

The BRICS Countries and Democratic Contagion¹

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The article assesses whether the interstate dynamics of the BRICS can create the convergence known as “democratic contagion” among political regimes and practices. Such contagion was experienced during the so-called third wave of democratization, mainly as a result of “homogeneity among states and structural conditions for democratic attraction. It thus seems unlikely that the BRICS is able to repeat these dynamics. On the contrary, the only real constitutional homogeneity common to the BRICS countries is the principle of non-interference in the internal affairs of each country; non-interference also means a mutual abstention from any initiative conditional on the transformation of political regimes in consideration of interstate cooperation. The dynamics in the BRICS shows that different political regimes can promote institutionalized forms of interstate cooperation without necessarily resulting in mutual contamination at the constitutional level. The theories of transition and democratic contagion are inadequate for understanding the dynamics of the BRICS: for this reason the BRICS occupies that “grey zone” that the theory of democratic transition has been unable to analyze. Based on the principle of “split in unity,” the BRICS can propose an evolving path toward models of “not–euro-centric dependence” in interstate relations that can overcome the peripheral realism of the role of each state.

Key words: democratic contagion, constitutional standards, constitutional homogeneity, non-interference, BRICS, transition theory

Introduction

Traditional institutions such as the World Bank and the United Nations Security Council (UNSC) no longer reflect the balance of power in the global economy. This is the message from the BRICS grouping of Brazil, Russia, India, China and South Africa to the United States and Europe, encapsulated in the establishment of a development bank capable of competing with the West to finance infrastructure. The BRICS countries have emerged as new actors on the international scene after the failure of the Washington consensus on economic policy suggestions for developing countries. The steady economic growth of the BRICS economies has supported their desire to disengage from an international system characterized by the political logic of the end of World War II. In 2011, in New Delhi, before South Africa had formally joined the group, the four emerging powers prepared for the creation of an institution independent from those created at Bretton Woods. In March 2013, in Durban – now with South Africa – the five countries announced their commitment to create a substitute for the international Monetary Fund

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(IMF) and the World Bank. The communiqué issued at the Durban Summit openly declared that the institutions of the World Bank, IMF and the UNSC are no longer adequate economic and political tools for solving the problems of the global economy.

On 9 September 2014 the UN passed Resolution No. 68/304, which proposes the creation of an international legal framework to regulate the processes of restructuring sovereign debt. This fact allowed the creation of a new global financial structure for any country that needs to restructure its debt. The resolution supports the adoption and development, through inter-governmental dialogue, of a multilateral legal framework for restructuring the debt, in order to increase the efficiency, stability and predictability of the international financial system.

The motion was proposed by Sacha Llorenti Soliz, Bolivia's ambassador to the UN and chair of the Group of 77 developing countries. It received 124 votes, including the strategic support of China. Just 11 countries opposed and 41 abstained. Countries that did not support the resolution included the United States, the United Kingdom, Israel, Germany, Czech Republic, Australia, Japan and Finland. The abstentions (which included Mexico, France and Italy) could be considered a vote against the U.S., as they would not prevent the initiative from going forward, without taking a strong stance against the existing institutions.

At the end of October, a report about Brazil and the future of the BRICS, produced for the European Parliament, asked whether relations among the BRICS countries could be considered a vector of democratic contagion [Trevad, 2014]. This report underlined three aspects related to this theme:

1. the acceptance of mutual differences, as a condition for the BRICS to operate as an international subject;
2. the marginal role of the BRICS in the “mega trade agreements” promoted by the United States and the European Union for the free movement of goods and common rules of trade and liberalization;
3. the acceptance among the BRICS countries (particularly China, South Africa and Brazil) of the principle of non-interference in international disputes and for international measures to protect human rights and self-determination.

What is the connection between these trends of the BRICS and the phenomenon of democratic contagion? This article seeks a possible reply to this question.

The Theory of Democratic Contagion

Democratic contagion is the spread and convergence of democratic ideas and practices facilitated by factors such as access to tools for communication and information, knowledge of the works and ideas of the classic authors of democracy, increased trade leading to the opening of borders to new people and experiences, and the formalization of international relations including policy transfer and networking [Somaini, 2009].

As highlighted elsewhere, the BRICS operates on a logic of policy transfer and networking, which – in theory – suggests contagion [see Carducci, 2012; Carducci and Bruno, 2012, 2014b, c, a].

