

# Where will BRICS go next? Considerations on state and constitution in a comparative perspective

*Ernani Contipelli*\*

## *Abstract*

The BRICS is characterised as an extremely heterogeneous international cooperation model which demonstrates a high level of complexity as it is composed of countries having different cultural backgrounds which adapt their differences into a factor that sustains the existence of the grouping and achieves its common goals. In a specific way, the comparative investigation of the distinct perceptions of State and Constitution appear to be a useful research approach better to understand the international institutional complexities. Therefore, to explain the BRICS phenomenon I explore the perception of State and Constitution for each BRICS member using a comparative approach which enables a better understanding of internal differences and how these influence the construction of the collective identity of the grouping and its forms of cooperation. This article aims to analyse, from a comparative perspective, the different perceptions of State and Constitution in BRICS members so as to identify the constituent elements of their diversities and heterogeneity in addressing one of the principal topics of the current international political agenda – global governance.

---

\* Director-General and one of the founding members of the Center for European Strategic Research (CESR). Currently, he is a Professor of Political and Constitutional Law at the Faculty of Juridical Sciences of the Unochapeco (Brazil) and Visiting Research at the Institut D'Études Européennes of the Université Libre de Bruxelles (Belgium). He obtained two post-doctorate degrees in Comparative Politics at the Universidad Complutense de Madrid and Universitat Pompeu Fabra (Spain) and a PhD in Public Law at the Pontificia Universidade Católica de São Paulo (Brazil). He has various experiences in the academic field working as Visiting Research and Professor in different countries such as Spain, Italy, France, Brazil, Mexico, Chile, Korea, China, and others. He has published seven books and several articles concerning his research areas of interests: Comparative Politics and Constitutionalism, Latin American Studies, International Development Cooperation: Europe, Asia and Latin America, and Emerging Powers and Global Governance.

## **INTRODUCTION**

As a product of history, international order comes under the influence of several factors – from culture to economy – and passing through political and social transformations that demand adaptation of international structures to the changing relations. Therefore, a constant evolution of institutional forms and concepts is observed within a specific period in history.

The globalisation that began in the 1980s, has changed the established order, generating new forms of complex international cooperation. On some occasions international cooperation has touched on the integrity of the nation state's sovereignty, for example, in the case of regional integration. One of the most important examples is the establishment of the European Union (EU), strengthened by historical factors like the fall of the Berlin Wall which accelerated the expansion of the integration process as one of the responses to the unilateralism of the United States.

By the end of the 20<sup>th</sup> century, globalisation had resulted in the emergence or re-emergence of new actors in the global economy. These countries are challenging the political and economic hegemony of the Western powers which previously constituted the global order. With the rise of these powers, the traditional model of international cooperation has been challenged by the appearance of informal and flexible multilateralism determined by political and economic pragmatism, as in the case of the BRICS – a grouping formed by Brazil, Russia, India, China and South Africa – which simultaneously presents a set of common interests and cultural and political diversities to illustrate a particular way of operating as a group: converting its heterogeneity into a factor of intra-cooperation helping to overcome controversies and strengthen common interests.

Because of these apparent contradictions, the BRICS's existence is a triumph for its member countries. However, as a political player in the international scenario the grouping is still an actor in the making which is gradually shaping its individual pragmatic strategic profile. In this order of ideas, considerations of State and Constitution among the BRICS members are fundamental to a clearer understanding of this form of cooperation among heterogeneous nations with different geographic, social, and political stances, but which pursue a set of common interests.

This article aims to compare the institutional aspects of BRICS's beginnings by an analysis of the different perceptions of State and Constitution to better

understand its intra-cooperation model and the factors that comprise the political formula of each of its members. The rise of the new actors and the formation of a new heterogeneous grouping of cooperation, such as the BRICS, require an analysis of their institutional structures in order to understand how the traditional political concepts are evolving in international relations.

### **CONSIDERATIONS ON STATE AND CONSTITUTION AND THEIR COMPARATIVE PERSPECTIVES**

The perception of State and Constitution has been greatly impacted by the rise of new political actors and fora in the international arena resulting from globalisation. This process has generated a diversification of political decision-making formats and deposed the nation state as the 'sole international player'. This demands a review of research tools used to analyse its institutional structures.

