

## ARTICLE

### National and Ethnic Identity in the Constitutions of the BRICS Countries

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**Abstract.** The article presents the transformation of the concept of ethnicity, which is evident in many countries across the world in the context of changing world order. The author demonstrates the tendency to accept poly ethnicity and multiple faces in modern states, including the BRICS countries. Also, the author examines various approaches to defining ethnicity that exist both in legal science and in other social sciences. Using the example of the BRICS countries, it is shown that the legal recognition of ethnic identity, language and cultural differences occurs at the level of national constitutions since these categories are essential for recognition and awareness of each citizen and each national society in existing multinational states. The author proves that the formation of constitutional and legal norms taking into account the essence of ethnicity will contribute to the sustainable development of multinational states.

**Keywords:** constitutional law; indigenous peoples; state; Constitution; ethnicity; identity; BRICS.

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## Introduction

An increasing number of researchers affirm that all existing theories discussing the division of human society into different nations are considered disputable. The concept of “ethnos” and related categories such as “ethnicity,” “ethnic affiliation,” “ethnic identity,” “nationality,” and others are difficult to define unambiguously because they contain many different characteristics, and their study and definition require multifaceted approaches.<sup>1</sup>

The first definition of ethnicity, which belongs to the American sociologist David Riesman, appeared in 1953.<sup>2</sup> Widespread use of the term “ethnicity” is usually attributed to the mid-1970s with the names of American political scientists Nathan Glazer and Daniel P. Moynihan.<sup>3</sup> In Russia, the concept of “ethnicity” became visible and began to be frequently used in ethnology and other social sciences since the early 1990s.<sup>4</sup> In general, ethnicity is a somewhat subjective category, an interdisciplinary concept, and its definition depends on what approach or what science considers ethnos, ethnicity, etc.

Legal and political scientists have only partially studied ethnicity issues. Among the most essential works in Russia are the studies of Ramazan Abdulatipov, Vladik Nersesyants, Valerii Solovey, Valerii Tishkov, Talya Khabrieva and others, in which the authors consider the following aspects: models of ethnic identity, concepts

<sup>1</sup> Kharabaeva, A. (2010). Axiological Foundations of the Ethnos. *Vestnik of North-Eastern Federal University*, 7(4), 149–154. (In Russian).

<sup>2</sup> Riesman, D. (1953). Psychological Types and National Character: An Informal Commentary. *American Quarterly*, 5(4), 325–343.

<sup>3</sup> Glaser, N., & Moynihan D. P. (Ed.). (1975). *Ethnicity: Theory and Experience*. Harvard University Press.

<sup>4</sup> Artanovsky, S. N. (1992). Ethnocentrism and the “Return to Ethnicity”: Concepts and Reality. *Etnograficheskoe obozrenie*, 3, 22–23. (In Russian); Cheshko, S. V. (2001). Crisis of the Doctrine of Self-Determination. *Etnograficheskoe obozrenie*, 2, 35–38. (In Russian).

of ethnic identity, multi-level studies of civil and ethnic identity, and civilizational processes in Russia.<sup>5</sup>

Brazilian scholars – Jeff Garmany, Anthony Pereira, Mark Sawyer, Felipe Sánchez-Barriá, Mark Q. Sawye, Rafael Trapp, Pedro Ferreira de Souza, among others – from the middle of the 20<sup>th</sup> century till present time have manifested the results of their studies in intellectual history, sociological and anthropological fieldwork, political science, and cultural studies for a wide-ranging analysis of how Brazilians (across social classes) became one Brazilian nation.<sup>6</sup>

In India, the studies on ethnicity are represented through the period from 1970 till now by various authors including Dibyesh Anand, Sanjib Baruah, Crispin Bates, Susan Bayly, Andre Beteille and others. History, political and (to a lesser extent) legal scholars have been considering questions of caste, race, indigeneity, racism and racialization in India and operate at the intersections of caste supremacy and coloniality, all of which are calibrated through shifting economy and legal process in the country.<sup>7</sup>

