



Completion of Law on Protective Rights, Rights Access to Information and Direct Monitoring of People in The Context of The COVID Translation - 19 In Vietnam

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Abstract. Vietnam's Covid-19 epidemic prevention and control practice in recent years shows some shortcomings in implementing the patient's right to protect privacy, the right to access information and direct supervision of the patient. The article focuses on analyzing the inadequacies in the implementation of these rights and proposing the improvement of the law to contribute to improving the effectiveness of disease prevention and fighting, minimizing economic losses and Negative impact affects the lives of people.

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1. Legal provisions on the right to protect private life, the right to access information, direct supervision of the people and practical implementation:

1.1. The provisions of the law

The right to protect private life is one of the basic human rights defined in many international and national legal documents, namely:

The 1948 International Declaration on Human Rights of the United Nations provided in Article 12 “No one can be arbitrarily violated with respect to privacy, family, house, correspondence, or honor, reputation. Everyone has the right to the protection of the law against such violations”.

The right to protect privacy in Vietnam is provided for in Article 21 of the 2013 Constitution: “Everyone has the right to inviolability to private life, personal secrets and family secrets, and the right to protect prestige. my credit ”; Clause 2, Article 3 of the 2011 Law on Examination and Treatment stipulates that the principle of medical examination and treatment must: “Respect the rights of patients, keep confidential information about their health status and personal life recorded in the medical record. , if it is not the case in Clause 2 Article 8, Clause 1 Article 11 and Clause 4 Article 59 ”;

Article 38, Civil Code 2015 stipulates: “Private life, personal secrets, family secrets are inviolable and protected by law, the storage, collection and disclosure of information. the individual must obtain the consent of that person, the collection, storage and public use of information related to family secrets must be approved by

the family, unless otherwise provided by law”. As a document directly regulating the prevention and control of infectious diseases, Clause 5, Article 8 of the 2007 Law on Prevention and Control of Infectious Diseases stipulates the prohibited behavior “Discrimination, treatment and posting of images and information. extreme on people with infectious diseases”.

The right to access information is understood as one of the rights of the political and civil rights group defined in the 1948 Universal Declaration of Human Rights and in the 1966 International Covenant on Civil and Political Rights.

The right to access information in Vietnam is regulated in Article 25 of the 2013 Constitution: “Citizens have the right to freedom of speech, freedom of the press, access to information, meetings, association, and demonstrations. The exercise of this right is prescribed by law”. The Constitution's provisions on the right to access information are concretized by the Law on Access to Information in 2016; Accordingly, Article 3 of the Law stipulates: “Everyone is equal in exercising the right to access information; Information provided must be accurate, complete and clear, that is, information to people must be complete, not ambiguous, leading to misunderstanding of the nature of information; The provision of information must be timely, transparent and convenient for citizens, in accordance with the order and procedures as prescribed by law ”. Direct supervision of the people is understood as the monitoring, consideration and evaluation of the people with the activities of individuals, agencies and organizations. Although not

recognized directly in international legal documents, but in Article 21 of the 1948 Universal Declaration of Human Rights, “everyone has the right to participate in the management of their country, directly or through their representatives they are free to choose”; Clause 2, Article 25 of the International Covenant on Civil and Political Rights states: “Citizens, without restrictions and discrimination, have the right to participate in the administration of social affairs directly or through communication. through a representative agency elected directly by them”. Thus, it can be understood that direct supervision of people is part of the right to participate in the management of social affairs.

Clause 4, Article 23 of the 2007 Law on Prevention and Control of Infectious Diseases stipulates: “Agencies, organizations and individuals, when detecting an infectious disease or sign of an infectious disease, have the responsibility to notify the People's Committee or specialized agency, nearest medical or medical facility”.

Regarding some provisions allowing restrictions on human rights: Article 4 of the 1966 International Covenant on Civil and Political Rights states “In the context of an emergency that threatens the survival of the country, states Measures may be taken to limit the exercise of the rights set out in this Convention for a certain period of time”. In the International Covenant on Civil and Political Rights, it also shows that the right to protect privacy is not an absolute right, states have the right to collect personal information for social purposes (Theoretical textbook on human rights, Faculty of Law, Hanoi National University, p.228).

Clause 2, Article 14 of the 2013 Constitution stipulates: “Human rights and citizenship are restricted under the provisions of law in necessary cases for reasons of national defense, national security, social safety and morality, society, public health”.

