# ABSTRACTS

**On Development of Criminal Law in the People's Republic of China**

By *Shizhou Wang*, Beijing

This paper is trying to illustrate the main achievements of Chinese criminal law and explain the main problems in the development of Chinese criminal law. In historical review, this paper explains the significance of promulgating Chinese Criminal Code of 1979 in ending the revolutionary criminal law, building up a state ruled of law and summarizing the experience of the Planned Economy. With open and reform policy, Chinese criminal legislation adopted individual supplementary decision to resolve the problem of stability against further development. The Chinese Criminal Code of 1997 integrated 23 supplementary decisions promulgated between 1979 and 1997 as well as other criminal provisions into a complete and systematical code. In the new development after 1997, Chinese criminal law adopted new legislative methods of criminal amendment and criminal legislative explanation instead of supplementary decision according to the Legislation Law of 2000. This paper illustrates the new development and points out the Chinese criminal law is in the tendency of expansion. According to the requirement of human rights protection in the Amendment of Constitution in 2004, Chinese criminal law provides more and more protection for daily life and occupies the indispensible position, though civil law and other laws have gained much more significance in legal life.

According to the Author's opinion, there are two serious problems in Chinese criminal law. One is high guilty line and the other is too many death penalty. The Author argues that Chinese criminal law should lower down the guilty line in order to resolve these problems. By lowering down the guilty line, Chinese society could improve the level of social safety, which would provide a good condition for abolishing death penalty, at least a de facto one. Although the principles of modesty and last method (Subsidiaritätsprinzip und ultima ratio-Prinzip) should be observed, the problem in China is not yet the over-regulated but still the less-regulated. The Author believes that it shall be allright as long as criminal provisions are clearly stipulated, the principle of proportionality is followed and the purpose of a criminal provision is to provide and not to deprive people of freedom. With further development, Chinese criminal law shall also pay more attention to its accurate stipulation and enforcement of criminal law.

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**Democracy and the rule of law in South Africa: Observations on significant legislative and other developments after Polokwane**

By *Dieter Welz*, Fort Hare / RSA

The 52nd Conference of the African National Congress (ANC) held at Polokwane in December 2007 affirmed the ruling party as the key strategic centre of power in South Africa exercising leadership over state and society in pursuit of the objectives of the National Democratic Revolution. Specific Polokwane resolutions impact on the independence of the courts, law-enforcement agencies and the mass media. Aspects of the measures proposed for urgent implementation or already in place do not suit the requirements of the new Constitution. They either brazenly violate or seek to change these requirements – apparently for no principled reason and not inadvertently. These measures are widely seen as a potential threat to constitutional democracy in South Africa. They are discussed here with reference to the country's complex political realities and its evolving patterns of constitutional development

**Late Nostalgia for *la madre patria*: Forms of Latin American Migration in Spain**

By *Andreas Baumer*, Rostock

In the last two decades, Spain has undergone dramatic changes. The classic emigration country converted itself into one of the most important migrant-receiving countries in the European Union. Especially since the mid-nineties of the last century, migration to Spain experienced a massive acceleration, only curbed by the economic crisis starting in 2008. The percentage of citizens from foreign countries among the Spanish population increased from 1.3 percent in 1996 to 12.08 percent in 2009, exceeding the average figure of the traditional immigration countries in Europe.

Migrants from Latin America had a big share in this boom. At the turn of the century, Latin Americans, especially from countries of the Andean Region, became the predominant group among the migrant population in Spain – to an extent that led scholars to speak of a "Latin-Americanization" of the migration to the Iberian country.

Migration from Latin America to Spain became more dynamic more or less because of the same push- and pull-factors which determined migration processes originating from other regions: Poverty, unemployment and a general lack of perspectives on the one hand, and an apparently insatiable demand for work force in the booming Spanish economy on the other. But beyond that, some aspects rooted in the common history of *la madre patria* and their former colonies had a heavy influence on the development of these migration flows. A common language, the same religion and some kind of cultural vicinity provided to the Latin Americans some benefits compared to other groups, i.e. to Muslim migrants from Northern Africa. A great majority of the Spanish population prefers Latino migrants to immigrants from other regions.

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Are migrants from Latin America indeed the "preferred of the 21st century", as migration scholar Antonio Izquierdo Escribano stated? Are there public policies privileging migration flows out of this area against those from former migrant sending regions? Can we even identify elements of a new *hispanidad* in the public discourse on migration in Spain?

The article focuses on these questions. First, a concise account of the migration processes to Spain and the migration policies of the Spanish Governments in the past two decades will be given. Then, forms and dynamics of Latin American migration will be explored. Finally, the political, social and juridical framework of Latin American migration to Spain will be analysed and debated.

**Squatters' Rights and the Land Laws in Tanzania**

By *Kennedy Gastorn*, Dar es Salaam

This paper discusses the position of land law in mainland Tanzania in relation to those who hold land outside the formal legal regime, in particular squatters, also referred to as informal landholders. It traces the concept of squatting and its evolution in the Tanzanian land legal regime. The paper analyses the land tenure position of squatters in the courts of law, the National Land Policy and the new land laws. It discusses the schemes of validation and regularization of interests in land under the Land Act, 1999 as the squatters' main options to formalize their title to land. The future of squatter's land rights is also discussed. In this paper Tanzania means Tanzania mainland (Tanganyika) because although Tanzania is a union, land is not among the articles of union and therefore each part of the United Republic of Tanzania (Tanganyika and Zanzibar) retains sovereignty as far as land administration and management are concerned.

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