Studies on ethnic groups in China present research from a wide variety of disciplines on ethnicity and ethnic relations mainly related to the names of David R. Stroup, Justin M. Jacobs, Agnieszka Joniak-Lüthi, Morris Rossabi, Mette Halskov Hansen.<sup>8</sup>

In South Africa, the studies on ethnicity are primarily contemporary and dwell upon multiple, longstanding modes of ethnic and religious diversity subjected to new migration flows that are varied in terms of countries of origin, ethnicity, language, gendered channels of mobility, education, occupation, and location (Rupert Taylor, Mark Orkin, Henry Lever, Kira Erwin and others).<sup>9</sup>

<sup>5</sup> Libakova, N. M., & Sertakova, E. A. (2015). The Method of Expert Interview as an Effective Research Procedure of Studying the Indigenous Peoples of the North. *Journal of Siberian Federal University. Humanities & Social Sciences*, 8(1), 114–129. (In Russian).

<sup>6</sup> Eakin, M. (2017). *Becoming Brazilians: Race and National Identity in Twentieth-Century Brazil*. Cambridge University Press; Sánchez-Barriá, F. (2014). Diploma of Whiteness: Race and Social Policy in Brazil, 1917–1945. Jerry Dávila. *Cuadernos de Historia*, 40, 190–191; Garmany, J., & Pereira, A. W. (2018). Race and Ethnicity in Brazil. In J. Garmany & A. W. Pereira (Eds.), *Race and Ethnicity in Brazil* (pp. 84–100). Routledge; Sawyer, M. (2007). Race in Another America: The Significance of Skin Color in Brazil. By Telles, Edward E. *Hispanic American Historical Review*, 87(2), 408–409.

<sup>7</sup> Anand, D. (2012). China and India: Postcolonial Informal Empires in the Emerging Global Order. *Rethinking Marxism*, 24(1), 68–86; Baruah, S. (2020). *In the Name of the Nation: India and its Northeast*. Stanford University Press; Bates, C. (1995). Race, Caste and Tribe in Central India: The Early Origins of Indian Anthropometry. In P. Robb (Ed.), *The Concept of Race in South Asia* (pp. 219–259). Oxford University Press; Bayly, S. (1995). Caste and 'Race' in the Colonial Ethnography of India. In P. Robb (Ed.), *The Concept of Race in South Asia* (pp. 165–218). Oxford University Press; Beteille, A. (2004). Race and Caste. In S. Thorat & Umakant (Eds.), *Caste, Race and Discrimination: Discourses in International Context* (pp. 49–52). Rawat Publications.

<sup>8</sup> Stroup D. R. (2022). *Pure and True: The Everyday Politics of Ethnicity for China's Hui Muslims*. University of Washington Press; Jacobs J. M. (2016). *Xinjiang and the Modern Chinese State*. University of Washington Press; Joniak-Lüthi, A. (2015). *The Han China's Diverse Majority*. University of Washington Press.

<sup>9</sup> Taylor, R., & Orkin M. (2001). The Racialization of Social Scientific Research on South Africa. In P. Ratcliffe (Ed.), *The Politics of Social Science Research: Migration, Minorities and Citizenship* (pp. 61–84). Palgrave Macmillan; Lever, H. (1982). Ethnicity in South African Society. *Humboldt Journal of Social Relations*, 10(1), 239–

## 1. Interrelation of Ethnicity and Law

The problem of determining the place of ethnicity in the legal scope remains the most relevant and requires more in-depth study. Relationships between ethnicity and politics or law have not been the object of close attention of either theoretical and legal thought or political practice up to the present time. I believe there is a need to formulate some general theoretical guidelines in law, which should be based on the concept of “ethnos” defined in anthropology and sociology. Formulating ethnic components in the basic law of a state (the Constitution) will help theoretically and practically confirm the special place of various ethnic groups in the composition of multinational states, designate the unique position of each one, and articulate their constitutional and legal status.

