

On the Protection of Personal Privacy in Government Information Disclosure in Public Health Emergencies

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Abstract: The new crown epidemic that swept the world in 2020 has brought huge challenges to the social governance of the Chinese government. In the face of this public health emergency, on the one hand, information disclosure has become a "special medicine" for the government to ensure the safety of people's lives and maintain social stability; How to balance government information disclosure and personal privacy protection in a health event? How can the government information disclosure mechanism be further improved under the perspective of personal privacy protection? How to improve the relief system for government information disclosure infringing personal privacy? The existence of these problems actually puts forward requirements for the improvement of government information disclosure in terms of personal privacy protection in public health emergencies in China, that is, to improve the review mechanism, supervision and accountability mechanism of government information disclosure, clarify the scope of personal privacy disclosure, improve The relief system of personal privacy, thus blazing a path of balance between government information disclosure and personal privacy protection in public health emergencies.

Keywords: Public health emergencies, Government information disclosure, Personal privacy protection.

1. Introduction

With the continuous improvement of China's legal system and the continuous improvement of citizens' awareness of rights in recent years, the issue of personal privacy protection in government information disclosure has become a key issue that the Chinese government needs to pay attention to in administrative activities. At the same time, the new crown epidemic that spread across the country and the world in 2020 has had a huge impact on China and other countries in the world. This epidemic has shown us a fact: public health emergencies have become increasingly necessary for human survival and development. challenge. In this case, it is particularly necessary to fully discuss the protection of personal privacy in the disclosure of government information in public health emergencies. From the actual situation, China currently has problems such as the absence of a review mechanism, the incomplete supervision and accountability mechanism, the expansion of personal information disclosure, and the incomplete personal privacy relief system in the public health emergency government information disclosure. The existence of these problems temporarily affects China's government information disclosure practice on the one hand, but on the other hand, it also puts forward higher requirements for our theoretical revision and practical improvement.

2. The Necessity of Personal Privacy Protection in Government Information Disclosure in Public Health Emergencies

(1) Personal privacy protection is an important basis for respecting the dignity of citizens

Respect for and protection of human dignity is an important symbol of the continuous progress of human civilization. Under the general trend of "informatization" and "dataization" of every individual in contemporary society, the protection of personal privacy has become the most basic

requirement for respecting the personality of others. [1] In public health emergencies, the government needs to promote the disclosure of government information with the greatest efforts in order to respond to the public's urgent demands for informed information, but this does not mean that personal privacy in the disclosure of government information in public health emergencies To be sacrificed without measure. For example, in the process of disclosing information related to the epidemic, as the private information of specific individuals such as infected persons and close contacts are continuously and specifically disclosed, the public's awareness of the parties will become clearer. When the specific parties are exposed, The public's strong negative emotions towards public health emergencies will be passed on to them, which will induce a series of negative Internet public opinion and even Internet violence. The emergence of such a situation will inevitably cause a certain amount of damage to the spirit of a specific individual, affect the parties' interpersonal communication and social environment, and seriously damage their personal dignity.

(2) Personal privacy protection is a practical need to protect the personal safety of citizens

Personal privacy protection in government information disclosure in public health emergencies helps to protect citizens' physical and mental health. On the one hand, the excessive exposure of personal privacy in government information disclosure of public health emergencies will speed up the identification of specific individuals by the public. Great physical and mental stress on the individual. It is entirely possible for the public to use the disclosed personal privacy to conduct "human flesh searches" on individuals, to abuse, spread rumors and slander them. For those with weak psychological endurance, this harsh public opinion environment is very likely to affect their psychology health, and even make them suffer from certain mental illnesses. On the other hand, the disclosure of personal privacy may reveal the individual's daily itinerary, living area and even address. Individual extremists may use this information to carry out

threats, intimidation, and even violence against specific individuals in reality, thereby causing serious damage to the personal safety of the parties involved.

