



ORIGINAL RESEARCH PAPER

Political Science

FROM MARKET INTEGRATION TO SOCIAL REGIONALISM: THE EVOLUTION OF MERCOSUR'S LEGAL AND INSTITUTIONAL ARCHITECTURE IN HUMAN RIGHTS PROTECTION

KEY WORDS: Mercosur, human rights, Latin America, regional integration, IPPDH, RAADH.

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ABSTRACT

This article analyzes the evolution of the Southern Common Market (Mercosur) from a strictly economic and trade-oriented organization established in 1991 into an entity that actively integrates the protection and promotion of human rights into its agenda. The breakthrough that occurred in the 21st century, often termed the "social turn," took place under the influence of pressure from social movements, political shifts in member states, and the imperative to confront the legacy of authoritarian regimes and Operation Condor. The paper examines the development of the organization's legal and institutional architecture. It analyzes key normative instruments, including the Ushuaia Protocol (1998) and the Protocol on Human Rights (2005), as well as the role of regional bodies: the Mercosur Parliament (Parlasur), the High-Level Authorities on Human Rights (RAADH), and the Mercosur Institute of Public Policies on Human Rights (IPPDH). The article concludes that Mercosur has developed a preventive and coordination-oriented model of human rights protection, which serves as a significant complement to the Inter-American Human Rights System.

1. INTRODUCTION AND THEORETICAL BACKGROUND

Regional integration processes in South America were long dominated by the liberal paradigm, which placed commercial exchange and the removal of economic barriers at its core. Established in 1991, the Southern Common Market (Mercosur) initially aligned with this model, prioritizing market integration and the enhancement of global competitiveness. However, over the course of the first two decades of the 21st century, a significant conceptual and institutional shift occurred within the organization's structures, widely referred to the literature as the "social turn"

The reformulation of the organization's priorities stemmed from pressure exerted by civil society organizations and activists, backed by new center-left governments across the region. At the national level, these actors advocated for the repeal of amnesty laws and the establishment of truth commissions. At the regional level, they demanded the integration of a human rights agenda into the organization's framework and the official acknowledgment of the transnational repression conducted during military dictatorships, known as Operation Condor. Furthermore, the founding members of Mercosur had a historical legacy of mass human rights violations; thus, the newly established democratic authorities sought to break away from these practices by constructing systemic legal guarantees.

A substantial impetus for this transformation also derived from the deepening relations with the European Community and the European Union, wherein respect for democratic principles was formalized as an essential element of international agreements.

2. Evolution of the Legal and Treaty Framework

Although Mercosur does not possess its own human rights judiciary or a distinct Human Rights Charter, it has successfully established binding legal norms and procedures. A pivotal initial step was the adoption of the Ushuaia Protocol in 1998, which introduced the so-called democratic clause. These provisions permit the imposition of political and economic sanctions—including the suspension of the right to participate in the organization's organs—against a member state that experiences a breakdown of the democratic order. These measures were applied twice: against Paraguay in 2012 and Venezuela (temporarily in 2016 and indefinitely in 2017) due to violations of the rule of law and the principle of separation of powers.

Furthermore, the Mercosur Protocol on Human Rights, adopted in December 2005 (and entering into force in 2010), serves as the organization's formal normative basis. The document's preamble highlights the universality,

indivisibility, and interdependence of all categories of human rights. Article 2 of the Protocol obligates member states to cooperate in promoting and effectively protecting fundamental rights through Mercosur's institutional mechanisms. Article 3 provides for the application of sanctions in situations involving severe and systematic human rights violations during an institutional crisis or a state of emergency. However, the application of remedial measures requires prior diplomatic consultations and the consensus of the remaining member states¹².

3. Institutional Architecture of the Social Dimension

The development of the legal framework was accompanied by the expansion of the organization's institutional structures. In 2005, the Constitutive Protocol of the Mercosur Parliament (Parlasur) was adopted, and the body began operating in December 2006 as an autonomous organ representing the citizens of the member states. Parlasur undertakes activities aimed at safeguarding human rights, including the preparation of annual reports on the status of fundamental rights in the region.

A central role in the coordination of public policies is played by the High-Level Authorities on Human Rights (RAADH), established by Decision 40/04 of the Common Market Council. The RAADH brings together foreign ministers and representatives of national institutions responsible for human rights protection. This organ serves to harmonize policies, exchange best practices, and formulate common positions in international forums. Operating within the RAADH are standing commissions and working groups dedicated to, among other areas, education, the fight against racism, the rights of older persons, persons with disabilities, the LGBT community, women's rights, and historical memory.

In 2009, upon the initiative of the RAADH, the MERCOSUR Institute of Public Policies on Human Rights (IPPDH) was established as a technical body dedicated to research, advisory services, and the coordination of public policies. The activities of the IPPDH focus on four main thematic axes:

1. Prevention of institutional violence and promotion of citizen security through
2. The creation of regional systems for monitoring the actions of state security forces,
3. Promotion of equality and non-discrimination, including ensuring access to justice for marginalized groups,
4. Memory, truth, justice, and reparation regarding the crimes of military dictatorships, which encompasses the management of memorial sites and the preservation of archives²⁰,
5. Strengthening social participation through public

consultation and dialogue mechanisms, including the Social Participation Forum and the Somos Mercosur program.

4. Protection of Migrants, Refugees, and Children's Rights

A significant achievement of Mercosur lies in the realm of migration policy and the protection of the rights of vulnerable groups. The most vital treaty governing these matters is the Residence Agreement, which promotes regular migration and guarantees immigrants equal treatment with nationals of the host state regarding access to employment, education, and healthcare. Furthermore, the 2012 Declaration of Principles on International Protection of Refugees reaffirms member states' commitment to upholding the principle of non-refoulement and fostering a framework for humanitarian protection.

In the sphere of child rights protection, the Permanent Commission Niñ@sur has demonstrated particular dynamism. In 2011, the member states of Mercosur (Argentina, Brazil, Paraguay, and Uruguay) undertook a joint initiative to submit a request for an Advisory Opinion to the Inter-American Court of Human Rights concerning the rights of migrant children, thereby underscoring the organization's capacity to exert influence on the broader Inter-American human rights system.

5. CONCLUSION AND FINAL REMARKS

The evolution of Mercosur demonstrates that economic-oriented regional integration blocs can successfully expand their mandate to encompass social and political issues. Although Mercosur has not developed its own human rights judiciary and relies on the standards of the Inter-American Human Rights System, it has established an effective preventive and coordination-oriented model.

The activities of bodies such as the RAADH and the IPPDH have contributed to the harmonization of public policies, the consolidation of the rule of law, the protection of migrants' rights, and the preservation of historical memory across the region. Consequently, Mercosur has ceased to be merely a trade agreement, transforming into a vital pillar for the protection of fundamental rights in South America.

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