In my opinion, the interrelation between ethnicity and law is obvious and influences legal relations in a multinational society, constructs them and justifies certain government decisions. Legal recognition of ethnic identity, language, and cultural affiliation is vital for each ethnic group to realize itself as an equal group in society fully and that each member of this group is an eligible individual. According to researchers, the state is the crucial actor possessing symbolic power and participating in the construction of identities (including ethnic ones),<sup>10</sup> since, on the one hand, it is capable of nominating and attributing ethnic groups, giving them a particular political, economic, and legal status.<sup>11</sup> On the other hand, the state can take measures and create a policy aimed at strengthening ethnicity, enhancing the successful worldview of ethnic groups, and removing restrictions on free development.<sup>12</sup>

Thus, one of the key aspects in modern multiethnic states is national and ethnic identity, which is supported in one way or another in the state and legal system. In scientific literature and political practice, the issue of ethnic identity has become central in the 1990s. According to Samuel P. Huntington, “the crisis of national identity has become a global phenomenon.”<sup>13</sup> Such crises lead to the exclusion of ethnic groups from nations, protest against such alienation, socio-political instability, and

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253; Erwin, K. (2012). Race and Race Thinking: Reflections in Theory and Practice for Researchers in South Africa and Beyond. *Transformation: Critical Perspectives on Southern Africa*, 79(1), 93–113; Nnawulezi, U., & Nwaechefu, H. (2022). Reinforcing Indigenous Peoples’ Right to Health in the Wake of the COVID-19 Pandemic: A Panacea for Sustainable Human Rights Protection. *BRICS Law Journal*, 9(4), 108–133.

<sup>10</sup> Tulaeva, S. A., Gladun, E. F., & Zakharova, O. V. (2022). Youth of Indigenous Peoples of the North: Strategies for Constructing Identity. *Journal of Sociology and Social Anthropology*, 25(1), 168–189. (In Russian).

<sup>11</sup> Brubaker, R. (2004). *Ethnicity Without Groups*. Harvard University Press.

<sup>12</sup> Gladun, E. (2022). The Concept and Legal Characteristics of Indigenous Peoples. In E. Gladun (Ed.), *Indigenous Peoples in the BRICS Countries: Political and Legal Aspects: Monograph* (p. 43). University of Tyumen Publishing House. (In Russian).

<sup>13</sup> Hantington, S. P. (2005). *Who Are We? The Challenges to America’s National Identity*. Simon & Schuster.

acute and persistent political divisions. Thus, the construction of identities becomes a necessary element of the legitimization of power, the acceptance of legal norms as necessary for implementation (observance, use, execution, application) and their protection in the event of violation by any subjects.

With theoretically supported legal decisions, the state is able to create a balanced system in which people belonging to different ethnic groups will identify themselves as loyal citizens of a holistic and prosperous state, as compatriots who expect the state to build national legislation complying with the Constitution (social contract), national interests, ensuring conditions for the security and well-being of citizens, and expects, in turn, from fellow citizens law-abidingness, patriotism and adherence to national interests. This is precisely what can explain the appearance in 2020 in Article 69 of the Constitution of the Russian Federation of a new norm on “all-Russian cultural identity.”<sup>14</sup>

## **2. National Identity and Indigenous Peoples in BRICS Countries**

National identity is a complex phenomenon that includes national, ethnic, and social dimensions. Polyethnic states are characterized by dual identity, which means that citizens have a sense of belonging both to their ethnic group and to the whole nation. Ethnic differences are not perceived critically; they are combined in lifestyle, values, and behavior. Knowledge and perception of common legal traditions and the traditions of one's ethnic group and identification with one's cultural roots are fundamental in determining dual identity. The most crucial aspect of national identity is integration into a national community.

