



Public Health vs Private Information

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Why in News

Recently, a list containing private information of suspects of **Covid-19** was not only found on social media but also some state governments, officially, have made public the disclosure of data of those under quarantine.

Such disclosures have raised concerns over balancing the importance of **public health, doctor-patient confidentiality** and the **fundamental right to privacy**.

Key Points

- In the **absence of a national protocol or law**, state governments are divided on the approach to handle the situation.
- While some states have put data in the public domain to **better inform citizens**, other states are making efforts to **protect identities to avoid panic and to respect privacy**.
- For **contact tracing** and **ensuring social isolation**, states are relying upon **informing communities. Example:**
 - **Karnataka** has published a district-wise list of those who are home-quarantined with travel details and exact addresses on the Department of Health and Family Planning's website.
 - Many states including **Delhi, Gujarat, and Karnataka** have instructed local authorities to label houses where individuals are quarantined.
- However, **West Bengal**, which has put peoples under home surveillance and in isolation, has **not disclosed the identities of individuals or hospitals** in which they are kept.

Legal Perspective

- There is **no law which backs disclosure** of personnel information to the public.

- The **Code of Medical Ethics** prescribed by the Indian Medical Council, bars disclosure of information relating to the patient learnt during the treatment **except in certain cases**.
The exceptions include circumstances **where there is a serious and identified risk to a specific person and/or community**; and in the case of **notifiable diseases**.
- Even the **Ministry of Health guidelines** for surveillance provide for sharing of patient/contact information with the **state or district level surveillance units** of the Integrated Disease Surveillance Programme or any **other authority** that first comes in contact with the patient.
But there is **no provision** in these guidelines to **make patient details public or even naming missing patients**.
- Legislation invoked to handle a public health emergency, **the Epidemic Act, 1897**, and **the Disaster Management Act, 2005**, provide **legal immunity** to action taken in **“good faith”** during this time.
The provision states that officers and employees of the Central/ State Government, shall be immune from legal process in regard to any warning in respect of any impending disaster communicated or disseminated by them in their official capacity or any action taken or direction issued by them in pursuance of such communication or dissemination.
- Even, under **the Data Protection Bill**, a data fiduciary (the government) can process personal data of individuals to respond to a medical emergency where the life of a data principal is at risk.
 - It can also be processed in the face of an epidemic, outbreak of diseases or any other threat to public health.
 - The COVID-19 pandemic can fall under these categories.

Issues

- Publishing names of individuals, along with their addresses on social media or in front of their houses puts families at **risk of physical or emotional distress**.
- It will also create more **panic among the people**.
- If challenged in court, disclosure of personnel information by the government will have to pass the **“proportionality test”** prescribed by the Supreme Court in the landmark 2017 **Puttaswamy verdict** that **recognised the fundamental right to privacy**.
 - **Proportionality test** is a legal method used by **constitutional courts**, to decide hard cases, that is cases **where legitimate rights collide**.
 - In such a case, a **decision necessarily leads to one right prevailing at the expense of another**.

Way Forward

- Disclosures that are needed for contact tracing need to be **restricted to public officials** who are entrusted with enforcing the quarantine.
- Personal details must be **masked when disclosed in public.**

Source: IE