

## Limitations of Recent National Enactments on International Crimes: The Case of Kenya, Uganda and Sudan

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**Abstract :** The International Criminal Court (ICC) operates based on the principle of complementarity. On the basis of this principle, states enjoy the primary right to prosecute international crimes, with the ICC intervening only when a state with jurisdiction over an international crime is unable or unwilling to prosecute. To ably exercise their primary right to prosecute international crimes domestically, a number of states are taking steps to criminalise international crimes in their national laws. Significant to note, many of the laws enacted are not being applied in the prosecution of the international crimes allegedly committed. Kenya, Uganda and Sudan are some notable states where commission of international crimes is documented. All these states have recently enacted laws on international crimes. Kenya enacted the International Crimes Act in 2008, Uganda enacted the International Criminal Court Act in 2010 and in 2007, Sudan made provision for international crimes under its Armed Forces Act. However, in all these three states, the enacted national laws on international crimes have thus far not featured in any of the proceedings before these states' courts. Instead, these states have either relied on ordinary crimes to prosecute international crimes or not prosecuted international crimes altogether. This paper underscores the limitations of the enacted laws, explaining why, even with efforts taken by these states to enact national laws on international crimes, these laws cannot be relied on to advance accountability for the international crimes. Notably, the laws in Kenya and Uganda do not have retroactive application. In Sudan, despite the 2007 reforms, the structure of military justice in Sudan has the effect of placing certain categories of individuals beyond the reach of international criminal justice. For Kenya and Uganda, it is concluded that the only benefit that flows from these enactments is reliance on them to prosecute future international crimes. For Sudan, the 2007 reforms will only have the desired impact if reforms are equally made to the structure of military justice.

**Keywords :** complementarity, national laws, Kenya, Sudan, Uganda, international crimes, limitations

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