This globalised context imposes increased interdependence on and demands greater solidarity of the political actors. It impacts on the sovereignty of nation states which must establish an open dialogue within the international order to provide the correct balance and harmony of their powers so as to respond to common problems faced by humanity and ensure global governance. Currently, the principal problems facing the domestic order are not unique to any particular country; they affect the entire international system and give rise to theories which evidence the necessity to establish an effective intergovernmental collaboration across different levels of power as proposed by Peter Häberle<sup>1</sup> with his idea of the cooperative state and global governance.

However, to achieve effective global governance and understand the new players' role in the political scene, it is still necessary to study the domestic institutional structures and identify the differences and similarities between the most relevant actors in this game. Only through this will it be possible to reveal the impact their perceptions of State and Constitution exert on cooperative actions and structures.

Such analysis provides a better comprehension of the institutions' work in their specific environments and highlights the interaction of multiple

---

<sup>1</sup> Häberle *Estado constitucional cooperativo* (2007) 11–15.

historical factors such as culture, religion, economy, and politics that make up their structures and define their domestic and international actions.

Of course, these factors manifest in different ways and at various levels in each social context. In this way they become part of the ideological and political discourse that contributes to the determination of the principal public policies in the dynamic processes that shape the recognition of a political actor's profile.

In fact, it is the connection between the diversity of institutional values that integrates a nation's pattern of being, and the implication of its plural social forces must be considered by comparative research when it locates the study of a political actor in the globalised and multicultural international contemporary scenario.

The identification of these factors comes up against a formidable barrier in terms of the operationalisation of unambiguous perspectives in that it demands significant effort to establish the permanent and substantial factors underlying the public-life outcomes. For example, the concept of culture, as stated by Wuthnow,<sup>2</sup> could be determinative as a process that reproduces the beliefs and attitudes that the people hold in relation to the world around them, and which is at the same time present in their perception of the meaning of State and Constitution.

However, the factors comprising the identification of State and Constitution do not wholly refer to the subjective qualities of society and its members. They also possess objective properties connected with their concrete manifestations reflected in terms of the norms, values, and constant attitudes that interact with society in their own specific way.

According to Pablo Verdú,<sup>3</sup> one of the most useful hermeneutic instruments to reveal the reciprocal relations between State and Constitution can be extracted from what he terms the 'political formula' – *ie*, the ideological expression of the values, normatively and institutionally organised by the Constitution, that describe a socio-economical structure. The political formula integrates a scale of historical and social factors enabling the perception of multiple characters of the models of State and Constitution of

---

<sup>2</sup> Wuthnow *Meaning and moral order: explorations in cultural analysis* (1987).

<sup>3</sup> Verdú *Curso de derecho político* (1910) 36.

one nation, and the elements that converge in the process of decision-making at domestic and international levels.<sup>4</sup>

As mentioned earlier, the political formula is a hermeneutic construction which facilitates an overview of the factors which make up the power structure of one nation, and contribute to a comparative investigation of its role in the interdependent current global order – especially through the models of international cooperation as in the case of the BRICS.

Therefore, the scope of the comparative studies must transcend the formal notion of State and Constitution and feed into the core of the factors which are in constant interaction with the meaning of the social reality, composing its political formula, inspiring its structure, and highlighting its major institutional features which characterise the integrity of a nation state and its international role.

Furthermore, the differences between the political actors must be appreciated in the light of the comparative research, and must, as proposed by Cotterrell,<sup>5</sup> be used in a productive integration in order to appreciate the virtues of diversity and ensure mutual understanding and acceptance.

In the complex and interdependent globalised era, the recognition of the diversity and the factors that reveal the communicative interactions that occur among the political actors, has enriched the knowledge of the dimensions of geopolitics and its multiple models of mutual cooperation. In other words, if one is to gain a clear picture of the different dynamics and actors that have emerged in the international political and economic systems, comparative research in the globalised era necessitates the search for interdisciplinary tools that enable the analyses of the paradigms that have shaped the characteristics of the existing models of cooperation.

In this context, the BRICS presents a unique precedent in history as a model of international cooperation formed by a grouping of countries which differ from one another in several ways – from the cultural to the demographic – yet present a constant process of construction developed in response to the pragmatic interests and reciprocal convenience of its members.

---

<sup>4</sup> Contipelli *Solidaridade social tributaria* (2009) 233–234.