Article 3 of the Law on Access to Information in 2016 stipulates that the restriction of the right to access information must be prescribed by law in case of necessity for reasons of national defense, national security, social order and safety, and social morality, Association, community health.

1.2. Limitations and shortcomings in law implementation

The practice of applying the above provisions in the prevention and control of the Covid-19 epidemic in Vietnam shows a number of limitations and shortcomings in the legal provisions on the right to protect private life, the right to access information, the direct supervision of people in the prevention and control of the Covid-19 epidemic.

Firstly, in the context of the Covid-19 pandemic, when we implement the provisions of the law on the right to protect private life, it will limit the people's right to access information; Meanwhile, the right to access information is the legal basis for people to conduct direct

surveillance through monitoring and timely detection of violations of the law on disease prevention and control.

In addition, the restriction on people's right to access information also causes many difficulties in epidemic prevention and control, affecting the social life when international law only limits the rights of people. people if it is to bring better benefits to society.

In addition, the law has not yet specified specific regulations on the direct supervision of people in disease prevention and control. The current forms of people's supervision are mainly carried out through representative agencies such as the Vietnam Fatherland Front, some social organizations such as the Vietnam Women's Union and Trade Union organizations. The law prescribes the form of direct supervision through referendum, grassroots democracy implementation or through complaints, denunciations, denunciations and reports. However, these regulations are understood that people supervise the activities of state agencies or authorities in the process of implementing functions and tasks, so there is still a lack of regulations on direct supervision of citizen.

Second, the Law on Prevention and Control of Infectious Diseases 2007 contains many provisions that do not ensure the unity between the rights to protect private life, the right to access information and direct supervision of the people, can be pointed out in the following groups are regulated:

+ Group of regulations on the right to protect the patient's privacy:

Clause 3 Article 33 of the Law provides for the responsibility of physicians and medical staff at medical examination and treatment establishments "to keep confidential information related to patients".

Clause 5, Article 8 of the Law stipulates: "It is forbidden to discriminate, treat and give negative images and information about people suffering from an infectious disease".

The above provisions have led to the understanding that epidemic prevention is only the responsibility of the competent authorities, which means reducing the role of each citizen to participate, proactively prevent and fight epidemics.

In addition, the inaccessibility of information related to the epidemic also makes people not aware of the dangers of an epidemic; have a subjective mentality, indifference, even do not strictly comply with the rules of epidemic prevention and control.

+ Group of regulations related to the right to access information:

The principles of prevention and control of infectious diseases are specified in Clause 3, Article 4 of the Law on Prevention and Control of Infectious Diseases, that is: publicity, accuracy and prompt information about the epidemic.

Clause 4, Article 9 of the Law provides for the contents of education and communication on the



prevention and control of infectious diseases: responsibilities of agencies, organizations and individuals in the prevention and control of infectious diseases.

Clause 1, Article 10 of the Law states: "The people have the right to access all information related to the epidemic".

It can be seen that the Law on Prevention and Control of Infectious Diseases has recognized the people's right to access information without limiting the right to access information.

+ Group of regulations related to people's supervision:

Paragraph 8, Article 2 of the Law explains: "Infectious disease surveillance is the systematic and continuous collection of information on the situation and trend of an infectious disease, analysis and explanation in order to provide information for the plan, implement and evaluate the effectiveness of measures to prevent and control infectious diseases".

Article 20 of the Law stipulates that surveillance for infectious diseases is: "monitoring of cases of disease, suspected disease and carriers of infectious pathogens, monitoring of pathogens, monitoring of pathogens".

Clause 4, Article 23 of the Law stipulates: "Agencies, organizations and individuals, when detecting an infectious disease or sign of an infectious disease, have the responsibility to notify the People's Committee, the medical professional agency or the medical establishment where nearest".

Thus, the Law's group of regulations on disease surveillance has shown that there is inconsistency between the laws. According to the regulations that explain disease surveillance, the subject conducting the surveillance is not the people; Meanwhile, the regulation on supervisory responsibility mentioned "individual", which makes it difficult to apply.

Third, the lack of specific regulations on handling violations in the prevention and control of infectious diseases, making it difficult to access the content in order to check the correctness of the behavior or when determining the sanctions of each act. violation limits the validity of the law.