(3) Personal privacy protection is an effective way to maintain social order

Personal privacy protection in government information disclosure in public health emergencies is conducive to maintaining the stability of the entire social order. On the one hand, the overexposure of personal privacy in government information disclosure will pose a serious threat to the personal dignity and personal safety of many parties involved. This threat further aggravates people's tension under the epidemic of infectious diseases, and everyone cannot be sure of themselves. Personal privacy will not be made public, thus creating a chaotic situation where everyone is in danger. On the other hand, the lack of personal privacy protection in government information disclosure in public health emergencies will cause the public to question the government's information management capabilities and the level of epidemic prevention and control. People are inevitably exposed to the risk of personal privacy at any time. There will be a sense of distrust of the government, which will lead to a decline in government credibility and affect the stability of social order. [2]

3. Problems in the Protection of Personal Privacy in Government Information Disclosure in Public Health Emergencies in China

(1) There is a lack of government information disclosure review mechanism for public health emergencies

The so-called government information disclosure review mechanism refers to a set of dynamics in which relevant government departments review the information to be disclosed according to certain standards before information disclosure, and finally decide whether the information can be disclosed by comparing the review results with the disclosure standards. program.

Although China's "Government Information Disclosure Regulations" has stipulated in principle the review mechanism of government information disclosure, it does not specify specific operable measures, which are mainly manifested in two aspects: First, the lack of scientific review procedures. The "Government Information Disclosure Regulations" only emphasizes the necessity of information review procedures at the institutional level, but it does not clearly stipulate the specific review subjects, review links, review standards and other review content. [3] The second is that the review responsibility system is not clear. The current "Government Information Disclosure Regulations" does not specify who is responsible for the review results, which may lead to the absence of government information disclosure review responsibilities in practice.

(2) The existing government information disclosure supervision and accountability mechanism for public health emergencies hinders the effectiveness of the government

If the review mechanism of government information disclosure is a barrier set up before information disclosure to ensure that the results of information disclosure meet the benign expectations of the government and the public, then the supervision and accountability mechanism of government information disclosure is established after government information disclosure. A checkpoint set up to detect

problems in time and respond to them quickly.

There are two problems in the current government information disclosure supervision and accountability mechanism for public health emergencies in China. On the one hand, in China's existing government information disclosure supervision system for public health emergencies, there are no specific regulations on which departments have the right to supervise government information disclosure, as well as the means of supervision, procedures for supervision, and reporting standards for supervision. As a result, the supervision mechanism of information disclosure cannot be effectively operated in specific practice, which in turn affects the effect of information disclosure. [4] On the other hand, China's current accountability mechanism for information disclosure linked to the government information disclosure supervision mechanism for public health emergencies lacks operability. China's existing system of public health emergencies and government information disclosure lacks specific regulations on the distribution of government information disclosure responsibilities for public health emergencies, as well as the subject, means and procedures of accountability, which may lead to possible problems in practice. It is difficult or even impossible to pursue accountability, which in turn hinders the actual effectiveness of government information disclosure and affects the realization of the government's goal of preventing and controlling public health emergencies.

(3) In public health emergencies, the disclosure of personal information in government information disclosure shows a trend of random expansion

In the field of government information disclosure, the boundary between publicly available information and personal privacy has always been controversial in academic circles. In public health emergencies, as the contradiction between public interests and private interests is further intensified, the conflict between publicly available information and personal privacy is further amplified. In this case, it is particularly important to clarify the disclosure scope of personal privacy in government information disclosure. [5]