<sup>5</sup> Cotterrell *Law, culture and society* (2006) 134.

It is a fact that the BRICS represents a model of south-south cooperation by taking into account a similar historic moment related to the political conditions for the inclusion of its members into the international scene, that generates a real challenge for the established global order, not only in terms of trade and economic relations, but also from the institutional perspective as these countries seek to affect global governance, sharing the power with the hegemonic nations by being ‘rule makers’ rather than ‘rule takers’.<sup>6</sup>

One of the main features of the BRICS as a grouping, is related to the determination of the institutional aspects of each of its members reflected in their relationship, and revealing their distinctive political systems and cultural backgrounds. From this institutional viewpoint the BRICS works as a network with its ‘non-binding’ relationships, as suggested by Scaffardi.<sup>7</sup>

In another comment, Scaffardi expresses the view that there is a lack of studies of the institutional aspects of the BRICS. He highlights the grouping as ‘a self-standing system not based on constitutional identities or common legal tradition, nor on express legal form, is totally neglected’, and affirms that its model of cooperation supported by ‘legal flows’ and mutual interactions of policy transfer, could be a possible alternative for the regionalisation processes experienced in the western world.

These concepts allow us to explore the BRICS members in a way that reveals differences rather than similarities, especially where these concern their perceptions of State and Constitution. Such comparative research constitutes an opportunity to understand the mechanisms of the group’s sustenance and entry into the complexity of the existing political actors.

Carducci and Bruno<sup>8</sup> propose the use of new dimensions of constitutional comparison based not on ‘ideal-typical/universal’ but on ‘circular’, as a means of studying the reality of the BRICS as a form to ‘highlight phenomena (and contradictions) that arise with single realities, and to

---

<sup>6</sup> Duggan ‘BRICS and the evolution of a new agenda within global governance’ in Rewizorski (ed) *The European Union and the BRICS: complex relations in the era of global governance* (2015) 17.

<sup>7</sup> Scaffardi ‘BRICS, a multi-centre “legal network?”’ (2014) 5 *Beijing Law Review* 440–148 at 142.

<sup>8</sup> Carducci & Bruno ‘The BRICS countries between justice and economy: methodological challenges on constitutional comparison’ (2014) 2 *Sociology and Anthropology* 46–58.

underline those parallel or common elements in comparison with economic and geopolitical strategies of convergence of the involved countries.’

There are different comparative perspectives from which to analyse the factors forming the perceptions of State and Constitution in the BRICS context. For example, using the vertical approach which considers each institutional system and centres the research on the economic interests of its members; or taking the states’ systems as a product of history, of legal flows and cultural influences, as proposed by the horizontal methodology.

What must be understood is that the BRICS as a model for international cooperation, is considered an unexplored field for comparative study relating to its institutional aspects. Therefore, the comparison of intra-BRICS and extra-BRICS should involve new methods and perspectives that fit in with its particular and continuing process of institutionalisation. This involves a search for the principal features that have shaped the perceptions of State and Constitution in each BRICS member state with special attention to historical and sociological factors that impact their mutual relationship.

The comparative description of these factors using the concept political formula, reveals the elements that must be taken into account in forecasting the future of the grouping in the international arena. Furthermore, the current, somewhat problematic context, affects the economies of the BRICS member countries and casts doubt on the viability of the grouping itself. The first step, therefore, is to analyse the institutional process in the development of the BRICS so as better to understand its place among the new leading powers.

## **THE RISE OF THE BRICS AND ITS INSTITUTIONAL DEVELOPMENT**

Representing a south-south cooperation model, the BRICS countries can, according to Joordan,<sup>9</sup> be categorised as emerging powers in that they are not concerned with being perceived as ‘good international citizens’, and their foreign policies are directed to the pragmatism of economic affairs so as to assert regional leadership – for example, China in East Asia; Brazil in South America; and Russia in the Euroasian Union – without interfering in

---

<sup>9</sup> Joordan ‘The concept of a middle power in international relations: distinguishing between emerging and traditional middle powers’ *Politikon: South African Journal of Political Studies* (2003) 171.

the internal sovereignty of the other nations, and the different forms of domestic conflict affecting the countries in their respective geographic zones of interest.