When multiple ethnicities are united in the territory of the state they witness the phenomenon of dual cultural identity, which is characterized by a sense of belonging simultaneously to both their own culture and the culture of the national state. Cultural differences are not perceived critically, they are combined in lifestyle, values, and behavior. Knowledge and perception of national traditions, including legal ones, and the awareness of the traditions of the ethnic group and identification with ethnic cultural roots and traditions are extremely important in determining dual identity. However, all polyethnic states distinguish one specific ethnic group – indigenous peoples – which is, as a general rule, entitled with a special legal status. This status is based on various characteristics considered the most important or unique by the governments. Typically, those characteristics are as follows:

- the ancestors from among the indigenous peoples;
- priority in the time of settlement of a certain territory (residence on ancestral lands);

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<sup>14</sup> Constitution of the Russian Federation (adopted by popular vote on December 12, 1993, with amendments approved during the all-Russian vote on July 1, 2020). The Ministry of Foreign Affairs of the Russian Federation. <https://mid.ru/upload/medialibrary/fa3/xwhwumdwunawy9iprvhcxqdqs1lzx-qdx/CONSTITUTION-Eng.pdf>

- subsistence, i.e. voluntary preservation of the distinctive features of traditional culture (social organization, language, religion, spiritual values) or a sacred way that they live in relationship with the natural world;
- ethnic identification, i.e. conscious identification of oneself as a distinctive ethnic community and recognition by other groups as a special ethnic community;
- ethnic economics, i.e. a specific type of economic activities based on traditional knowledge and traditional use of natural resources.

It seems interesting to observe the characteristics mentioned above in the national constitutions that establish national and ethnic identity and define the idea of national statehood based on the integrity of a multinational society. In the BRICS countries, which represent multiethnic, multicultural states, specific legal structures have been developed that establish interdependence and mutual influence of the two categories described above – national and ethnic identity. BRICS states construct constitutional models of identity in different ways, depending on how the relations of the ethnic groups inhabiting them are formed at a particular historical period, as well as on the goals that are embedded in political and legal systems towards one specific ethnic group, i.e. indigenous peoples.

### **2.1. Indigenous Peoples in Brazil**

Brazilian society is multiethnic and composed of different races; about half of the population identifies as “white” (those who possess Euro-Brazilian identity), which refers to Brazilian citizens who are considered or self-identify as “white,” typically because of European or Levantine ancestry. The other 50% identify as “Afro-Brazilians” with predominantly or total Sub-Saharan African ancestry. However, most of the population speaks one language (Portuguese) and shares common political and legal values and traditions, uniting them into a single Brazilian nation. Differences between ethnic groups are mainly cultural and, to some extent, economic.<sup>15</sup> Indigenous peoples (“tribal Indians”) are underrepresented in the country’s population, accounting for only 0.4%. In total, there are 305 ethnic groups in Brazil speaking 274 languages. Before the adoption of the 1988 Constitution, aboriginal peoples in Brazil were not considered full citizens of the state, were not granted civil rights, and, in some cases, were not even recognized as legally competent. Until the end of the 20th Century, the state actively pursued a policy of assimilation and integration into the Brazilian nation. Following the trends and actions of the international community, political movements, and the growth of national consciousness among Brazilian Indigenous people, their right to identity, civil rights, and land rights have been recognized.<sup>16</sup>

<sup>15</sup> Mochalov, A. N. (2017). Territorial Structure of the State as a Way of Managing Ethnic Diversity (Constitutional and Legal Regulation in the BRICS Countries). *Law. Journal of the Higher School of Economics*, 3, 134–173. (In Russian). <https://doi.org/10.17323/2072-8166.2017.2.154.173>

<sup>16</sup> Oliveira, N. L. (2007). The Struggles for Land Demarcation by the Indigenous Peoples of Brazil. In B. de Sousa Santos (Ed.), *Another Knowledge Is Possible: Beyond Northern Epistemologies* (pp. 112–113). Verso.

We can conclude that in Brazil, the ethnic (indigenous) identity is mostly related to the ancestral domain and traditional economic activities.