However, this hypothesis is not likely true. The heterogeneity of the five BRICS countries requires identifying common denominators on which to build democratic convergences. Not surprisingly, homogeneity and convergence were the conditions of the so-called “third wave” of the global process of democratization [Huntington, 1993].

But do Brazil, Russia, India, China and South Africa share common denominators that could be classified as homogeneous and convergent? What could they be? The population and the geographic extent of each state? The role of economic or military great powers? Or the ex-

istence of external motivations for convergence? Or, finally, the presence of external elements of democratic attraction? None of these hypotheses seems to be common to all the BRICS states.

First of all, the element of democratic attraction is missing. Democratic attraction is generally identified as supranational integration that supports common democratic standards” [de Vergottini, 1998]. This observation applies to supranational processes with a three-dimensional structure, such as Mercosur and Unasur for Brazil, or the African Union for South Africa: participating states coexist not only in a supranational organization of economic and trade integration, but also with a supranational conventional system for the protection of human rights (such as the Inter-American Court of Human Rights for Brazil and the African Court of Human Rights for South Africa). Common standards for protecting human rights and safeguarding democracy within the member states are thus promoted [Carducci, 2014].

The same concepts apply to the population and the geography of the BRICS states. The democratic contagion of the third wave was made possible insofar as the countries involved were geographically and geopolitically similar. Currently, however, of the 11 countries with populations greater than 100 million inhabitants and similar geopolitical positions, just six (United States, Japan, India, Indonesia, Brazil and Mexico) qualify as democracies, according to the international literature, although they are qualitatively different; the remaining countries (Nigeria, Russia, Pakistan) are semi-democracies or autocracies [Somaini, 2009; Grassi, 2008].

The role of the economic or military great power can be attributed to Russia, China and now India, but not to South Africa or Brazil, which fall into the category of middle power [Sandal, 2014]. Among other things, the role of great power can be counterproductive to the objectives of convergence. In fact, it tends to favour strong internal cohesion among the power elite and induces suspicion of democratization as an unavoidable centripetal force that weakens – at least temporarily – the country’s bargaining strength at the international level.

Finally, none of these great powers in the context of the BRICS can assume the role of external spur for democratic contagion, which is a determinant in the third wave of democratization (examples include the United States in post-war Europe or the European Union itself, in comparison with the Eastern European countries). Indeed, the United States has abandoned its pro-democratic strategies toward the BRICS countries and supports a geo-policy of “encirclement.” Recent comparative analysis of the BRICS economies shows that a total liberalization of their trade, even with the United States and Europe, would enhance the productive technical progress of all five BRICS members (but primarily Russia and China) and would actively circulate money in such a way that would alter the overall weight of the U.S. dollar and of the United States itself [Becker, 2014; Carmody, 2013; Lo, 2014].

Therefore, the United States promotes its three international trade agreements (the Transatlantic Trade and Investment Partnership, the Trans-Pacific Partnership and the Trade in Services Agreement) aimed at creating an Atlantic and Asian framework that excludes the BRICS members. It is isolating this legal network at the global level and hindering any connections between economic progress and democratization experienced by the rest of the world in coercive or competitive, emulative or learning ways [Buxton, 2014; Simmons, 2008].

Ultimately, homogeneity and convergence, which do not factor as strategic objectives for the United States, would not benefit from such external spurs. But the BRICS countries do not seem able to promote even internal spurs that can support democratic contagion. In fact, even if they can be classified as “macro-territorial spaces,” they do not seem interested in promoting common policies of cohesion to address socio-spatial inequalities and govern differences in the democratic and cooperative management of territories [Logroscino, 2007].

This characteristic is particularly important for democratic contagion for two reasons. First, it follows the analysis of the so-called “new economic geography” [Kanbur and Venable, 2007]. By doing so, it develops the relationship between the dimension of the countries, the indices of inequality and the nature of political regimes. Second, it means that the BRICS, as an international organization, does not want issues of identity and borders to factor in its own geopolitical dimension.

Therefore, the BRICS needs neither homogeneous policies of cohesion within each individual state nor its own cohesiveness as international system. It therefore does not need any common denominators of homogeneity and convergence.

In this external/internal scenario, the institutional innovation experienced by the BRICS countries, as convergent and homogeneous innovation, exclusively serves common strategic and economic interests, regardless of the constitutional adjustments of the political regime, as occurred during the second half of the 20th century [Mazzucato, 2014].