Furthermore, the emerging powers seek to consolidate their positions as relevant players on the global stage. This goal showcases the efforts of these actors to challenge the world order established by the hegemonic countries, and enables the opening-up of new opportunities in international organisations such as the United Nations, the World Bank, the International Monetary Fund and other relevant institutions. However, within more than one decade of its existence, the BRICS appears to be somewhat more of a grouping of countries that has progressively acquired its own institutional form to provide answers to the contemporary problems that affect the south-south world by its cooperation.

Starting with these considerations, the history of the BRICS began in 2001 when Jim O'Neill of Goldman Sachs previewed a new economic era in his report 'Building better global economic BRICs'<sup>10</sup> and first coined the acronym for the grouping of countries formed by Brazil, Russia, India and China. This grouping, in his view, would be the future dominant economies and reshape the established world order by sharing power with the hegemonic countries.<sup>11</sup>

The launch of this acronym stimulated the political imagination of scholars and especially of the authorities in the countries involved. Ever since the idea of the BRIC as a single global player through the implementation of an international cooperation model, has gradually gained traction. At the same time the increasing standing of its members in the world economy has proved a decisive factor in the development of the process of institutionalisation of the grouping. The relevance of the grouping is – as predicted by O'Neil – reflected in the fact that between 2001 and 2011 the world's economy has doubled, and the BRICS has been responsible for one-

---

<sup>10</sup> O'Neill 'Building better global economic BRICs' 2001 *Goldman Sachs Global Economics Paper* n 66. Available at: [www.goldmansachs.com/our-thinking/archive-pdfs/build-better-brics.pdf](http://www.goldmansachs.com/our-thinking/archive-pdfs/build-better-brics.pdf). (last accessed 10 March 2016).

<sup>11</sup> Although conceptually, the creation of BRICS refers to Jim O'Neill's Report, see Kirton 'Explaining the BRICS Summit's solid, strengthening success' (2015) 10/2 *International Organisations Research Journal* 9–38, reveals that the origins of the group could be seen in the early 1990s in Russia, in the form of a 'strategic triangle' of the RIC of Russia, India and China and later fostered by the formation of the DCO led by Russia and China.



third of this growth. Their combined increase in GDP has been more than double that of the United States, and is equivalent to the creation of another new Japan, plus one Germany or five United Kingdoms.<sup>12</sup>

The first BRIC meeting was in 2006 between the Foreign Ministers of Brazil, Russia, India and China, on the margins of the 61st United Nations General Assembly meeting in New York. The leaders of the BRIC nations next met in a side event to the G8 meeting in 2008 and agreed to strengthen their cooperation to address common problems and hold a specific group summit the following year. This first autonomous meeting revealed the initial BRIC's strategy of focusing on common economic goals, and setting the political diversity among its members to one side as a way to increase the grouping's role in the decision-making process within the international order.

The same strategy was used in Yekaterinburg, Russia, on 16 June 2009, at the first stand-alone BRIC summit to consolidate the cooperation among the member nations, and to formalise the existence of the grouping through the signature of a statement of intent to adopt a common strategy for acting in the traditional international organisations such as the G20 and United Nations. At this summit, the issues at the centre of the debates were development, south-south cooperation, and the global financial crisis.

The second summit took place in Brasilia, Brazil on 16 April 2010, and was marked by discussion of the identification of areas for mutual collaboration, the role of the BRIC countries in relevant aspects of global governance – such as environment and security – and also by an important fact: the admission of South Africa as the fifth member lending additional political and economic weight to the grouping through the admission of a strong regional partner from the African continent.<sup>13</sup>

---

<sup>12</sup> Larionova & Shelepov 'Is BRICS institutionalization enhancing its effectiveness? In Rewizorski (ed) *The European Union and the BRICS: complex relations in the era of global governance* (2015) 40.

<sup>13</sup> It is a fact that South Africa compared with other BRICS members could be considered a small economy (Scaffardi n 7 above); however, it constitutes an important regional partner as a representative in a new geographic area, as stated by Orrù (2012) 'guaranteeing BRICS clan more planetary dimension, encompassing the Africa continent'.

