

# **Human Rights Arguments in Trade Disputes: An Exploration of the Americas' Experience**

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## **Abstract**

This paper brings attention to how NAFTA, Mercosur, and the Andean Community have addressed human rights matters, if at all, through the decisions from their dispute settlement organs. Despite each treaty having its own method and/or organ for settling disputes arising from trade among their member countries, they share common characteristics that allow us to compare their decisions and their outcomes. Trade and human rights have developed in parallel avenues with many arguing that they should be addressed separately; however, there has also been a growing concern as to how they might or should be considered together in order to advance the objectives of both areas on development and better standards of living for the population. In this study, the decisions from 2004 to 2010 of the dispute settlement organs of these three treaties were analyzed in order to find if human rights arguments have been raised in trade disputes and how the settlement organs have decided on them. This analysis will show that human rights are not considered in any of the decisions from NAFTA; that Mercosur has addressed human rights concerns and has followed the experience of the European Community; and that the Andean Community has made decisions based on human rights arguments but now faces a more challenging situation given changes in member states' governments and their policies towards the agreement. Although there are some questions as to whether human rights and trade issues should be addressed jointly, experience shows cases in which it is already happening. Therefore, the question might be whether human rights should be explicitly incorporated in trade agreements and, most importantly, how.

**Keywords:** *trade disputes, human rights, dispute settlement mechanism, NAFTA, Mercosur, Andean Community*