Preface

In the past few years, attention for the interaction between transnational and international crimes has only grown. Take the example of terrorism; while it is conceded that attaching the label ‘international crime’ to terrorism is not entirely uncontroversial – although the late Antonio Cassese would disagree – the nexus between terrorism and transnational crimes has increasingly been put on the international agenda. One such instance is UN Security Council Resolution 2195, in which the Council expressed:

concern that terrorists benefit from transnational organized crime in some regions, including from the trafficking of arms, persons, drugs, and artefacts and from the illicit trade in natural resources including gold and other precious metals and stones, minerals, wildlife, charcoal and oil, as well as from kidnapping for ransom and other crimes including extortion and bank robbery.

A few months later, in the Summer of 2015, the Executive Director of the United Nations Office on Drugs and Crime (UNODC) Yury Fedotov stated that his organisation had launched a comprehensive initiative to address the growing nexus between terrorism and organised crime and, in 2016, Europol established its European Counter Terrorism Centre. In the mandate of this new centre, the crime–terror nexus can also be identified, as the centre:

will focus on tackling foreign fighters, sharing intelligence and expertise on terrorism financing (TFTP and support by the FIU.net), online terrorist propaganda and extremism (Internet Referral Unit), illegal arms trafficking and international cooperation to increase effectiveness and prevention.
(original footnotes omitted)

Numerous other examples can be mentioned – from the meeting that was organised by the United Nations Interregional Crime and Justice Research Institute (UNICRI), in partnership with the Thailand Institute of Justice from 11 to 13 May 2016 in Bangkok, which examined the nexus between organised crime and terrorism and defined better policy and programmatic responses, or the report ‘Criminal Pasts, Terrorist Futures:

European Jihadists and the New Crime-Terror Nexus', published in October 2016 by the International Centre for the Study of Radicalisation and Political Violence – but the overall message is clear: the nexus is on the agenda more than ever.

This book addresses not only terrorism, but in fact a number of controversial and non-controversial international crimes and their interaction with transnational crimes. In doing so, it particularly focuses on the applicable legal frameworks and their challenges.

Indeed, in the very first chapter, Harmen van der Wilt delves into the legal responses to transnational and international crimes, providing a bird's-eye view of the entire book and wondering whether international and national jurisdictions should follow an integrative approach on international and transnational crimes. Neil Boister, in the second chapter of the book, addresses the distinguishing features of transnational criminal law and the third professor to provide his views is Héctor Olásolo, who asks the question whether international criminal law is an appropriate mechanism to deal with organised crime in a global society.

After these three more general chapters, comprising Part I of the book and outlining its conceptual framework, several studies addressing specific crimes are presented in Part II, namely on the transnational crime of piracy and its regional enforcement (Chapter 4, authored by Marta Bo); on terrorism as a new generation transnational crime and whether it can and should be prosecuted before the International Criminal Court (Chapter 5, authored by Inez Braber); on terrorism and the conceptual divide between international and transnational criminal law (Chapter 6, authored by Alejandro Chehtman); on cybercrime and its sovereign spaces (Chapter 7, authored by Ilias Bantekas); on domestic and international legal approaches to the repression of politically motivated cyber-attacks (Chapter 8, authored by Nicolò Bussolati); on the transnational prosecution of grand corruption (Chapter 9, authored by Giulio Nessi) and on money laundering and whether this crime should be included in the subject-matter jurisdiction of the International Criminal Court (Chapter 10, authored by Dirk van Leeuwen).

Subsequently, Part III of the book zooms in on fair trial issues, with Maria Laura Ferioli in Chapter 11 looking at the safeguarding of defendants' rights in transnational and international cooperation and with Sabine Gless in Chapter 12 analysing the *ne bis in idem* principle from an international and transnational criminal justice perspective.

Finally, regional case studies are offered in Part IV. In Chapter 13, Sander Wirken and Hanna Bosdriesz provide the reader with an interesting insight into the privatisation and increasing complexity of mass

violence in Mexico and Central America, exploring appropriate international responses. Another regional study is presented in the very last chapter of the book, Chapter 14, in which Charles Chernor Jalloh analyses the distinction between ‘international’ and ‘transnational’ crimes in the context of the future African Criminal Court.

Whether or not we are actually heading towards an integrative approach, the chapters and the multifaceted and intricate issues treated therein arguably demonstrate that we should at least *aim* for such an approach. In the words of Harmen van der Wilt in his introductory chapter:

Discussions on the relationship between international crimes and transnational offences and the most appropriate forum of law enforcement pull in different directions ... Ultimately, these distinct opinions are symptomatic for our difficulties to come to terms with vast political, social and criminological changes ... [N]ew patterns of conflict require a reconstruction and adaption of the organization of law enforcement. The choice of the most adequate forum need not necessarily be defined by the nature of the crime – transnational or international. ... Each decision should be inspired by the question whether the eligible jurisdiction has the capacity to cope with the magnitude of the threat and would be able to render effective and fair justice. In making the proper choice, international and national jurisdictions are well advised to work more closely together and follow an integrative approach on international and transnational crimes.

This book would not have been possible without the excellent contribution and assistance of a number of people; first and foremost, the just-mentioned authors of the book, including – and in particular – my co-editor Harmen van der Wilt, the driving force behind this project. Many thanks should also go to Alexandra Ivakhnik, Gabriella Ramdhan and Martine van Trigt for their assistance in the preparation of this book and to the publishing team at Edward Elgar Publishing for their flexibility and patience. And last, but certainly not least, Bram van der Wilt should be thanked for his relentless efforts in making sure the chapters were in full conformity with all the required standards. His father can be – and I know: is – very proud of him.

Christophe Paulussen
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