The third summit, held in Sanya on the island of Hainan, China, on 14 April 2011, saw the participation of South Africa for the first time, as well as a change in the acronym from BRIC to BRICS. At the Sanya Summit, the BRICS leaders agreed to focus their efforts on new areas of cooperation, in particular those relating to clean energy, agriculture, and finances, to debate themes related to international conflict, and finally, to increase their ‘engagement and cooperation with the non-BRICS countries, in particular the emerging and developing countries, and relevant international and regional organizations’.<sup>14</sup>

This moment is marked as a turning point in the development of the BRICS as an institutionalised global actor. The annual summits, characterised by an informal structure among the four founders, have gradually evolved to include a new member (South Africa) giving to the group more political power and demonstrating its concern not only for economic issues, but also for the establishment of a new path for emerging powers led by the grouping.

Preparing its next steps towards a more institutionalised structure, at the fourth BRICS summit held in New Delhi on 29 March 2012, the leaders criticised the current global order, the lack of political representation for developing countries, and the need for reform to increase their participation in international organisations such as the World Bank, the IMF, and the United Nations Security Council (UNSC).

This summit was also a pioneering step in establishing a BRICS-led development bank (NDB) which was the main focus of the fifth summit under the theme ‘BRICS and Africa – Partnership for Integration and Industrialization’ held in Durban, South Africa, on 26 and 27 March 2013, where the discussion focused on the design and procedural issues of the NDB establishment, especially the amount of start-up capital, participation of each country, and objectives of the bank<sup>15</sup>. Moreover, at the fifth summit leaders agreed to set up another important BRICS initiative in the field of finance: the institution of a Contingency Reserve Arrangement (CRA) to

---

<sup>14</sup> Sanya Declaration 2011 (available at: <http://brics2016.gov.in/upload/files/document/57566e28a911e3rd.pdf> (last accessed 12 January 2016).

<sup>15</sup> Contipelli & Picciau (2015) ‘Institutional status of BRICS and pragmatic cooperation: the case of South America’ (2015) 10/2 *International Organisations Research Journal* 122–123.

provide liquidity for its members and countries experiencing economic difficulties.

Representing a sort of ‘formalisation’ of the grouping, the sixth summit in Fortaleza, Brazil, on 14 to 16 July 2014, blessed the official launch of the NDB and the CRA giving BRICS the framework necessary for increasing its cooperation from a lobby group to an institution capable of contributing to ‘a more just world order’ through the multilateral development bank that will finance infrastructural projects in the developing and less-developed countries in accordance with one of the main themes of the grouping’s agenda: ‘growth with social inclusion’.

The sixth BRICS Summit represented a new chapter in relations between participating states, and elevated their status from that of a lobby group to a more organised entity able to deliver solutions. The group clarified its political profile, establishing institutional ties between its members through the creation of the NDB and the CRA (Contipelli and Picciau, 2015). The launch of these financial institutions was an opportunity to ‘self-formalise’ so as to compete robustly with other traditional players in the global system.

Finally, on 8 and 9 July 2015, the seventh summit was held in Ufa, Russia, under the theme ‘BRICS Partnership: A Powerful Factor in Global Development’. The NDP and CRA officially entered into force with a promise to finance initial projects in 2016. Other topics emphasised by the leaders were peace and international security, and the necessity of coordinating actions in order to promote social development – focusing, in particular, on health and education in and between the BRICS countries. In addition, on the margin of the BRICS Summit, the five leaders held a joint summit with the members of the Shanghai Cooperation Organisation (SCO) and the Eurasian Economic Union (EEU) showing, yet again, the engagement of the grouping in consolidating its role as an international representative of the developing world.

The rise and institutional development of the BRICS reveal a complex structure marked by a set of shared interests and cultural and political diversities, that have been converted into intra-group cooperation to overcome controversial issues, strengthen collaboration in different policies spheres, and establish an individual identity as a global political actor.

The inclusion of the BRICS member countries in the international architecture contributes towards the formation of the grouping and demands an institutional arrangement which captures its essence and sustains its existence by addressing collective problems and achieving common goals. On the other hand, the diversity and contradictions among the BRICS members, negate the requirement of structural and formal conditions as a substantial element for the establishment of their cooperation. As a political player in the international scene, the grouping remains an actor in the making which is slowly shaping its pragmatic strategic profile and its identity.

The dynamics of the BRICS cooperation and institutionalisation enhance its global influence. The evolution of its institutional structure is evidenced in the multiple meetings of the leaders and other authorities from the countries, the documents produced to coordinate their agendas, the creation of the NDB and the CRA revealing the triumph of the members in sustaining and developing the existence of the grouping and steadily increasing its cooperation despite individual differences.

