



Artavia Murillo et al. v. Costa Rica

Country: Costa Rica

Region: Americas

Year: 2012

Court: Inter-American Court of Human Rights Inter-American Court of Human Rights

Health Topics: Sexual and reproductive health

Human Rights: Freedom from discrimination, Right to family life, Right to privacy, Rights to the benefits of culture

Facts

This case alleged human rights violations resulting from Costa Rica's prohibition on the practice of in vitro fertilization (IVF), which had been in effect in Costa Rica since 2000, following a ruling of the Constitutional Chamber of the Costa Rican Supreme Court of Justice (Constitutional Chamber) in which it was held that IVF violated the right to life of fertilized embryos.

It was alleged that the prohibition on IVF constituted an arbitrary interference in the right to private life, the right to found a family, and equality of persons who could not conceive without the use of IVF, inasmuch as the State had denied them access to a treatment that would have enabled them to overcome their disadvantage with regard to the possibility of having biological children. It was also argued that the ban had a disproportionate impact on women. Violations of Articles 11(2) (right to family and private life), 17(2) (right to marry and raise a family) and 24 (equal protection) of the American Convention on Human Rights were alleged.

Decision and Reasoning

The Court held that the ban on IVF violated Article 5(1) (right to humane treatment), 7 (right to personal liberty), 11(2) (right to family and private life) and 17(2) (right to marry and raise a family) of the American Convention on Human Rights.

The Court provided a detailed analysis of Article 4(1) of the Convention, which protects the right to life "in general, from the moment of conception," and concluded that conception could not be defined before implantation. Thus, the Convention does not necessarily protect the rights of fertilized embryos that are not implanted in a woman's uterus. The Court came to this conclusion by examining (1) the ordinary meaning of the term "conception"; (2) systematic and historic meaning; (3) evolutive meaning, and (4) the object and purpose of the treaty.

The Court held that, even if embryos are entitled to the protections of Article 4 of the Convention, the effects of a ban on IVF for couples who could not conceive naturally amounted to severe violations of their rights to personal integrity, personal liberty, private life, intimacy, reproductive autonomy, access to reproductive health services, and to found a family because, in practice, such rights were annulled for persons whose only possible treatment for infertility was IVF.

Decision Excerpts

"Taking the above into account, the Court understands the word 'conception' from the moment at which implantation occurs, and therefore considers that, before this event, Article 4 of the American Convention cannot be applied." Para. 189.

"A weighing up of the severity of the limitation of the rights involved in this case as compared to the importance of the protection of the embryo allows it to be affirmed that the effects on the rights to personal integrity, personal liberty, private life, intimacy, reproductive autonomy, access to reproductive health services, and to found a family is severe and entails a violation of these rights because, in practice, they are annulled for those persons whose only possible treatment for infertility is IVF. In addition, the interference had a differentiated impact on the victims owing to their situation of disability, gender stereotypes and, for some of the victims, to their financial situation." Para. 314.

"Therefore, the Court concludes that the Constitutional Chamber based itself on an absolute protection of the embryo that, by failing to weigh up or take into account the other competing rights, involved an arbitrary and excessive interference in private and family life that makes this interference disproportionate. Moreover, the interference had discriminatory effects. In addition, taking into account these conclusions about the assessment and the considerations concerning Article 4(1) of the Convention (supra para. 264), the Court does not consider it pertinent to rule on the State's argument that it has a margin of appreciation to establish prohibitions such as the one established by the Constitutional Chamber." Para. 316.

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