Abstract

The supra-national criminal prosecution for alleged crimes committed in Darfur by the International Criminal Court (ICC) raises critical legal and conceptual issues. This chapter addresses the dilemma of peace and justice and reconciliation from a legal perspective and the justice options that are available. The chapter also assesses the Sudan's criminal and military laws (both at the substantive and procedural levels) in terms of their ability to prosecute international crimes such as war crimes, crimes against humanity and genocide. In this respect, it argues that these laws fall short of international criminal law standards and principles, particularly the amendments introduced after the United Nations Security Council referred the Darfur situation to the ICC. The chapter critically examines the Sudan government policy of non-engagement which ultimately led to supra-national criminal prosecution represented by the ICC intervention under the complementarity principle of the Rome Statue. The chapter interrogates the report issued by the African Union High-Level Panel on Darfur (AUPD) and evaluates the strengths and weaknesses of its recommendations. Finally, the chapter assesses the role of international bodies in addressing accountability and justice issues.