Therefore, the collective identity of the BRICS is shaped by the political and economic circumstances that affect the grouping as a representative of the developing world. This is particularly true when the objective is related to the reform of global governance and power sharing with the Western countries, while they differ in terms of political, economic and cultural factors among its members resulting in distinctive interests and actions within the international institutions such as the G20. To better comprehend these situations means to be involved in the factors that coincide with the perception of State and Constitution in each BRICS member state by using a comparative approach which enables a better understanding of their internal differences and how these influence the creation of the collective identity for the grouping and its forms of cooperation.

#### **COMPARATIVE PERSPECTIVES ON STATE AND CONSTITUTION INTRA-BRICS**

The BRICS is in a constant process of institutional construction where pragmatic interests define its forms of cooperation and in so doing, progressively consolidate the group-identity and overcome the differences in the individual states by concentrating their efforts on achieving common

goals and coordinating their efforts to harmonise their agendas and policies.<sup>16</sup>

Consequently, BRICS cooperation, which could be viewed as innovative in its fundamental concepts, contents, and practical results, is used as a model to reinvent the cooperation-model among the nation states, differs fundamentally from the ties that bind regional entities<sup>17</sup>. In essence, the BRICS attempts through complex institutional innovation, to realise its role as a global actor and better understand its intra-cooperation model. It is therefore necessary to analyse – from a comparative perspective – the factors which make up the political formula of each of its members, so as to enable one to capture their respective perceptions of State and Constitution.

As a Latin-American country, Brazil is immersed in its religious and cultural roots based on Christian values and an historical process of formation that results in a uniform distribution of its different ethnic groups throughout the national territory. This has led the country to a nationalism, especially sustained by its linguistic unity and the absence of significant political impact, as suggested by Furtado when he states:

In Brazil, the struggle for federalism is on the development aspirations of the different areas of which it is a huge territory. Do not place among us the problem of crisis nationalities, ethnic or religious lit disparities cultural conflicts, but the economic dependency of certain regions, unilateral transfers of resources covert policy of managed prices. In the diversity of the regions are the roots of our cultural wealth. But preserving that wealth requires that material development spread throughout the national territory.<sup>18</sup>

---

<sup>16</sup> The BRICS Report (2012) underlines the importance of the process of institutionalisation of the group to increase its cooperation and influence the global economy: 'The BRICS countries have a remarkable opportunity to coordinate their economic policies and diplomatic strategies not only to enhance their position as a grouping in the international economic and financial system, but also to be a stabilization factor for the world economy as a whole. The BRICS should increasingly harmonize and coordinate their policies with a view to sustaining their growth momentum and capacity to weather global turbulence. The benefits of cooperation are immense not only for the BRICS but also for the global economy.'

<sup>17</sup> Casella *BRIC – Brasil, Rússia, Índia, China and África do Sul: Uma Perspectiva*. *Revista da Faculdade de Direito da Universidade de São Paulo*, vol. 105 (2010) 435–472.

<sup>18</sup> Furtado *O Longo Amanhecer: Reflexões sobre a Formação do Brasil* (1992) 46–47.

The chronic problem confronting Brazil is related to its regional development, in light of the economic and social disparities between the 'rich' South and the 'poor' North. The need to overcome regional inequalities is a constant concern in the Brazilian Constitution which demands action to support its fundamental objectives based on the 'guarantee of national development' (article 3, III) through the establishment of a balanced national development plan which integrates and reconciles all levels of government (article 174).

Currently, Brazil is seeking a way to overcome its serious social and political problems, and to consolidate its leadership of Latin American development, in particular through the MERCOSUR<sup>19</sup> that currently faces competition from the other groups in the same region such as the Pacific Alliance formed by Mexico, Peru, Colombia, and Chile.

India, by contrast, is considered an extremely heterogeneous nation with eighteen official languages – English excluded – and 1 600 dialects spread regionally across its 29 states. It also has distinct ethnic identities and minority groups such as its tribal peoples, not to mention six different religious affiliations of which Sikhs and Muslims are in the majority.