The United States preferred so-called hard regionalism during the post-war period [Roy, 2013]. However, it abandoned it because of the associated effects of homogeneity and democratic convergence experienced in Europe. Not surprisingly, the European process can be recognized for constitutional traditions common to the members of the EU, which were formalized by the Maastricht Treaty. Moreover, the Treaty on the European Union, in the version that followed Amsterdam, established that the union was founded on constitutional principles (article 6), providing for a system of sanctions for states that do not adhere to it (article 7) and considering them a condition of access for countries that wish to be integrated (article 49), as well as the characteristic features of the EU in its foreign policy (article 11) [Atripaldi and Miccù, 2003]. In addition to these provisions, which indicate a convergent homogeneity, the treaty has ensured respect for national identity since its first version, in a similar way to the processes of federalization.

None of this can be read or will be read into the interstate commitments of the BRICS.

Non-interference as Constitutional Homogeneity in the BRICS

Is it possible to conclude that the BRICS countries, in terms of structure and function, have no common homogeneous constitutional elements?

Not really. A common element exists and is reflected in the constitutional texts of these countries or in their practices over time. This element is “non-interference” even with a constitutional nature.

The logic of international cooperation among the BRICS countries is also based on the common standard of mutual abstention from influencing the international relations among them with assessments of the constitutional conditions of each political regime. Unlike the European Union, with its policy of enlargement and neighbourhood conditioned by the retention or acquisition of political criteria (characterized by common democratic inspirations), the BRICS seems interested in promoting a constitutionally neutral global model of interaction.

Moreover, this neutral elaboration of constitutional and democratic ideas exists in Europe as well. In fact, within the dynamics of the European Convention of Human Rights, the common democratic heritage evoked by the preamble, even that heritage was used as a measure of consensus among states on certain limitations of human rights, does not presuppose homogeneity among states, but does presuppose their international parity [Palermo, 2005].

With regard to the BRICS, this neutrality is not new because it concerned and still concerns specifically China and Brazil.

With regard to China, it is sufficient to refer to the so-called Angolan model. China has expanded its sphere of influence in order to secure the support of countries with high produc-

tive potential but with that have low-income and inhomogeneous political regimes. China has a policy of retention of customer loyalty that allows the consolidation of economic relations in the medium and long term. The case of Africa is emblematic, particularly states such as Zambia, the Democratic Republic of Congo, Angola and Sudan. The Chinese presence in Africa is often referred to as soft power to show the flexibility and, at the same time, solidity with which Beijing has permeated those markets, abandoned by or unknown to the great powers, through processes of penetration that exclude the use of armed forces as well as, especially, the conditioning of the internal dynamics of the various political regimes.

Indeed, as the only requirement for bilateral relations, China requires the respect of five principles of peaceful coexistence: no interference in the government of the state and of the territory, prohibition of any declaration of war, non-interference in international affairs, mutual benefit from economic relations, and peaceful coexistence.

The “Angolan model” is based precisely on the principles of “national independence,” “non-intervention,” “defense of peace” and “cooperation among peoples for the progress of humanity” to be elements that assert the “equality of states,” understood not as “uniformity” but as “consistency” of coexistence in the mutual “non-interference” within the international order [Preuss, 2008; Simpson, 2004]. These principles are a condition to allow credit. China has huge monetary resources to be used in Africa, together with the need to acquire raw materials and find a market for its products. But even if Africa is rich in raw materials, it is often devoid of technologies that would enable it to exploit them. This complementarity in needs is the fulcrum of the Sino-African relationship [Thompson, 2005].

This is the same axiology of the dynamics among the BRICS countries, and it is an axiology that a democratic country formalizes in its constitution, as Brazil did with articles 4, 21 and 84. Brazil can open a credit line to Angola, a country with an autocratic political system, and also support its candidacy as non-permanent member of the UNSC.

Brazil’s constitutional provisions are thus used as democratic anti-contagion clauses; as such, they can legitimize the process of inter-state cooperation among the BRICS countries.

In terms of constitutional and political comparisons, the scenario in which the BRICS is involved raises interesting questions. While, in the name of spreading democratic contagion, authoritarianism was considered rendered extinct by the so-called transition theory, given contemporary trends in international cooperation today it is acquiring the same (“authoritarian”) character [Caillé, 2005; Beck, 2009]. The theory of democratic transition had, over the years, increased the tendency to relegate the study of authoritarian systems to areas studies such as Asia, the Arab world and Latin America – by denying a general comparative value to this area of study. But the dividing line drawn between democracy and authoritarianism, as well as the discourse on democratic contagion, prevents the understanding of contemporary political situations.

