

CHIEF EDITOR'S NOTE ON SUPREME COURTS IN THE BRICS COUNTRIES

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The BRICS countries have different judicial systems, but all of them have supreme courts as the highest court for all the national courts.

The highest court in **Brazil** is the Federal Supreme Court. Its history begins in 1808, in colonial times, when the House of Appeals was founded. Today it consists of eleven justices, all of whom are approved by the Federal Senate and appointed by the President of Brazil.

The Supreme Court acts as the constitutional court as well as an appellate court. It has the power of judicial review of the unconstitutionality of federal and state laws. In the area of appellate procedure, it has ordinary appeal jurisdiction as well as extraordinary appeal jurisdiction.

Brazil also has the Superior Court of Justice, which consists of thirty-three judges. The Superior Court has jurisdiction over non-constitutional questions of federal law, for which it is the final instance in such cases.

In **Russia**, the Supreme Court was established in 1923 as the Supreme Court of the USSR, and in 1992 it began to function as the highest court of the Russian Federation.

Depending on the case, the Supreme Court may handle appeal, cassation and supervisory cases, as well as act as a court of first instance. One of the tasks of the Supreme Court is the harmonization of judicial practice. In carrying out this task it reviews and analyzes court practice, and as a result of this activity it may issue clarifications and interpretations of the law.

The Court consists of 170 judges, including the Chief Justice and chairmen of six chambers. The six chambers are: an Appeal chamber, a Judicial chamber for penal cases, a Judicial chamber for civil cases, a Judicial chamber for economic cases, a Judicial chamber for administrative cases and a Military chamber.

The Plenum of the Supreme Court consists of all judges of the Supreme Court. The Plenum deals with the most complicated matters regarding the functioning of the general jurisdiction courts and the administration of justice. The Plenum reviews and clarifies information on the application of legal practice and decides matters on the introduction of legal initiatives as well as on requests to the Constitutional Court of the Russian Federation regarding constitutional law and the verification of other legal acts. The Plenum also approves the composition of the judicial chambers, the panels and the secretary of the Plenum, and the Scientific and Consulting Council under the Supreme Court of the Russian Federation. The Prosecutor General and the Minister of Justice can participate in the Plenum sessions. They or their substitutes have the right to make correspondent introductions to be heard during the Plenum sessions. They also have the right to express their opinions on the matters in discussion. Plenum sessions should be organized to take place at least once every four months.

The Presidium of the Supreme Court is the highest and the final judicial instance for cases viewed under general jurisdiction. The Presidium consists of the Chief Justice and his deputies. Among the members of the Presidium of the Supreme Court are some of the most respected judges of the Supreme Court. The total number of Presidium members is thirteen. The composition of the Presidium is approved upon introduction by the President of the Russian Federation, based on the presentation of the Chief Justice and a positive resolution by the Highest Qualification Panel of judges. The Presidium of the Supreme Court hears cases when the majority of its members are present. The Supreme Court has original jurisdiction in certain cases. Those cases include: challenges to individual acts of the Federal Assembly and decrees by the President of Russia and the Government of Russia; challenges to delegated legislation of governmental agencies; termination of political parties and all-Russian NGOs; challenges to actions of the Central Electoral Commission of Russia when organizing presidential elections, State Duma elections or referendums. The Supreme Court may also hear criminal cases against members of the Federation Council of Russia and the State Duma, and federal judges at its discretion. Presidium sessions should be organized to take place at least once each month.

The highest court in **India** is the Supreme Court. It was established in 1950. The Court has thirty judges who are appointed by the President of India and who may hold their position until the mandatory retirement age of sixty-five. Court proceedings are conducted in English only and are regulated by the Constitution of India (Art. 32) and the Supreme Court Rules (1966).

The Supreme Court acts in different manners. First, it settles disputes between the Union and the States or between the States. In regard to this jurisdiction it can also examine the legality of the laws enacted by Federal and Regional authorities. Second, it considers appeals against judgments of the High Courts of the States and acts as the highest court of appeals for all the judgments. Third, it has the power and responsibility of interpreting the Constitution of India.

In **China**, since 1949 the Supreme People's Court has acted as the highest court in the land. The Court consists of 340 judges; the President and Vice-President of the Court are appointed by the National People's Congress.

The Court has jurisdiction in a number of matters. It can act as a court of first instance as well as an appeal and supervisory instance over the judgments of the local people's courts and special people's courts. An important authority it has is approval over all death sentences. The Court also gives explanations in respect of concrete laws, similar to the Russian Supreme Court.

The Supreme People's Court does not have jurisdiction over Hong Kong and Macau; they have separate court systems owing to their autonomous status.

In **South Africa**, the highest court is the Supreme Court of Appeal. The Court was established in 1997, at which time it replaced its predecessor the Supreme Court of South Africa, which had performed its functions from 1910 to 1997. The Court has twenty-three judges, all appointed by the President of South Africa. The Supreme Court of Appeal may consider only appeals and does not act as a court of first instance.