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Review Article

Ethical and Legal Conflicts in HIV Status Disclosure: An Indian Perspective

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Abstract

Introduction: Human Immunodeficiency Virus (HIV) infection presents complex ethical and legal challenges beyond clinical management, particularly regarding disclosure of an individual's HIV-positive status to spouses and intimate partners. In India, these dilemmas are intensified by persistent social stigma, gender inequality and the medico-legal consequences associated with HIV/AIDS. The discussion is grounded in core ethical principles—autonomy, confidentiality, beneficence, non-maleficence, and justice—and their practical application in forensic and clinical settings. **Methods:** The review integrates ethical analysis, legal interpretation, and public health perspectives relevant to forensic and medico-legal practice. **Discussion:** The legal framework governing disclosure is analyzed with reference to the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017, which permits limited disclosure to spouses under defined circumstances while prioritizing patient confidentiality and safeguarding individuals, particularly women, from violence, abandonment, and discrimination. The paper highlights real-world ethical dilemmas faced by practitioners when patients refuse disclosure, the gendered implications of disclosure decisions and the potential impact on marital relationships and public health. **Conclusion:** From a forensic and medico-legal standpoint, the article underscores the importance of structured counselling, adherence to statutory guidelines, and institutional protocols to guide ethically defensible decision-making. The article concludes that a balanced, ethically sensitive, and legally informed approach is essential to protect individual rights while ensuring partner safety and public health within the Indian context.

1. Introduction

Human Immunodeficiency Virus (HIV) globally and in India, despite advances in diagnosis, continues to be a significant public health concern treatment, and prevention strategies. Although

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antiretroviral therapy has transformed HIV infection into a chronic manageable condition, HIV/AIDS continues to generate complex ethical, legal, and medico-legal challenges that extend beyond clinical management.^{1, 2} One of the most contentious issues in this domain is the disclosure of an individual's HIV-positive status to spouses and intimate partners, particularly within the institution of marriage, where issues of consent, trust, and legal responsibility intersect.³ From an ethical and forensic standpoint, disclosure of HIV status raises competing duties owed by healthcare professionals. The obligation to maintain patient confidentiality and respect autonomy is a foundational principle of medical ethics and is reinforced by ethical guidelines and constitutional protections of privacy in India.^{4,5} At the same time, the principles of beneficence and non-maleficence impose a duty to prevent foreseeable harm, including the transmission of HIV to an unsuspecting spouse.^{4,5} Failure to disclose may expose partners to significant health risks, while involuntary disclosure may result in adverse consequences such as stigma, discrimination, marital breakdown, and social exclusion.^{6,7}

In the Indian socio-legal context, these ethical conflicts are further compounded by persistent stigma, limited awareness, and entrenched gender inequalities. Studies and policy reports have consistently demonstrated that women living with HIV face disproportionate risks of domestic violence, abandonment, and economic deprivation following disclosure.^{6,7,8} These realities necessitate a cautious and legally informed approach to disclosure, particularly where disclosure may place an individual at risk of physical or social harm. Recognizing these competing interests, India has adopted a rights-based legal framework through the enactment of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017.³ The Act establishes confidentiality as the default legal position while permitting limited disclosure to spouses under narrowly defined circumstances, subject to counselling and risk assessment. It further incorporates specific safeguards for women where disclosure may result in violence or abandonment and imposes a statutory duty on persons living with HIV to take reasonable precautions to prevent transmission.^{3,9} With increasing litigation, forensic evaluations, and medico-legal scrutiny relating to alleged nondisclosure, marital disputes, and HIV

transmission, healthcare and forensic professionals are frequently required to provide expert opinions within this legal framework. A clear understanding of the ethical principles, statutory provisions, and practical implications governing HIV status disclosure is therefore essential. This article critically examines the ethical and legal conflicts surrounding HIV status disclosure in India, with particular emphasis on forensic and medico-legal responsibilities, and proposes ethically defensible and legally compliant approaches for managing disclosure within spousal relationships.

2. Materials and Methods

Study Design

This article was conducted as a systematic narrative review focusing on ethical and legal conflicts related to disclosure of HIV status to spouses and intimate partners in the Indian context. The review integrates ethical analysis, legal interpretation, and public health perspectives relevant to forensic and medico-legal practice.

Data Sources

A comprehensive literature search was performed using electronic databases including PubMed/MEDLINE, Google Scholar, Scopus, and IndMED. In addition, official documents and legal texts were retrieved from authoritative sources such as the Government of India, National AIDS Control Organisation (NACO), World Health Organization (WHO), UNAIDS, and the Indian Council of Medical Research (ICMR).

