



PRESENTAZIONE DEL VOLUME

Informazioni generali

Autore: Fulvia Staiano

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Informazioni sul volume

This monograph focuses on the challenges posed by transnational organized crime to public international law principles and rules concerning the exercise of criminal jurisdiction by States. In particular, it explores the ways in which transnational organized crime has pushed States to re-think the scope and rationale of their territorial and extraterritorial criminal jurisdiction. For centuries, national legislators and courts have grappled with questions of territorial and extraterritorial jurisdiction over international as well as transnational crimes. With the inception of modern international criminal law, these questions have become more urgent and frequent. Often, the contours and rationale of States' adjudicative jurisdiction over core crimes have been re-defined to respond to the challenge of prosecuting transnational crimes. It would be a mistake, however, to speak of an actual evolution of international legal principles on jurisdiction from international criminal law to transnational criminal law. Transnational organized crime has been an issue for the international community for as long as international crimes have been. As a result, the re-definition of these principles on state jurisdiction often

occurred in parallel in these two areas of public international law. Therefore, it would be more appropriate to qualify this process as one of adaptation of international legal principles from one area to the other.

Against this background, chapter one offers a working definition of transnational crimes as a category of offences separate from international or 'core' crimes. The monograph then moves on to enquire on the (limited) perspectives of application of international criminal law principles on State jurisdiction to transnational organized crime, with a special focus on legal justifications to the exercise of adjudicative jurisdiction by domestic courts over the conducts of transnational criminal organizations. A special attention is devoted to the question of whether and to what extent international and state practice has been able to devise interpretative solutions to overcome obstacles to the adjudication of transnational organized crime. To answer this question, the monograph examines instances of States' virtual extension of their national territory beyond their physical borders (in chapter two) as well as forms of exercise of extraterritorial jurisdiction which are increasingly detached from the atrocity of certain conducts as the founding rationale for the expansion of a State's prosecutorial reach (in chapter three). A critical review of this practice prompts concluding reflections in chapter four on the possibility to identify principles of general international law in this area (either emerging or already established), on issues of coordination between States in the exercise of their criminal jurisdiction which are likely to arise in the near future and on possible ways forward in the repression of transnational organized crime.