



Perspektiven auf globale Politik

AFK-EUPRA – 9: TRANSITIONAL JUSTICE AND PARTICIPATION

12. März 2017 · von jungeafk · in AFK-EUPRA 2017 · [Hinterlasse einen Kommentar](#)

AFK-EuPRA – Panel 9: Transitional Justice and Participation

Chair: Metin Ersoy (Eastern Mediterranean University, North Cyprus)

Presenters:

Joana Amaral (University of Kent, UK/University of Marburg, Germany): Peace Settlement Referendums: A New Dimension of Success in Peace Negotiations

International mediation has traditionally been understood as an instrument aimed at getting political representatives to agree on a negotiated settlement. However, in cases where referendums were required for ratification, peace agreements have been rejected by the people. This paper uncovers how mediators can help political leaders reach agreements that are supported by the people they represent by comparing the Annan Plan and Good Friday Agreement (GFA) mediations and referendums in Cyprus and Northern Ireland, respectively. Through a qualitative comparative analysis based on elite interviews and documental data, this paper will demonstrate that differences between the cases in political inclusivity, civil society participation, and the negotiations' exposure to the public, shaped the referendum campaign periods and contributed to the successful GFA referendum and the rejection of the Annan Plan.



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The findings support existing claims in the literature that inclusive and participatory negotiations processes can foster support for the peace process, adding that they can deeply shape peace settlement referendum experiences and outcomes. It argues against existing claims that referendums are unsuitable to peace processes, holding that referendums are rather unsuitable for traditional secretive and exclusive conflict mediation practices that fail to educate and engage the public. Additionally, by leading more transparent and inclusive negotiations, peace mediations can contribute to the societal transformation and reconciliation that will contribute to the sustainability of the agreement being placed for referendum.

Ulrike Lühe (Swisspeace/University of Basel, Switzerland): AU and EU Transitional Justice Policy Discourses in Comparative Perspective

Regional actors like the European Union (EU) and the African Union (AU) are increasingly seeking to conceptualize their transitional justice engagements through policy frameworks and carve out spaces for themselves in transitional justice processes. While the EU adopted its Policy Framework on Support to Transitional Justice in November 2015, the AU is still in the process of developing its African Transitional Justice Framework. It is the starting assumption of this paper that the policy discourses inevitably have an effect on the understanding, scope and institutionalization of transitional justice that these two regional bodies will support – the EU mostly as a development strategy outside and the AU within its borders.

Borrowing from Foucauldian-inspired discourse analysis, the paper will analyze and seek to understand the interpretative framework and political agendas of the AU's and EU's policy discourses on transitional justice in a comparative perspective. It will delineate how each of them conceptualizes the problem and the solution with regards to transitional justice and where it allocates these discourses institutionally and in terms of the broader policy context. Another point of analysis is the self-conceptualization of the institutions and the roles they assign to local, national, regional and international stakeholders in a transitional justice context. Highlighting the parallels and differences in transitional justice policy discourses will strengthen our understanding of the interplay of discourse, knowledge production and power of two political players who are at the giving and receiving end of international development aid and in particular peacebuilding support.

The paper will contribute to the increasing field of discursive inquiry into transitional justice, its stakeholders, and its relationship to liberal peace and international power structures, and help shape an understanding of how regional actors which are differently affected by (the need for) transitional justice processes frame their support and interventions. It

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will provide insights into transitional justice policies as discursive practices that determine and are determined by knowledge and power, thus contributing to a better understanding of how meaning is established in TJ and how policy discourses enable and limit what can legitimately be considered in the field of transitional justice. It thus inquires into the knowledge-power-nexus in transitional justice and peacebuilding more generally at a time when an increasing number of national and international governmental bodies determine their transitional justice policies.

Rajib Timalisina (Tribhuvan University, Nepal): Consensus Modality: Accommodating Parties and Containing Overt Violence in Nepal's Peace Process

Throughout this decade, most of the literatures in social sciences on Nepal contain Maoist Armed Conflict (1996-2006) in its introduction part. The country is in constant political turmoil even after the Comprehensive Peace Accord of 2006 between Government of Nepal and then rebel force. Since the peace agreement, Nepalese society has observed diverse socio-political tensions in different forms and become fragile society. Nepal is exerting a growing concern on international politics because of the complication in the peace process of ensuring sustainable peace, stability and economic progress. The implications for peace, stability and economic development in fragile countries present a challenge to the international community (In Grävingsholt *et al*, 2013). Political culture and social structure are empirically related to political stability (Lijphart, 1969: 208). So we cannot separate our social and cultural context with the idea of stability.

“Consensus” modality was dominant in Nepali politics in last 10 years. The concept itself was not new for Nepali society, but the way it was used in Nepali politics in last couple of years is worth discussing here. Though Mahesh C. Regmi (2002) gives various examples of consensus practice in Nepal's land tenure and cultural system, many authors including Regmi have not talked about existence of consensus word in political-legal document though it was practiced time and again by various ways. The word ‘consensus’ got heroic entry into Nepal's constitution in aftermath of comprehensive peace agreement. The interim constitution adopted in 2007 recognized consensus as fundamental principle for the governing process in transition period. The ‘proportional representation system’ was also introduced for the first time in Nepal to make sure the inclusiveness. After the adoption of the interim constitution, the idea of ‘consensus’ has been several times defined, redefined and modified according to the given political context.

Nonetheless, numerous questions remain about the factors that were observed during the practice of consensus principle in Nepali politics

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which made fragility in Nepal worthwhile and, conversely, the kinds of situation that actually hijacked democratic institutionalization of the country. Nepal's peace process can lay some claim to success by existing standards because the Maoist armed conflict has come to a closure after the completion of integration of ex-combatants. But it still has flaws in its warp and woof that are distinctly Nepali, and have enough potential in them for things to go wrong. Despite the achievements towards peace, there are challenges too. One of the major problems is to achieve sustainable peace at the time when the country has just emerged from the armed conflict.

Against this background, many research papers were published analyzing Nepal's peace process, political transition and conflict resolution process. Nevertheless, it seems that there are very limited assessments of the implications of political principles and theories during the entire political process of Nepal. In this regard, the basic premise of this paper is to examine what, if any, role played by consensus principle in Nepal for the stability, sustainable peace and institutionalizing democracy during the politics of peace in last decade. The paper mainly revolves around the achievements, consequences and complexities of the implication of consensus theory in practice. I will be discussing broad context on peace process in which we can assess what went well and what did not in Nepalese peace process limiting myself with mainly three issues related to consensus principle which are: political issue, resource distribution, containing violence. The main argument of this paper is the consensus practice has more contributed for easy resource distribution, containing overt violence and accommodating diverse political parties, but this is the same principle which hijacked democratic practices totally at the local level and partially at the central level. The findings reported in this paper stem from a qualitative research projects conducted by myself between 2011 and May 2015. Beside my personal reflections after the qualitative studies, the arguments in this paper rely on available written sources in this area of inquiry and interviews with local and international experts in Nepal's political process.

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