Judging from the current practice of government information disclosure in public health emergencies in China, there is no relatively uniform standard for the scope of personal privacy disclosure in government information disclosure across the country. During the prevention and control of the new crown epidemic, some regions in China used the serial number of the confirmed case to replace the personal information of the confirmed patient in the disclosure of information related to the epidemic, and only disclosed the necessary itinerary, passing places and travel time; In its disclosure of epidemic-related information, it mentioned the name, gender, age, and even home address of the confirmed patient, which already involves personal privacy. The root cause of this phenomenon is that China needs to further clarify and define the scope of personal privacy disclosure in government information disclosure for public health emergencies, and the top-level system needs to clearly limit the standards and scope of personal privacy disclosure. For example, in September 2021, a girl in Harbin was diagnosed with the new crown, and her real name, address, and even the identity information of her boyfriend and other friends appeared in the follow-up public survey report. Violence. It can be seen that in public health emergencies, relevant government departments should strictly abide by the threshold of personal privacy disclosure,

and the information necessary for the safety and health of the public must be disclosed, but some non-essential information that involves citizens' personal privacy must be disclosed. Caution should be exercised when it comes to making public issues public. In public health emergencies, the government must always maintain a good balance between information disclosure and privacy protection, so as to facilitate the prevention and control of public health emergencies and maintain the stability of social order.

(4) The personal privacy relief system for public health emergencies is not perfect

According to China's current laws and regulations, the main remedies for violations of civil rights by administrative agencies are administrative litigation and administrative reconsideration. However, China's existing "Administrative Litigation Law" and "Administrative Reconsideration Law" are mostly principled macro-regulations, and there is still a need for further improvement on matters such as the scope of cases, burden of proof, and review standards for government information disclosure infringing citizens' personal privacy rights. illustrate.

The incompleteness of the personal privacy relief system for public health emergencies will make it difficult for citizens to initiate relief procedures against the violations of personal privacy by relevant government departments in reality; [6] Second, in the current information technology and electronic equipment Under the highly developed background, even if the parties whose personal privacy rights are infringed upon by government information disclosure in public health emergencies successfully take relief measures and enter the relief procedure, the personal privacy that has been disclosed through official government channels has spread rapidly through the Internet , and is known by many people, at this time it is impossible to eliminate the negative impact of personal privacy being exposed through remedies. As a result, even if the remedy is implemented, the personal privacy of the parties is still in a state of continuous infringement, and it is difficult to obtain real compensation for the damage of the rights of the parties.

4. Suggestions for Improving Personal Privacy Protection in Government Information Disclosure of Public Health Emergencies in China

(1) Improving the government information disclosure review mechanism for public health emergencies

The improvement of the government information disclosure review mechanism for public health emergencies in China needs to be cut from multiple dimensions. First of all, in terms of the composition of the information review subject, the review subject can neither be the staff who process and disclose the information, nor the group whose information is collected, but should participate in the review as a third party. At the same time, the specific examination work of the subject of examination should be completed by at least two people in cooperation, so as to prevent the subjective will of individuals from affecting the examination results. Secondly, the information review process should be supervised by the corresponding supervision mechanism throughout the process, and at the same time, the government information review process should be announced to the public, and the review results should be archived in the form of text for inspection. The archive storage time depends on public

health emergencies. Depends on the urgency, duration and sensitivity of the information to be disclosed. Thirdly, establish an information review committee system. When reviewers and government information authorities have different opinions on whether some information can be made public, the final decision can be made by the information review committee. Finally, after the main procedure of the information disclosure review is completed, the relevant responsible personnel should form a review file about the current information disclosure review, which includes the written materials formed by the review, problems that occurred during the review process, and countermeasures. Through such a relatively sound public health emergency government information disclosure review mechanism, citizens' personal privacy will be more effectively protected in public health emergency government information disclosure, and the government's comprehensive response to public health emergencies Capacity will also increase accordingly. [7]

(2) Improving the government information disclosure supervision and accountability mechanism for public health emergencies

Improving the government information disclosure supervision and accountability mechanism for public health emergencies is a key measure to effectively regulate government information disclosure behaviors and protect citizens' personal privacy rights in the event of public health emergencies. The improvement of government information disclosure supervision and accountability mechanism for public health emergencies is mainly divided into two aspects.

