background

The concept of 'international crimes' is a fuzzy one. It surely encompasses the so-called 'core crimes' - aggression, genocide, crimes against humanity, war crimes - which constitute the subject matter jurisdiction of the International Criminal Court (ICC) and international criminal tribunals. And it arguably includes a repository of rather divergent offences - terrorism, human trafficking, drugs trafficking, (trans boundary) environmental crime, (large scale) corruption, cybercrime, piracy - which is colloquially baptised as 'transnational crimes'. The distinctions between these two broad categories involve three criteria: a) the nature of the crimes; b) the actors; and c) the system of criminal law enforcement.

'Core crimes' are considered as 'the most serious crimes of concern to the international community as a whole' (Preamble to the Rome Statute). They are usually committed by organs of the state or at least condoned by the state. And their perpetrators qualify for being prosecuted and tried at a supranational level, by international criminal courts and tribunals. Obviously, these criteria are inter-related. Core crimes derive their heinous nature at least partially from the fact that the state, instead of protecting its citizens, turns against its population. And because the state is generally involved, we do not expect its institutions to valiantly engage in criminal law enforcement, which renders the international community, by proxy, the right or even the obligation to intervene.

Transnational crimes, on the other hand, display less systematic and structured violence. Although they may have very nasty consequences for direct victims, they are considered as ‘obnoxious’, rather than ‘very serious’. These crimes are primarily committed by private actors and precisely for that reason the state is generally perfectly capable and willing to start prosecutions. International conventions serve to improve international cooperation, by plugging jurisdictional and substantive legal gaps.

Aim of the Conference

One of the main hypotheses of the Conference is that this ‘sharp division’ is predicated on a state centred paradigm of international criminal law, dating from Nuremberg, and may be in need of revision. For one thing, the boundaries between transnational crimes and core crimes are increasingly blurring, witness for instance the involvement of both state actors and rebel groups, engaged in armed conflict, in organized crime like drug trafficking or trade in human beings. Secondly, war crimes are currently often committed by members of private security firms, war lords or thugs whose connections to official authorities are less clear or who may even be opposed to the state. In other words: there is a certain proliferation of non-state actors in international criminal law. And finally, precisely because the boundaries between core crimes and transnational crimes are blurring, the distinctions in criminal law enforcement are increasingly called into question. Time and again initiatives are launched to extend the jurisdiction of the International Criminal Court to cover transnational crimes, such as terrorism, piracy and (serious) drugs crimes. Others suggest to outsource those crimes to an intermediate level of regional criminal law enforcement, at the African Union or the European Union.

The objective of this Conference is to critically reflect on the relationship between ‘core crimes’ and transnational crimes, both from a theoretical and a practical perspective. One of the major questions is whether the blurring of the categories should entail a transfer of criminal law enforcement from national to international jurisdictions in respect of transnational crimes.

This Conference is organized by the Amsterdam Center for International Law (ACIL), in cooperation with the T.M.C. Asser Institute. It is funded by the Royal Netherlands Academy of Arts and Sciences. The papers presented at the Conference will be included in an edited volume, to be submitted to Edward Elgar Publishers.