

Derechos sociales y prestaciones públicas: problemas teóricos de la tutela judicial

MICHELE ZEZZA

Social Rights and Public Provisions: Theoretical Issues of the Judicial Protection

Abstract: The subject of the analysis is the connection between social rights and public services, focusing mainly on the suitability of the judicial power in evaluating the financial burdens that these rights imply. The main aim is to show, through the use of methodological suggestions coming from the interest theory, the groundlessness of those reconstructions which attribute to the historical inheritance of the different categories of rights a clean structural distinction, of axiological nature, between negative rights, understood as “self-executive”, and positive rights to public services, of credit to the State. The article finally focuses on the analysis of two different models, namely the South African and Brazilian, of social rights management.

Keywords: Social rights, Constitutional state, Judicial power, Interest theory, Public services.

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