On the one hand, based on China's existing government information disclosure supervision mechanism, the author believes that it should be improved from the following two points: First, improve the internal supervision of government information disclosure in public health emergencies. Compared with other supervision measures, internal supervision is often the most efficient and effective supervision method. By setting up a special information disclosure supervision committee within the government, it is possible to supervise the entire process of relevant government departments from information review to information disclosure. Supervise the process, so that problems can be found at the first time, and corrective and remedial measures can be taken in time. The second is to improve the external supervision of government information disclosure in public health emergencies. The occurrence of public health emergencies has increased the public's sensitivity to government actions, and every move of the government will be closely watched by the public. In this context, the enthusiasm of the public to supervise government information disclosure can be fully mobilized by building a public supervision platform and strengthening the interaction between government and civilian supervision, thereby forming a joint force for external supervision of government information disclosure in public health emergencies. [8]

On the other hand, the author believes that it is also crucial to further improve the accountability mechanism for government information disclosure in public health emergencies. The first is to clarify the distribution of responsibilities for government information disclosure in the event of a public health emergency, so that the sense of responsibility runs through the public servants' activities in government information disclosure. The second is to clarify the accountability procedures. For those responsible for

infringing on citizens' personal privacy and causing negative impacts in the disclosure of government information in public health emergencies, the higher-level administrative organs can take the lead in pursuing accountability. The third is to clarify the way of bearing responsibility, formulate different degrees of responsibility bearing standards, and judge which type of responsibility bearing method should be applied according to the specific infringement situation. [9]

(3) Clarify the scope of personal privacy disclosure in government information disclosure for public health emergencies

Clarifying the disclosure scope of personal privacy in public health emergency government information disclosure is the fundamental way for the government to alleviate and even resolve the conflict between information disclosure and personal privacy protection. The government's information disclosure in public health emergencies mainly involves two kinds of citizen's personal identity information and travel trajectory information. The identity information includes the citizen's name, ID number, and address, while the itinerary trajectory information involves the citizen's usual travel mode, frequent residence, frequent travel route, travel time and other information.

The author believes that when the government discloses government information in public health emergencies, it should further clarify the scope of disclosure of personal privacy. A basic principle must be followed, that is, when it is necessary to disclose citizens' private information, the itinerary information should be mainly disclosed, and the identity information of citizens should not be disclosed as much as possible. [10] Because from the perspective of the transmission mechanism of infectious diseases, disclosing information about the travel trajectories of people involved in the epidemic can enable other people in the society who coincide with this trajectory to strengthen their awareness of risk prevention and control and conduct self-examination in a timely manner. However, the identity information of people involved in the epidemic has no logical connection with the prevention and control of infectious diseases, and in most cases it is personal information that does not need to be disclosed. At the same time, the author believes that in the public health emergency government information disclosure, the specific scope of personal privacy disclosure should be determined according to the degree of harm and the scope of the public health emergency. When the scope is wide, the government can properly publish some non-critical personal privacy of citizens that can help alleviate the status quo; on the contrary, the government should be more cautious about information involving citizens' personal privacy when making information disclosure.

(4) Improving the relief system for personal privacy rights in public health emergencies

In view of China's current "Administrative Litigation Law" and "Administrative Reconsideration Law", the relief system for personal privacy rights in public health emergencies is not complete. Relevant legal provisions of relief, clarify key elements such as qualified plaintiffs, scope of acceptance of cases, and burden of proof in such lawsuits, thereby enhancing the operability of personal privacy relief. The second is to set up an independent information review committee as the main body of judgment in the administrative reconsideration procedure, so as to ensure the fairness of the personal privacy right in the administrative reconsideration relief process. [11] The third is to set up an administrative

reconsideration and administrative litigation suspension system. The core of this system is that once an administrative litigation or administrative reconsideration case involving personal privacy is accepted, the government's information disclosure behavior should be stopped immediately regardless of the discretionary result of the relief. The fourth is to set up a reasonable compensation system for personal privacy damages. According to the "State Compensation Law", the government's violation of personal privacy rights in information disclosure will be included in the scope of state compensation, so as to increase the proportion of actual compensation obtained by the parties and maximize compensation for the parties. Loss. In short, the particularity of personal privacy relief in public health emergencies determines that China must further improve the existing legal relief system in order to better meet the needs of personal privacy relief and more fully protect citizens' personal privacy.

