

CHIEF EDITOR'S NOTE ON THE JUDICIAL SYSTEMS IN THE BRICS COUNTRIES

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Motivated by the idea of extending and strengthening cooperation between their court systems, in 2015 the BRICS countries held the BRICS Justice Forum in Sanya, Hainan Province, China. Their joint statement at the conclusion of the Forum announced, "The Supreme Courts of BRICS are willing to improve the mechanism for regular cooperation and wide-ranging exchanges under the framework of the Protocol of Intent among the BRICS Countries' Supreme Courts to improve the level of justice and to better protect and serve the economic and social development of their countries." The problem is that the court systems in the BRICS countries are very different from each other.

The following snapshots of the court systems of the BRICS countries provide a glimpse at the measure of the difference and hint at the degree of the problem.

The **Brazilian** judiciary comprises federal, state and municipal courts. There are also some special courts that deal with labor and election matters: the Superior Labor Court, created in 1946, and the Superior Electoral Court, established in 1932. The National Justice Council exercises the power of administrative and disciplinary control over the Brazilian judiciary.

The **Russian** judiciary is regulated by special chapter 7 "Judiciary" of the Constitution as well as by the special laws "On the Judicial System" (1996), "On Courts of General Jurisdiction" (2011), "On Commercial Courts" (1995) and "On the Status of Judges in the Russian Federation" (1992).

Today the Russian civil judiciary is composed of the courts of general jurisdiction, military courts, commercial courts and the Intellectual Property Court. The main law

governing the fundamental principles of the Russian court system is the Law "On the Judicial System of the Russian Federation" (1996).

Arbitrazh (commercial) courts are charged with settling economic disputes, while courts of general jurisdiction handle disputes between individual citizens. The arbitrazh court system was established in 1991 after the collapse of the Soviet Union and the adoption of a market economy. Arbitrazh courts are structured as a three-tier system. The main law governing the activity of arbitrazh courts is the Law "On Arbitrazh Courts in the Russian Federation" (1995). Arbitrazh courts also have exclusive jurisdiction over the recognition and enforcement of foreign court decisions and arbitral awards. There are four levels in the system of arbitrazh courts: 85 regional courts, 21 appellate courts, 10 territorial courts and the Supreme Court.

The competence of the courts of general jurisdiction includes civil disputes, appeals of administrative actions, labor and employment disputes, family law and consumer protection, among other types of cases. There is a general rule that all cases not referred to the arbitrazh courts are handled by the courts of general jurisdiction. The main law governing the activity of the courts of general jurisdiction is the Law "On the Courts of General Jurisdiction of the Russian Federation". There are three levels in the system of the courts of general jurisdiction: district courts, regional courts and the Supreme Court. District courts are established based on the administrative divisions of a region and regional courts operate on the level of the region (i.e. a subject of the Federation). There are eighty-five regions in Russia.

Justices of the peace handle property disputes with an amount of claim under 50,000 RUR and some types of family cases.

Military courts deal with civil cases that fall under the jurisdiction of the courts of general jurisdiction that occur while service in the military services is involved.

Owing to its adherence to international treaties, Russia is subject to the jurisdiction of the European Court of Human Rights and the Court of the Eurasian Economic Community.

The **Indian** judiciary is a single, integrated court system made up of district courts, twenty-four high courts and the Supreme Court. The Supreme Court has original, appellate, writ and advisory jurisdiction and is composed of the Chief Justice and thirty judges, all of whom are appointed by the President. The high courts have jurisdiction over the states of India and hear appeals from the lower courts in civil cases.

The **Chinese** judiciary is divided into a three-level court system: the Supreme People's Court, the local people's courts and the courts of special jurisdiction. The Supreme People's Court has a criminal division, a civil division and an economic division. The Supreme People's Court supervises the work of the local people's courts. Its primary competence is the interpretation of the law, adjudication and the administration of the local people's courts. The local people's courts are established in accordance with the country's administrative divisions. There are three specialized

courts: military courts, railway transport courts and maritime courts. Hong Kong and Macau have different court systems.

The **South African** judiciary consists of magistrate's courts, high courts and the Supreme Court of Appeal. There are also many specialized courts such as income tax courts, the Labour Court and the Labour Appeal Court, the Land Claims Court, the Competition Appeal Court, the Electoral Court, divorce courts, small claims courts, military courts and equality courts. There is also the Judicial Service Commission that consists of the Chief Justice, the President of the Constitutional Court and the Minister of Justice. A decision of the Supreme Court of Appeal can be changed only by the Constitutional Court. The high courts can act as courts of first instance as well as courts of appeal.