

Outline: Commenced Doctoral Thesis Undertaking:

The Principle of Complementarity in the Rome Statute (Art. 17) and the Peacemaking-Process in Uganda (Working Title)

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After the longlasting civil war in Uganda the Ugandan government requested the ICC at 16th of December 2003 for prosecution of core-crimes relevant to international criminal law committed by the „Lord’s Resistance Army“ (LRA, leaded by Joseph Kony). In particular, the LRA is blamed for having abducted and engaged numerous child soldiers. According to this „self-referral“ of Uganda (Art. 13a, 14 Rome-Statute) the Presidency of the ICC assigned the „situation in Uganda“ to Pre-Trial Chamber II. On 8th of July 2005 sealed warrants against Joseph Kony and four other leading rebels were published. Up to now, these are not enforced.

In peace talks mediated by South Sudan Vice President Riek Machar the Ugandan government and the LRA agreed on a ceasefire in August 2006 and several agreements until February 2008 on the progress of the peace-making process (see listing: www.beyondjuba.org/peace_agreements.php). Inter alia, the agreements included how to deal with crimes committed during the civil war. According to these agreements, those accused of severe crimes would be tried in the High Court of Uganda. It is supposed to implement a division in the High Court of Uganda able to prosecute these crimes. Indeed, the binding force of the Juba agreements is in question as the LRA did not sign the final agreement after Joseph Kony on 10th April 2008 refused to do so (<http://allafrica.com/stories/200804110001>).

Therefore the question emerged, if and how further prosecutions by the ICC are still possible and needed. In particular relevance is the principle of complementarity pursuant to Art. 17 Rome - Statute. Hereafter the admissibility of prosecution by the ICC is depending on the condition, whether the concerning state is able or willing to national prosecution. Furthermore, the meaning of an international prosecution in context of further measures to transitional justice is to be determined.

The essay is to execute theoretically in Göttingen and practically on-site in Uganda. At the first stay in Uganda conflict, state of the peacemaking-process and taken actions of transitional justice are to ascertain and analyze. In particular, the implementation of the Juba Agreements is to be observed and the acceptance of the several post-conflict measures is to be determined.

The situation in Uganda is to be portrayed explicitly and to be ranged into the present state of debate in international criminal law (esp. in view of the admissibility of the Uganda-proceedings before the ICC). In this respect, this involves an inductive analysis about the requirements of the principle of complementary, coming from the situation in Uganda. Based on the assumption, that consideration of complementarity is

a continuous process, it is to be determined whether the taken measures in Uganda for prosecution and alternative mechanisms of coming to terms with the past meet the requirements of international criminal law.

Therefore the dissertation aims to an undertaken scrutiny of the measures in Uganda and to eventually suggest recommendations. Also the theoretical frame of transitional justice and of Art. 17 will be tested and be substantiated in this respect.

The dissertation is purposed to be finalized in autumn 2011.

Questions, comments and annotations are welcome via s-klein@gmx.net.