Conclusion

The dynamics of the BRICS shows that political regimes, different from each other, can promote institutionalized forms of interstate cooperation without necessarily resulting in a mutual contamination at the constitutional level. Moreover, phenomena such as the fragmentation and division of the political space into sectors, typical of the western democracies, certify the expansion of hybrid experiences of acceptance of constitutional standards, even where the democratic contagion is considered as fully well established (as in the EU itself), for example in the situation in Hungary since 2007 [Camau, 2008]. The theories of transition and democratic contagion appear insufficient to understand the implied dynamics of the BRICS.

But the experience of the BRICS can also involve unusual questions about the constitutional comparison. First of all, it could demonstrate the artificiality of such constitutional concepts as homogeneity and democratic contagion, with reference to a network of interstate interactions in today's globalized world. If unity and consistency are not sufficient to ensure cohesion in integration in the EU itself, why should a legal network like the BRICS be worried about this question? [Strazzari, 2014; Cerruti, 2014].

Second, there is the question of whether democratic indicators developed at international level (such as those created by Freedom House, Polity IV and the Carnegie Endowment for International Peace) are sufficient for defining the quality of an international network such as the BRICS. Indeed, the paradox is that, when considered individually, these countries rank very differently on these indexes in areas such as civil liberties, freedom of expression, the protection of human rights in prisons. In contrast, they are convergent in other areas, such as the empowerment of women's rights or the enforcement of some public policies. Despite these asymmetries, all of them are open to each other for exchanging information and policies, producing an element of interstate cooperation that is not conditioned by the internal quality of the circulation of information and freedom.

It thus seems possible to conclude that the BRICS occupies a "grey zone" that the theory of democratic transition has not yet been able to explain adequately [Carothers, 2002]. In fact, this theory held that transition and democratic contagion were inseparable elements of contemporary interstate cooperation. Between democratic regimes and regimes that are alternative to democracy there exist some interstate experiences that, while adopting a democratic discourse and sharing some liberal reforms, strengthen forms of power that are not conditioned by democratic contagion or open to transition.

The BRICS is the most significant of these experiences, based on the global promotion of common worldviews and justice through mutual cooperation, but without affecting internal constitutional differences that do not necessarily converge.

From the point of view of a constitutional comparison, the BRICS experience calls for a reflection on abandoning the distinction, as dubious as it is tenacious, between democratic regimes and authoritarian regimes, in order to trace a cross-contamination between these two systems in the search for forms of homogeneity and convergence that could differ from those that support democratic contagion and are useful for interstate models and alternative to those experienced in the Euro-American West.

For this reason, the conclusion of finding homogeneity in the BRICS as an unprecedented cooperative principle seems well suited: "split in unity" and not "united in diversity." This principle is nothing more than the international translation of the common constitutional identity of non-interference. But what will the future of this logic be in a world where the observance of human rights by each state is no longer a matter of internal rights?

References

- Atripaldi V. and R. Miccù (2003) *L'omogeneità costituzionale nell'Unione europea*. Cedam: Padova.
- Beck U. (2009) *Pouvoir et contre-pouvoir à l'heure de la mondialisation*. Paris: Éditions Flammarion.
- Becker U., ed. (2014) *The BRICS and emerging economies in comparative perspective: political economy, liberalisation and institutional change*. Abingdon: Routledge.
- Buxton N. and N. Bullard, eds. (2014) *Shifting power: critical perspectives on emerging economies*. Amsterdam: Transnational institute. Available at: http://www.tni.org/sites/www.tni.org/files/download/shifting_power.pdf (accessed 22 April 2015).