## **2.2. Russia's National Minorities**

Russia is one of the most multinational states in the world. The dominant ethnic group – Russians – makes up about 80% of the country's population and form the ethnic majority in the overwhelming majority of regions. Only in 13 constituent entities of the Russian Federation does the share of Russians in the population structure amount to less than 50%. The multiethnic nature of the Russian Federation is reflected in the preamble to the 1993 Constitution, which calls all residents of the state a "multinational people" united by a common destiny on their land. The Constitution also officially approves the historically established state unity based on the generally recognized principles of equality and self-determination of peoples, the historical memory of ancestors and sovereign statehood. In the established constitutional system and legislation, Russia recognizes a special status of Indigenous peoples called "national minorities." It forms a system of their special rights. These special rights are intended to overcome the formal legal equality of all citizens before the law to smooth out the actual differences in the social, economic, political, and cultural status of national minorities.<sup>17</sup> Thus, the Russian state acknowledges certain ethnic groups and establishes their constitutional and legal status which guarantees harmony of the legal and actual equality of all peoples, nations, and groups in a civilized society.<sup>18</sup> The main characteristics that justify legal status of indigenous peoples are: living on ancestral lands, subsistence and ethnic economics as well as ethnic identification.

The most distinctive concept of the Russian constitutional law is the "ethnic minority" used in different Russian laws and identifying the ethnic community numbered less than 50 thousand as indigenous peoples. Legal status of indigenous peoples is established in federal legislation and in the legislation of the Russian regions, while the status of other ethnic minorities is regulated fragmentarily. The unique feature of the Russian legal system is that the status of indigenous peoples is related to the size of this ethnic community, which predetermines the possibility/impossibility of a policy of positive discrimination concerning this community.

## **2.3. Tribes and Linguistic Groups in India**

The most "colorful" ethnic and cultural composition of the population is in India, which is one of the vivid examples of a multinational society.<sup>19</sup> It is difficult to name the

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<sup>17</sup> Gladun, E., & Zadorin, M. (2023). The System of Indigenous Peoples' Protection in BRICS States: An Overview of Legal and Litigation Support. *BRICS Law Journal*, 10(4), 121–141.

<sup>18</sup> Vitruk, N. V. (2001, March 30). *From the Transcript of the Round Table Meeting "Council of Europe Standards in the Field of Protection of National Minorities and Russian Practice."* Institute for Law and Public Policy. <http://www.ilpp.ru/projects/index.htm>. (In Russian).

<sup>19</sup> Lijphart, A. (1996). The Puzzle of Indian Democracy: A Consociational Interpretation. *American Political Science Review*, 90(2), 258–268.

exact number of ethnic groups in this country since the main feature of social groups and territorial organization here is considered not ethnic but religious (confessional). According to the 2011 census, the population of India amounted to 1210.2 million people,<sup>20</sup> while the indigenous peoples make up only 8% of India's citizens. At the same time, the official status of the indigenous peoples ("Scheduled tribes") is received only if they are registered in the so-called "List of scheduled tribes" published at the federal level.

Another peculiarity of India is its caste system, which divides the society and creates religious, cultural and linguistic differences. The Constitution of India, enshrining the principle of federalism and proclaiming India in Article 1 as a "Union of States,"<sup>21</sup> does not directly establish the ethnic basis of the federal division in the country. Moreover, the Constitution, despite the multiethnic composition of the population of India, does not define the country as a multinational state and generally avoids mentioning the ethnic (or national) stratification of the population since caste and religious identity come to the fore.

India has the most remarkable linguistic diversity of all the BRICS countries and the world. The country's population speaks 448 languages (which together have about 2,000 dialects and vernaculars).<sup>22</sup> Linguistic criteria began to have significance for the legal status of nationalities after the administrative-territorial reform of 1956 – most of the Indian states were formed depending on the dominant language in a particular territory.<sup>23</sup> To sum up, ethnic identification is of secondary importance in India and the ethnicity of indigenous peoples is determined by the state on the basis of language and religious peculiarities.