5. Conclusion

At present, China has formed a series of institutional regulations regulating government information disclosure activities represented by the "Government Information Disclosure Regulations" and a personal privacy protection legal system with the "Civil Code" and "Personal Information Protection Law" as the main body. At the intersection of the two fields of information disclosure and personal privacy protection, there is still some theoretical or practical room for discussion. On the basis of clarifying relevant concepts, this paper first points out that the protection of personal privacy in public health emergencies public information disclosure has the triple necessity of being an important basis for respecting citizens' personal dignity, a practical need to protect citizens' personal safety, and an effective way to maintain social order. Secondly, combined with the actual situation, this paper respectively lists the existence of personal privacy protection in the government information disclosure of public health emergencies in China: the information disclosure review mechanism is not perfect, the information disclosure supervision and accountability mechanism is not perfect, the scope of personal privacy disclosure is not clear, There are four problems in the incompleteness of personal privacy relief channels. Thirdly, aiming at the problems, this paper puts forward four optimization suggestions: improving the review mechanism of information disclosure, improving the supervision and accountability mechanism of information disclosure, clarifying the scope of personal privacy disclosure, and improving the relief system of personal privacy rights, with a view to providing information for public health emergencies in China. Public practice of personal privacy protection provides theoretical reference. It is believed that with the continuous improvement of China's relevant legal system and the continuous strengthening of the rights awareness of various subjects in this field of discourse, the issue of personal privacy protection in government information disclosure in public health emergencies will eventually be effectively resolved.

References

- [1] Li Jianing. Research on government information disclosure in public health emergencies [D]. Changchun: Master's Degree Thesis of Jilin University, 2021:7.

- [2] Zhang Guixia. A study on the balance between government information disclosure and personal information protection in epidemic prevention and control [J]. Journal of Hubei Police College, 2020,33(2):25-33.
- [3] Liu Xuetao. Optimization of government information disclosure in major public health emergencies [J]. Journal of Harbin Party School, 2021, 133(1): 57-63.
- [4] Yang Wen, Cui Dong. The problem of government information disclosure in public health emergencies and its solution [J]. China Emergency Management Science, 2020(12): 55-65.
- [5] Zhou Hanrui. The legal system of government information disclosure in public health emergencies——Based on the thinking of government information disclosure in the new crown pneumonia epidemic [J]. Journal of Beijing Trade Union Cadre Academy, 2020,35(2):41-47 .
- [6] Hu Yiyan. Problems and Improvements in the Protection of Personal Privacy Rights in the Internet Age [J]. Legal Expo, 2019(30): 103-104.
- [7] Zhao Meng. Research on Personal Privacy Protection in Government Information Disclosure [D]. Nanchang; Master's Degree Thesis of Nanchang University, 2020:20.
- [8] Liang Yalun. The Approach to Improve the Government Information Disclosure System in Major Public Health Emergencies [J]. Information Security Research, 2021, 7(7): 674-681.
- [9] Peng Qiyuan. Conflict and coordination between information disclosure and privacy protection in public health emergencies [J]. Journal of Tianshui School of Administration, 2020,21(3):76-81.
- [10] Tang Linyao. Personal Information Protection in the Era of Normalized Digital Anti-epidemic [J]. Journal of China University of Political Science and Law, 2021,84(4):240-250.
- [11] Wang Fang, Zheng Yuxin, Zhu Hongzhi. Personal Privacy Protection in Government Information Disclosure: A Study Based on the Situation of Major Public Health Emergencies [J]. Journal of Information Resource Management, 2022,12(5):25-40.