During the period from January 2020 to April 2020, Vietnam was very aggressive in the prevention and control of Covid-19 epidemic. For cases where Covid-19 infected patients occur, the authorities post them on the mass media in the form of a numbered number and the locality where the patient lives to let the people of the country know, At the same time, choose a plan to exploit information directly from infected people to localize the scope and contact objects to perform the medical isolation of the source of infection from the community. We believe that, with the actual 320 cases in Vietnam (As of May 18, 2020), to remember and differentiate the patient from 1 to 320 will be very difficult for people to access information.

The protection of the patient's privacy that the authorities are doing is consistent with the provisions of the law on prevention and control of the Covid-19 epidemic, but it is also limited to the collection of information for search. traces of infectious sources are aimed at zoning and isolating the area containing pathogens, in fact only binding the patient's responsibility to voluntarily declare, this leads to the following cases:

- Patients actively cooperate when reporting their illness, but because of the long incubation period from 14-28 days (World Health Organization, 2020), there are cases that carry the pathogen but do not show symptoms, but because of the specific nature of the work, having to move many places, having contact with many people, they accidentally missed the exposed subjects to increase the risk of disease spread.

- There are cases that, due to concerns about affecting personal interests, patients did not voluntarily cooperate or be dishonest when making declarations, preventing the authorities from tracking the epidemic and ant traces for the disease to spread. in the community (In the case of a patient with symbol number 34 in Binh Thuan who flew back to Vietnam from the epidemic area but still moved many places, contacted many people, he reported wandering, dishonest, dripping about the history of movement and number people to whom the patient was exposed, resulting in the infection of 9 people, isolation of many people. For the patient with symbol number 178 when he knew he was in F1, he was asked for concentrated isolation and deliberately escaped by fleeing to his hometown, using a bus as a means of transporting many places until he was Having a fever and having to go to the hospital for medical examination, there are false statements causing many people to isolate at the same time, blockade Dai Tu hospital, Thai Nguyen).

1.3. The cause of the limitations and shortcomings

The above situation stems from the following reasons:

Firstly, the restriction on exercising the right to access information to ensure the right to protect the patient's privacy reduces the effectiveness of the direct supervision of the people in the prevention and control of Covid-19 epidemic.

Second, a number of provisions in the Law on Prevention and Control of Infectious Diseases 2007 have not yet met the current epidemic prevention and control in our country.

Thirdly, the awareness of the importance of direct supervision of the people in the prevention and control of infectious diseases in general, the Covid-19 epidemic in particular is not sufficient, and there is still a part with psychology. indifference, disregard for epidemics and irresponsibility to the community.



2. Recommendations

Human rights are noble values that need to be respected and ensured, but in the current context of the Covid-19 pandemic, we need to put human rights in relation to the common good of society; that is, individual rights must be in harmony with the rights of the group, the rights of the majority.

Covid-19 appeared as a warning about the next pandemic that people could face in the future. Therefore, we need to proactively receive and take effective preventive measures to minimize the damage caused by diseases to humans and to society. To overcome the above limitations and shortcomings, we propose the following recommendations:

Firstly, it is necessary to raise awareness of the role of people in direct supervision of activities of state individuals, agencies and organizations in order to promptly detect law violations and apply preventive measures. block out. Specifically, it is necessary to promulgate the Law on People's Surveillance, which specifies the form of direct people's supervision in case of an epidemic.

Second, the restriction on the right to protect the patient's privacy should be clearly defined in the Law on Prevention and Control of Infectious Diseases.

Third, it is necessary to amend the 2007 Law on Prevention and Control of Infectious Diseases in the following direction:

- Regulate that an epidemic such as Covid-19 is an emergency state because of the negative impact of the epidemic on social life. In this case, the authorities are applied all necessary measures to prevent the epidemic in a timely manner, so all information about the disease in this case should be made publicly transparent, complete and accurate; That is, being allowed to publicize personal information such as the patient's name, age, photos, and address of the place of residence will help those living

around it easy to monitor and actively prevent according to regulations.

- Measures to handle violations of laws related to infectious diseases should be specified. In case it is necessary to refer to another document, the name of the document should be clearly stated so that people can easily access and grasp the content as the current Penal Code does.

Fourth, due to the unpredictable development of the Covid-19 epidemic, the prevention and control are still prolonged, so it is necessary to promote propaganda on the provisions of the Law on Infectious Diseases Prevention and Control to raise people's awareness of their responsibility to the community in cooperating, monitoring, detecting violations and notifying the authorities to take timely measures to prevent them.

Fifthly, it is necessary to introduce knowledge of infectious diseases into teaching at all levels as a subject to help students understand and improve skills in disease prevention and control.

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