# ABSTRACTS

**Universalist and Particularist Approaches to Democracy in Africa**

By *Christof Hartmann*, Duisburg

Social science discourses on democracy in Africa have been marked by a debate between universalist and particularist concepts of democracy. The real changes in African political systems since the early 1990s have strengthened the idea that democracy can be defined in universal terms and that such a conceptualization make sense of the observable patterns of political change. Particularist arguments have criticized the analytical shortcomings of such definitions and proposed alternative models based on African tradition or opted for specifically localised understandings of democracy. The main thesis presented is that Africanist political science should not give up the idea of a universal concept of democracy, but make it sensitive to the African context by developing specific institutional variants that better fit to the social and cultural contexts of Africa such as Lijphart's consociationalism or by developing diminished sub-types that take into account the importance of informal institutions for political processes.

**Constitution and Constitutional Justice in Peru after Fujimori**

By *Jürgen Samtleben*, Hamburg

The government of Alberto Fujimori (1990-2000) in Peru was openly hostile to constitutional law and institutions. After his "self-coup" in 1992, it was only under international pressure that Fujimori enacted a new constitution, which still remains in force to date. Since Fujimori's fall various attempts have been made to invalidate the so called "document of 1993" and to restore the former ("democratic") constitution of 1979. In daily political practice, however, the constitution of 1993 has been acknowledged as binding law and thereby gained legitimacy. The Constitutional Court, which was closed down and only reopened by Fujimori with severe limitations of its competence, has received a new legal basis with its Organic Law of 2004, completed by the new Code of Constitutional Procedure of the same year. On these bases, the Court has developed its case law, taking an active role in political conflicts and in the defence of human rights.

**Crafting Political Institutions in Africa: Electoral Systems and Systems of Government in Rwanda and Zambia Compared**

By *Alexander Stroh*, Hamburg

Scholars of institutional design attribute large importance to the choice of new institutions. The comparative analysis of how Rwanda and Zambia crafted their new electoral systems and the systems of government regards procedural, structural and rational choice variables which may influence the option for particular solutions. External influences and the type of transition are determinants that can decide which actors make their interests prevail. The degree of innovation or conservatism of new institutions is mainly a result of the speed of the process and the kind of actors involved. However, rational reflections on how to produce legitimacy and minimize personal risks which take into consideration the state of conflict in the country decide on the speed and on innovative outcomes. The structured analysis of only two cases uncovers already that it is rather difficult to realise the transfer of design recommendations into reality.

**Post CPA: Restructuring and Enhancing the Sudanese Judiciary as a Means of Preserving Peace**

By *Noha Ibrahim*, Khartum / Heidelberg

Sudan has the distinction in Africa in enduring the longest civil war on the continent. The country has been ravaged intermittently by a protracted civil war -the so-called north-south civil war. The north-south conflict has long been perceived as a clash between different religions and identities. Yet, the root-causes of that conflict were multiple and intricate. Ethnicity, religion and underdevelopment were the issues around which the conflict revolved. However, after a series of peace talks (which witnessed 'start and stop'), a Comprehensive Peace Agreement (CPA) was concluded in 9 January 2005 to put an end to that conflict. In essence, the CPA attempts to address the root-causes of the north-south conflict with a view to preventing a return to the conflict through stipulation of measures that aim at upholding the ideals of the rule of law, democracy and equity for all. To this end, it provides for a bill of rights, a dual legal system (Sharia/secular) to exist side by side and establishes a Southern Sudan Judiciary, a State Judiciary besides the already existing National Judiciary.
Thus, the underlying question that this paper seeks to address is: to what extent restructuring and enhancing of the judiciary can play a role in sustaining peace between the north and the south. In doing so, Part 1 provides a general description of the history of the north-

south conflict. Part 2 firstly describes the structure of the court system in Sudan, secondly considers the principles that govern the work of the judiciary with reference to the changes that have been introduced to the judiciary, and concludes by evaluating the structure of the existing judiciary and its impact on preserving peace. The following parts discuss the transitional justice mechanisms under the CPA and the competence of the judiciary to settle past grievances as a means of preserving peace, and, additionally elaborates briefly on alternative forms of justice, as provided under the CPA. Finally the article concerns with the relevancy of the international community's rule of law related activities in Sudan to the enhancement of the Judiciary.