## **2.4. Ethnic Groups of China**

In China, the dominant ethnic group, the Han Chinese, makes up 92% of the population. However, there are also 55 officially recognized ethnic minority groups in the country, most of which have historical regions of residence.<sup>24</sup> At the same time, the distribution of ethnic groups is highly uneven. For example, in the Tibet Autonomous Region, almost 92% of the population are ethnic Tibetans, and only 8%

<sup>20</sup> Office of the Registrar General and Census Commissioner, India, Ministry of Home Affairs. (2011, March 31). *Census 2011: Provisional Population Totals*. Census of India. <https://censusindia.gov.in/census.website/>

<sup>21</sup> Constitution of India, 1950. India Code. [https://www.indiacode.nic.in/bitstream/123456789/19151/1/constitution\\_of\\_india.pdf](https://www.indiacode.nic.in/bitstream/123456789/19151/1/constitution_of_india.pdf)

<sup>22</sup> Republic of India. (n.d.). Ethnologue. <https://www.ethnologue.com/country/IN/>

<sup>23</sup> Salikov, M. S. (Ed.). (2014). *Ethnicity. Culture. Statehood. Problems of Ethnic Federalism in the 21<sup>st</sup> Century: Monograph* (pp. 131–132). Publishing House of the Educational and Methodological Center of the Ural Federal University. (In Russian).

<sup>24</sup> National Bureau of Statistics of China. (2011, April 28). *Communiqué of the National Bureau of Statistics of People's Republic of China on Major Figures of the 2010 Population Census* (No. 1). National Bureau of Statistics of China. [http://www.stats.gov.cn/english/NewsEvents/201104/t20110428\\_26449.html](http://www.stats.gov.cn/english/NewsEvents/201104/t20110428_26449.html)



are Han, while the region occupies almost a quarter of China's territory. In the East, vast territories are occupied by the historical region of Xinjiang (East Turkestan, 17% of the country's area) – the “small homeland” of the Muslim Uyghurs and a number of other national minorities. The Han Chinese make up less than half of the population here, numerically inferior to the Uyghurs.<sup>25</sup>

One of the leading constitutional goals of multinational China is to “preserve national cohesion” and “equality of all nationalities,” as well as the preservation of a single multinational state based on economic, political and cultural unity in which the entire population of the country is considered as the “Chinese nation.” The status of a “united nation” means the unity of all peoples living on the territory of the People's Republic of China (PRC), while the Chinese nation also unites all ethnic groups since they are “contributed to the history of the country.” That is, the form of self-determination of all nationalities inhabiting China has become their inclusion in the PRC. Article 4 of China's Constitution confirms this concept and establishes a ban on discrimination on the basis of nationality but guarantees certain rights of national minorities. Such rights include language rights and the right to create autonomies (part 3 of Article 4 of the Constitution).<sup>26</sup>

Thus, the concept of ethnic identity is very vague in China compared to the concept of national identity and the first one is mostly perpetuated to the language and ancestral lands.

### **2.5. South Africa's Ethnic Diversity**

South Africa, known as the “Rainbow Nation,” is ethnically, religiously and linguistically diverse. In South Africa, ethnic differences have a racial basis. More than 80% of the population are Africans (in official South African terminology – “black”), approximately 8.5% are descendants of European migrants (“white”), as well as mulattos, or “coloreds” – descendants of people born in mixed African-European marriages.<sup>27</sup> The African population lives mainly in the East of the country, while in the west, the majority of residents are mulattos. Ethnic (or racial) groups are perceived by South African society as relatively autonomous political segments with a pronounced racial self-awareness which primarily is a result of the apartheid policy. However, the racial groups of South Africa are also heterogeneous in terms of ethnic and linguistic composition. The most widely spoken language is Zulu, but it is the native language of only a quarter of the population (although most citizens understand it). Language affiliation became a law-forming factor of ethnicity in

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<sup>25</sup> Mochalov, 2017.

