



ACCESS TO HEALTHCARE FOR THE MOST VULNERABLE GROUPS IN THE INTERAMERICAN COURT'S CASE LAW: NEW PERSPECTIVES FF JUSTICIABILITY

The main purpose of this paper is to examine the justiciability of the right to healthcare for the most vulnerable groups, including children with disabilities and pregnant women both in Chile and Venezuela, as persons needing special protection in light of the recent Interamerican Court case law. In fact, the two analyzed decisions (*Vera Rojas c. Chile* and *Rodríguez Pacheco c. Venezuela*) both share and clearly establish the autonomous and direct justiciability of the right to health under the art. 26 of the American Convention on Human Rights (1978), by representing a substantive evolution of the watershed *Poblete Vilches c. Chile* (2018). In addition, in the *Vera Rojas c. Chile* case, for the first time in its case law, the Court recognizes the insurance company decision to discontinue the home hospitalization for a disabled child a deliberately and unjustifiable retrogressive measure in contrast to the human right to health (art. 26). While, in the *Rodríguez Pacheco c. Venezuela* case, the San José Tribunal focuses on the obstetric violence suffered by the patient, by extending its application even further beyond the international state of art, including the prebirth moment. In the end, in both cases the systematic and evolutive Court interpretation of the American Convention (1978) specifies the exact States' obligations towards the right to health, by also ordering ambitious guarantees of non-repetition to the convicted States, paving the way for a human rights development.