

The Israeli Override Clause: A threat to the 'health in all policies' approach

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On July 24, 2023, Israel's Parliament sanctioned a substantial amendment to the Basic Law, prompting apprehensions regarding power equilibrium and its potential influence on public well-being. In response,

a coalition of prominent Israeli and global public health experts has united to dissect the profound ramifications of this revision in an article titled "Israel's Judicial Overhaul: A Threat to the Health in All Policies Approach" featured in *The Lancet*.

The amendment, restricts court scrutiny of the reasonableness of ministerial decisions, aiming to curtail judicial supervision over political choices, which has sparked nationwide protests and concerns. As [public health](#) advocates, the co-authors of the article express their apprehension about the significant threat this amendment poses to public health and the Health in All Policies (HiAP) principle.

The HiAP principle, adopted globally and shaped by various health declarations, advocates for the incorporation of health implications in decision-making across sectors. This approach recognizes that health determinants extend beyond the [health sector](#) and emphasizes collaboration for better health outcomes.

The co-authors stress the pivotal role of health in governance and societal well-being. However, the amendment's potential to weaken the HiAP principle raises concerns about unchecked decisions that might neglect public health considerations.

Dr. Shelly Kamin-Friedman from the Zulat for Equality and Human Rights "In Israel's legal landscape, the absence of constitutional protection for the right to health leaves citizens vulnerable to government decisions that disregard health considerations and expert opinions with a singular avenue: filing a petition with the High Court, citing the grounds of unreasonableness."

Through the careful examination of history, the authors paint a vivid picture of how judicial review has historically safeguarded public health. They recount the Finance Minister's decision in 2018, when the choice

not to raise taxes on loose tobacco was made, in isolation from health considerations. Public health advocates took to the courts, highlighting the potential dangers of such a decision on public health.

The Supreme Court's intervention forced a reevaluation, emphasizing that policies, even seemingly unrelated ones, must consider their effects on public health. This serves as a stark reminder of how judicial oversight acts as a guardian against policies that may compromise the well-being of the people.

Prof. Aron Troen from Hebrew University stated, "In a world where science is often overshadowed by politics, it is our duty to be the voice of reason, demanding evidence-based policies that prioritize public health and welfare. Our data speak for those who need it the most, urging us to bridge the gap between research and action."

A more recent example involves sugary beverages. Israel's high sugar consumption rates contribute to escalating health issues. In 2022 a successful beverage tax was introduced, aligned with global practices and generating 890 million NIS in revenue, effectively curtailed sugary drink purchases. However, yielding to powerful industry pressures, the government abruptly revoked the tax in 2023 without due process or expert consultation.

This decision, bereft of consideration for evidence-backed health concerns, underscores the need for a supreme court petition to champion public health interests over political and vested interests. The Finance Minister's choice to repeal the tax, despite global health warnings and local expert advice, highlights the fragility of public health when unchecked by judicial scrutiny.

"We have diligently assessed the implications of this amendment, carefully navigating the complex interplay between judicial oversight,

the imperatives of public health, and the fundamental dynamics of governance. The potential repercussions of this amendment on the equilibrium of political power and its profound impact on societal well-being must not be underestimated," said Prof. Nadav Davidovitch, Director, School of Public Health, Ben Gurion University of the Negev.

Prof. Hagai Levine, Chair of the Israeli Association of Public Health Physicians, expresses his concern: "The legal change constitutes a direct assault on public health, leaving it vulnerable to extreme and irrational ministerial decisions, devoid of defense against political or vested interests."

The story transcends national borders, as the authors highlight the potential global implications of this amendment. The risk of political interests superseding public health isn't confined to Israel alone; it sets a precedent that may echo in countries with weaker legal systems. The erosion of the Health in All Policies (HiAP) principle could have far-reaching consequences, compromising health considerations in policy-making.

"In an era where well-being takes precedence, the elimination of judicial oversight represents more than a mere legal alteration; it poses a threat to the essential vitality of Israel, carrying ramifications that extend globally," says Y. Tony Yang, Endowed Professor of Health Policy, The George Washington University, U.S.

As we emerge from the challenges of a global pandemic, the article serves as a rallying cry for the prioritization of public [health](#) in all government decisions. It urges readers to engage in thoughtful dialog about the delicate balance between policy, judicial oversight, and the well-being of a nation.

More information: [Israel's Judicial Overhaul: A Threat to the Health](#)

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