<sup>26</sup> Constitution of the People's Republic of China, 1982. The State Council of the People's Republic of China. [https://english.www.gov.cn/archive/lawsregulations/201911/20/content\\_WS5ed8856ec6d0-b3f0e9499913.html](https://english.www.gov.cn/archive/lawsregulations/201911/20/content_WS5ed8856ec6d0-b3f0e9499913.html)

<sup>27</sup> Statistics South Africa. (2011). *Census 2011: Census in Brief*. Statistics South Africa. [http://www.statssa.gov.za/census/census\\_2011/census\\_products/Census\\_2011\\_Census\\_in\\_brief.pdf](http://www.statssa.gov.za/census/census_2011/census_products/Census_2011_Census_in_brief.pdf)

1993–1994 when socio-political movements demanded the implementation of the principle of self-determination and the formation of a “national state.”<sup>28</sup>

In accordance with the current Constitution of South Africa (part 3 of Article 9), “unfair direct or indirect discrimination by the state, including on the basis of ... race ... ethnic and social origin, color ... religion, belief, culture, language and origin” is prohibited. Analyzing the Constitutional Court’s decisions and the provisions of part 3 of Article 9 of the South African Constitution,<sup>29</sup> it can be concluded that ethnic diversity in the state is not denied. However, the principle of “unity in diversity” is decisive in forming state policy, as opposed to the policy of apartheid. Considering that the ideology of apartheid was based on racial and ethnic segregation, the new constitutional value of the state is a “single nation.” “Ethnic identity” is not a legal status of any social group, the state only recognizes and ensures the cultural and linguistic rights of certain groups of the population.

### Conclusion

It is evident that all BRICS countries have a complex ethnic composition and specific constructions based on ethnicity, the foundations of which are reflected in the fundamental law. A general conclusion can be made that external conditions for existing ethnic groups in the state can be different, and ethnic groups manifest their ethnic identity and self-awareness in various ways. Nevertheless, the state constructs the constitutional and legal status of these ethnic groups in the formed constitutional systems and principles, taking into account ethnic identification. It is possible to determine ethnic identity and self-awareness through empirical observations, in the process of dialogue and other ways of expressing an opinion that help establish what a person means when asserting his or her ethnic affiliation. Sometimes, a situation arises where marginalization, social and economic problems, along with the desire to recognize and protect their collective and individual rights, to preserve the continuity of their culture, encourage local communities to declare that they identify themselves as special ethnic groups, meet the primary criterion identified at the international level and, therefore, can claim protection of fundamental rights. The well-known Russian ethnographer A.V. Golovnev also links the variability and renewability of ethnicity with a “personal and group strategy of self-determination,” in which “common understanding and trust are realized,” and “resources for self-realization and positioning” are drawn.<sup>30</sup>

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<sup>28</sup> Mochalov, 2017.

<sup>29</sup> Constitution of the Republic of South Africa, 1996. South African Government. <https://www.gov.za/documents/constitution/constitution-republic-south-africa-1996-04-feb-1997>

<sup>30</sup> Golovnev, A. V. (2012). Ethnicity: Stability and Variability (Experience of the North). *Etnograficheskoe obozrenie*, 2, 3–12. (In Russian).

If legal norms, primarily in the constitutions, are formulated on the essence of ethnicity, its physiological, historical, cultural, value and other features it will be possible to make the connection of individuals (in particular, indigenous peoples) with the existing ethnic policy and law more stable, ensure the inclusion of representatives of all ethnic groups that make up the united nation of the state in legal, administrative and social processes, make the socio-political goals and values of the state more understandable and close to all citizens and thereby guarantee more effective law enforcement and commitment to national values and development goals, while at the same time preserving and supporting their own ethnic identity, expressing it through culture, traditions, languages and other ethnic characteristics that are a significant contribution to the sustainable development of the entire society.

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