



Indian region response- public health, fundamental rights and vulnerabilities

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Overview of the Indian structure relating to Public Health and Fundamental Rights

- Where does health figure in the 'List' ?
- Constitution of India- Fundamental Rights, Directive Principles of State Policy (and how these principles were also made significant)
- Legislation- Epidemics Act, 1897 and the Disaster Management Act, 2005
- Separation of Powers
- Courts- hierarchy, and use of Article 32, Constitution of India

How does the Covid-19 litigation database help in searching Indian cases?

- Decisions of courts in India are open access but are not segregated into public health and fundamental rights categories
- Covid-19 litigation database fills this gap by ensuring that the cases are available in easily searchable formats, with the use of indexes

One message that was clear-

“certain matters fall within the domain of governance and should not be subjected to judicial review unless imminently necessary”

- Dr. Faud Halim v. State of West Bengal & Ors., WP No. 5328 (w) of 2020, High court of Calcutta, 2020.

Balance of convenience, irreparable loss, and public interest is key in determining the extent of interference required.

Higher courts- initiative and role

Suo motu action

Public Interest Litigation

Subject matter varied- from challenges faced within prisons (overcrowding) to children (nutrition and early childhood care) and migrants (livelihood and later, rehabilitation).

Non interference

Constitutional mandate- – division of powers

First wave v. second wave

Health as important

Religion

But also instances of interference by the Courts- Visa, for example.

Access to Justice

Disruptions in the hearing of cases- solutions and follow up

Procedural laws- relaxation

New challenges

- Healthcare management – data collection
- Stigma – religion, covid positive
- Education and child orphans
- Alternative medicines
- Upcoming- funds, compensation