This cultural background reveals the plurinational composition of the country and demands particular attention to public action to integrate the differences in its 'quasi-federal structure' as the peculiar form of territorial organisation mandated by the Indian Constitution. In this sense, the Indian Constitution declares the country to be a socialist, secular, and democratic Republic structured in a quasi-federalist organisation or a union of states with, as held by the Supreme Court, 'a strong bias towards the Center' or, as remarked by Wheare: '[A] unitary state with subsidiary federal features rather than a federal state with subsidiary unitary features.'<sup>20</sup>

---

<sup>19</sup> The MERCOSUR was established by the Treaty of Asunción in 1991 and consists in a sub-regional bloc formed by Argentina, Brazil, Paraguay, Uruguay and Venezuela in order to promote free transit of produced goods, services and factors of production among member states adopting policies of economic liberalisation, eliminating customs rights and lifting of nontariff restrictions on the transit of goods.

<sup>20</sup> Wheare 'Modern constitutions' (2ed 1966) in Telo (ed) *European Union and new regionalism: regional actors and global governance in a post-hegemonic era* (2007) 166–167.

Another important consideration regarding the Indian Constitution which adds a further nuance to the complexity is its institutional structure, relates to the principle of the independence of the judiciary which constitutes its fundamental tenant, as, in interpreting Indian statutes, the courts frequently call on the guidance of English decisions to support their conclusions. This can be ascribed to India's links to English common law and jurisprudence and a similarity in political thinking. However, where resort is had to English precedent, this must be consistent with Indian philosophy.<sup>21</sup>

Finally, within the framework of its foreign policy, India faces permanent tension with Pakistan and the need to extend its influence in South Asia, balancing eventual conflicting relations with its gigantic neighbour and fellow BRICS-member, China.

A similar level of complexity can be observed in the current profile of the South African nation which has abandoned a politically segregationist regime founded on apartheid that applied from 1948 with the victory of the Nationalist Party, until the re-democratisation process that began in early 1990s and ushered in a new era for the country in terms of international inclusion, innovation, and, in particular, conciliation of racial interests.

One of the consequences of apartheid for the structure of society is the disproportionate percentage of specific cultural or tribal groupings across the boundaries of the nine South African provinces. As suggested by Govender,<sup>22</sup> while the whites are dispersed throughout the country, the largest percentage of Indians is found in KwaZulu-Natal, and a small number need to settle in various parts of the country; lastly, there is a large coloured community in Western Cape, giving them a significant political voice in the running of the province.

An important factor for South Africa's social and institutional structure, is the recognition by the Constitution of African customary law and the status and role of traditional leaders. Although all are required to act in accordance with the Constitution, several aspects of customary law – especially in the rural and traditional areas – differ markedly from the legal principles applied

---

<sup>21</sup> Vagadia *Outsourcing to India – a legal handbook* (2007) 31–36.

<sup>22</sup> Govender 'Federalism and legal unification in South Africa' in Haberstem & Reimann (eds) *Federalism and legal unification: a comparative empirical investigation of twenty systems* (2014) 414–416.

in the country as a whole yet regulate the lives of a significant number of South Africans (Govender, 2014).

The foreign policy pursued by South Africa was aimed at consolidating the nation's leadership role in the sub-Saharan space, competing with Nigeria, in particular, which is also considered an emerging power with great prospects and which has been included in the acronym MINT representing Mexico, Indonesia, Nigeria and Turkey.

Russia has suffered a series of fundamental and abrupt historic changes starting with the 1917 revolution, and culminating in the 20<sup>th</sup> century when Russia, with the United States, was recognised as one of the two axes of power during the cold war in which it represented the centre of the political command of the URSS. In recent years, it has converted its socialist regime into an aggressive open-market economy with repercussions for social and political conditions on the domestic level. One of the historic factors which has impacted most dramatically on the composition of contemporary Russia, is the fall of the Soviet Union which began with '*perestroika*' being hailed by Mikhail Gorbachev as a failed endeavour in restructuring the defunct Soviet economy, and opened the way for the subsequent privatisation and the dismantling of the socialist regime.

All of these changes have played an important role in the current social and institutional structure of the country which has experimented throughout its history establishing eighty-five mostly ethnic-based subjects of the Russian Federation. According to Jeffrey Khan<sup>23</sup>, its multicultural composition is reflected in the state's two equally valid names: Russia and the Russian Federation. A citizen of Russia is not a Russian – that adjective describes one of several Slavic ethnic groups – but *Rossianin* corresponds to a civic category that may include any of the over 100 ethnic groups that populate the country.

