

Forum for International Criminal and Humanitarian Law



UNIVERSITY
OF OSLO
Norwegian Centre for Human Rights



Forsvarets høgskole
Forsvarets stabsskole

Norwegian Red Cross

The principle of complementarity and the exercise of universal jurisdiction for core international crimes

A seminar organized in the series of the

Forum for International Criminal and Humanitarian Law¹

by PRIO, the Norwegian Centre for Human Rights (University of Oslo), the Chr. Michelsen Institute, the Norwegian National Defence Command and Staff College and the Norwegian Red Cross.

Friday, 4 September 2009 13:00–15:30, PRIO, Hausmanns gate 7, Oslo

The complementarity principle on which the International Criminal Court (ICC) is based entails that the ICC can only investigate and prosecute core international crimes² when national jurisdictions are unable or unwilling to do so genuinely. The principle reflects a realization that it is preferable that such crimes are investigated and prosecuted in the country where they occurred. It was created as an admissibility principle of the ICC. Universal jurisdiction, on the other hand, is a jurisdictional basis of last resort which many national criminal justice systems provide for, when core international crimes can not be prosecuted on the basis of the principle of territoriality (in the state where the crimes occurred), active nationality (in the state of the alleged perpetrator) or passive nationality (in the state of the victim). In its pure form, universal jurisdiction enables prosecution of core international crimes committed in a foreign state, by a foreign citizen, against foreign victims, when neither has a personal link to the forum state.

This seminar concerns the relationship between the principles of complementarity and universal jurisdiction. Territorial states are normally affected most strongly by core international crimes committed during a conflict or an attack directed against its civilian population. Most victims reside in such states. Most damaged or plundered property is there. Public order and security are violated most severely in the territorial states. It is also on their territory that most of the evidence of the alleged crimes can be found. There are, in other words, obvious policy and practical reasons why states should accord priority to territoriality as a basis of jurisdiction. Is there also an obligation for states to defer exercise of universal jurisdiction of core international crimes to investigation and prosecution of the same crimes by the territorial state? What is the impact of the principle of complementarity in this respect?

Seminar participation is free. To register, please send an e-mail message to ficjc@prio.no (marked “Seminar 090904”) by 28 August 2009, indicating your wish to register as a seminar participant.

13:00 **Introduction**, Morten Bergsmo (Senior Researcher, PRIO).

13:10 **The relationship between the principle of complementarity and the exercise of universal jurisdiction for core international crimes**, by Dr. juris. Jo Stigen (Postdoctoral Research Fellow, University of Oslo).

13:50 **Between territoriality and universality: reflections by a core international crimes prosecutor**, by Pål Lønseth (Senior Public Prosecutor, Norwegian National Authority for Prosecution of Organised and Other Serious Crimes).

14:20 **Towards a European approach to universal jurisdiction in the era of complementarity**, by Wolfgang Kaleck (Secretary-General, European Centre for Constitutional and Human Rights).

¹ A debate forum open to individuals interested in issues concerning international criminal justice and conflict. The Forum aims to identify and facilitate debate on key issues in international criminal justice and conflict. Information about the Forum can be found at www.prio.no/ficjc/.

² For the purposes of this seminar, “core international crimes” means genocide, crimes against humanity and war crimes.

15:00 Discussion.