Abstract:

Sudan’s body of criminal law has long been characterized by the absence of international crimes. The gap has come under growing scrutiny in the context of the Darfur conflict, in which a number of observers, beginning with members of the International Commission of Inquiry on Darfur, have reported both evidence of international crimes, and a domestic system incapable of adequately holding suspects accountable. Sudan has responded with adjustments made within the reform of the Armed Forces Act in 2007, and with amendments to the Criminal Act in 2009. This chapter seeks to determine whether the recent changes have created an adequate legal framework for the prosecution of international crimes in Sudan. To this end, it evaluates to what extent the relevant provisions conform to the definition of the international crimes of genocide, crimes against humanity and war crimes as stipulated in the statutes of international criminal tribunals and interpreted in their jurisprudence. It also examines the Sudanese law in respect of principles such as command responsibility and reparations for victims of crimes whose recognition is essential for the effective prosecution of international crimes and justice for victims. It also considers the scope and applicability of immunities and statutes of limitation, which are recognized in Sudanese laws and have contributed to impunity for international crimes in Sudan.