- Caillé A. (2005) Présentation. *Revue de MAUSS* (25), pp. 5–25. Available at: <http://www.revuedumauss.com.fr/media/P25.pdf> (accessed 22 April 2015).
- Camau M. (2008) Le leadership politique aux confins des démocraties et des autoritarismes. In: O. Dabène, V. Geisser and G. Massardier, eds., *Autoritarismes démocratiques et démocraties autoritaires au XXIe siècle*. Paris: La Découverte, pp. 57–88.
- Carducci M. (2012) A realidade dos países BRICS e o papel do direito constitucional comparado. *Revista de Direito Administrativo e Constitucional* (50), pp. 205–18.
- Carducci M. and A. S. Bruno (2012) The BRICS countries as a legal dynamic network and the multilevel “hard” EU regional structure: a comparative study. In: S. M. Kierkegaard, ed., *Law, Governance and World Order*. Athens: International Association of IT Lawyers, pp. 247–58.
- Carducci M. and A.S. Bruno (2014a) BRICS as constitutional inhomogenous dynamics. Number 20, 29 October. *Rivista di diritto pubblico italiano, comparato, europeo*. Available at: <http://www.federalismi.it/nv14/articolo-documento.cfm?Artid=27749> (accessed 22 April 2015).
- Carducci M. and A.S. Bruno (2014b) The BRICS countries as a legal dynamic network and the multilevel “hard” EU regional structure: a comparative study. *International Journal of Public Law and Policy* 4(1), pp. 1–13. doi: 10.1504/IJPLAP.2014.057882.
- Carducci M. and A.S. Bruno (2014c) The BRICS countries between justice and economy methodological challenges on constitutional comparison. *Sociology and Anthropology* 2(2), pp. 46–58. doi: 10.1504/IJPLAP.2014.057882.
- Carducci M. and V.d.O. Mazzuoli (2014) *Teoria tridimensional das integrações supranacionais*. Rio de Janeiro: Forense.
- Carmody P. (2013) *The rise of BRICS in Africa: the geopolitics of South-South relations*. New York: Zed Books.
- Carothers T. (2002) The end of the transition paradigm. *Journal of Democracy* 13(1), pp. 5–21.
- Cerruti T. (2014) Valori comuni e identità nazionali nell’Unione europea: continuità o rottura? Number 24, 24 December. *Rivista di diritto pubblico italiano, comparato, europeo*. Available at: <http://federalismi.it/nv14/articolo-documento.cfm?Artid=28332> (accessed 22 April 2015).
- de Vergottini G. (1998) *Le transizioni costituzionali*. Bologna: Il Mulino.
- Grassi D. (2008) *Le nuove democrazie: i processi di democratizzazione dopo la caduta del muro di Berlino*. Bologna: Il Mulino.
- Huntington S.P. (1993) *The third wave: democratization in the late twentieth century*. Norman OK: University of Oklahoma.
- Kanbur R. and A.J. Venable (2007) Spatial disparities economic development. In: D. Held and A. Kaya, eds., *Global inequality: patterns and explanations*. Cambridge UK: Polity Press.
- Lo V.I. and M. Hiscock, eds. (2014) *The rise of the BRICS in the global political economy*. Cheltenham: Edward Elgar.
- Logroscino P. (2007) *Spazi macroterritoriali e coesione: premesse di comparazione costituzionale*. Pensa: San Cesario di Lecce.
- Mazzucato M. (2014) *Lo stato innovatore*. Roma-Bari: Laterza.
- Palermo F. (2005) *La forma di Stato dell’Unione europea*. Padova: Cedam.
- Preuss U.K. (2008) Equality of states: its meaning in a constitutionalized global order. *Chicago Journal of International Law* 9(1), pp. 17–49.
- Roy J., ed. (2013) *Después de Santiago: integración regional y relaciones Unión Europea y América latina*. Miami: Miami University Press.
- Sandal N.A. (2014) Middle powerhood as a legitimation strategy in the developing world: the cases of Brazil and Turkey. *International Politics* 51(6), pp. 693–708.
- Simmons B.A., F. Dobbin and G. Garrett, eds. (2008) *The global diffusion of markets and democracy*. Cambridge UK: Cambridge University Press.

Simpson G. (2004) *Great powers and outlaw states: unequal sovereigns in the international legal order*. Cambridge UK: Cambridge University Press.

Somaini E. (2009) *Geografia della democrazia*. Bologna: il Mulino.

Strazzari D. (2014) La clausola di omogeneità dell'UE: connotazione costituzionale o internazionale? Riflessioni da un'analisi comparata. Number 24, 24 December. *Rivista di diritto pubblico italiano, comparato, europeo*. Available at: <http://federalismi.it/nv14/articolo-documento.cfm?Artid=28334> (accessed 22 April 2015).

Thompson D. (2005) China's soft power in Africa: from the 'Beijing Consensus' to health diplomacy. *China Brief* 5(21). Available at: http://csis.org/files/media/isis/pubs/051013_china_soft_pwr.pdf (accessed 22 April 2015).

Tvevad J. (2014) Brazil: promises of more change – but in which direction? In-Depth Analysis. Brussels: Directorate-General for External Policies, European Parliament. Available at: [http://www.europarl.europa.eu/RegData/etudes/IDAN/2014/536412/EXPO_IDA\(2014\)536412_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2014/536412/EXPO_IDA(2014)536412_EN.pdf) (accessed 22 April 2015).