In geopolitical terms, the country tried to sustain its politico-economic dominance over certain nations in the Euro-Asian area – most notably those that formed the ex-socialist republics, and are actually a part of some regional entities influenced by Russian power as the Eurasian Union and Independent States Community.

---

<sup>23</sup> Khan 'Federalism, the parade of sovereignties: establishing the vocabulary of the new Russian federalism'(2000) 16 *Post-Soviet Affairs* 58–63.



Currently, Russia has big plans for its geographical zone of influence personified in the creation of the Eurasian Union bringing together Belarus, Kazakhstan, Kyrgyzstan and Armenia, with freedom of movement for capital, goods, services, and labour and a coordinated economic policy. Recently, Russia was called upon to exert its political influence over the region by integrating Crimea which had seceded from Ukraine.

Finally, China which is currently ranked as the second most important economy in the world, presents itself as one of the most fundamental global players in the complex political and international arena. Differing in some ways from the Soviet historical process, China changed the foundation of its socialist regime and has become a competitive economy and a centralised state with a high level of complexity in its political structures influenced by Confucianist philosophy and the presence of ethnic minorities.

Differing from the Western parameters of the nation state, China was formed by the conception of a 'civilisation state' pursuing a distinct perception of values that are considered universal for the occidental world. In this case, its public decisions must be approached from a different perspective, taking into account its cultural formation – its Constitution, for example, is based on the idea of 'One Country Two Systems' which is intended to promote unity by including the capitalist economic regime developed by Hong Kong and other regions like Macau.

Furthermore, China faces resistance from the occidental powers as regards its political orientation, especially when it comes to human rights and democratic openness. These situations are criticised by Western countries, but do not prevent them from pursuing economic and trade relations with the 'Asian Dragon' and its financial power which progressively establishes it as the rising leader of the southern hemisphere, challenging the hegemony of the traditional nations.

Therefore, China has challenged the developed world with a set of interesting and innovative political actions – for example, its support for activities of the BRICS that are syntonetic with its domestic interests like the launch of the NDB and the CRA – and also through other multilateral initiatives such as the Asian Infrastructure and Investment Bank which includes among its founding members, the USA's historical allies, like South Korea and important European countries such as the UK, Italy and France, or even through its support for the China-CELAC (Caribbean and Latin

American Community of States) forum which increases its economic presence in countries in the region. In final analysis, together these initiatives show the Chinese desire to change the established world order.

The factors presented here form part of the dynamics of political and international cooperation, and interact with the structural aspects that make up the concept of State and Constitution in relation to the BRICS members. In other words, the different cultural and philosophical inspirations, religious traditions, and historical particularities related to the economic transitions such as that from socialism to neoliberal capitalism, must, among other circumstances, be regarded as elements that influence the political actions of BRICS member states in their intra- and international cooperation.

### **CONCLUSION**

The dynamics of the new world order, starting from a comparison of some institutional aspects that involve perceptions of State and Constitution within the BRICS grouping, enables a discussion of the main factors affecting the stability of international relations impacting on the global order. This requires reconciling several factors such as national interest, interdependence, and the role of the citizen in the life and development of his or her community. In this context, the comparative research on the BRICS suggests a review of the political formula and common identity of its members and proposes reflection related to the perceptions of State and Constitution in the contemporary global order which demands the definition of the profile of its multiple actors to provide a reliable path to global governance.

In BRICS, the historical and social factors that embody distinct perceptions of State and Constitution, and contribute to the political formula of its members, are harmonised in the institutional forms that have evolved alongside the annual summit and other forms of cooperation. These have also impacted on the construction of the profile of the grouping as a global actor with a well formed international identity, as the representative of south-south cooperation.

This identity can be observed in the BRICS's endeavors to share power with the hegemonic countries in international organisations such as the United Nations, the IMF and the World Bank, so shaping the dynamics of a new world order characterised by multi-polar pragmatism, where emerging powers like the BRICS countries, present themselves to their partners as

alternative forces that prioritise circumstantial relations, and in the intra-cooperative field, focus efforts on their own domestic agendas and the representation of developing countries.