Search Strategy

The search was conducted using combinations of the following keywords and Medical Subject Headings (MeSH): HIV disclosure, confidentiality, spousal notification, medical ethics, forensic medicine, medico-legal responsibility, HIV/AIDS Act 2017, public health law, and India. Boolean operators ("AND", "OR") were applied to upgrade the search. Articles published in English up to December 2024 were considered.

Inclusion and Exclusion Criteria

Studies and documents were included if they:

- Addressed ethical, legal, or medico-legal aspects of HIV status disclosure
- Were relevant to the Indian context or comparable socio-legal settings
- Included guidelines, legislation, policy documents, or peer-reviewed articles

Exclusion criteria included:

- Purely clinical studies without ethical or legal discussion
- Opinion pieces lacking scholarly or legal basis
- Non-English publications and duplicate records

Data Extraction and Analysis

Relevant information was extracted independently by the authors, focusing on ethical principles, legal provisions, judicial interpretations, public health implications, and practical challenges faced by healthcare professionals. Data were thematically analyzed and synthesized under predefined domains: ethical principles, legal framework, gender considerations, clinical and forensic dilemmas, and public health impact.

The Ethical Principles

The ethical tension in HIV disclosure revolves around four core principles:

a. Autonomy and Confidentiality

Patients have a fundamental right to privacy and confidentiality regarding their health information. This is rooted in ethical medical practice and recognized by legal frameworks and constitutional protections in India (e.g., the right to privacy under Articles 19 and 21). Breach of confidentiality without consent is generally unethical.^{4, 5, 9}

b. Beneficence and Non-maleficence

Healthcare professionals have a duty to protect patient welfare (beneficence) and to avoid causing harm (non-maleficence). Not informing a spouse at risk of contracting HIV may result in avoidable harm, while involuntary disclosure can lead to social stigma, violence, abandonment, or even divorces.^{4, 5, 6}

c. Justice

Fairness and protection for both partners are vital. Ethical justice demands that neither partner be disadvantaged—especially in contexts where gender dynamics traditionally place women at greater risk of violence and abandonment.^{4, 8, 10-13}

3. Legal Framework in India

India's HIV and AIDS (Prevention and Control) Act, 2017 specifically addresses disclosure of HIV status to partners. Key provisions include:

- Section 8 (Confidentiality Rule): No healthcare provider may disclose a person's HIV status to their partner, except under specific conditions.
- Section 9 (Partner Notification): Providers may inform a spouse only when:
 1. They believe the partner is at significant risk of transmission,
 2. The HIV-positive person has been counselled to disclose,
 3. The provider believes the patient will not inform their partner, and
 4. The patient has been informed of the provider's intention to disclose.
- 5. In-Person & Post-Counselling: The disclosure must be done in person and followed by immediate counselling for the partner.
- Exception for Women: When disclosure may put a woman at risk of violence, abandonment, or harmful consequences, providers must not inform the partner.¹⁴

Additionally, the Act places a duty on persons with HIV to take reasonable precautions—including informing partners before sexual contact—to prevent transmission.^{3, 15}

Indian courts have consistently recognized that confidentiality of HIV status, though fundamental, is not absolute and must be balanced against competing rights and public interest considerations. In the landmark decision of *Mr. X v. Hospital Z*, the Supreme Court held that disclosure of an individual's HIV-positive status to a prospective spouse could be justified where there existed a real and foreseeable risk of transmission, thereby prioritizing the partner's right to life and health over strict medical confidentiality. The Court emphasized that the right to privacy is subject to reasonable restrictions when non-disclosure poses a serious threat to another individual's fundamental rights. At the same time, subsequent judicial pronouncements by High Courts have reinforced that arbitrary or unnecessary disclosure of HIV status constitutes a violation of dignity and privacy under Article 21 of the Constitution, attracting constitutional liability and, in appropriate cases, compensation.

These judicial trends align with the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017, which codifies confidentiality as the default legal rule while permitting limited partner notification under narrowly defined conditions, subject to counselling, risk assessment, and safeguards against harm—particularly for women.¹⁶ In case of *M. Vijaya v. Singareni Collieries* (2001): The Andhra Pradesh High Court held that while a person has a right to privacy, the employer's duty to ensure the health of other employees and the public interest can occasionally override it, but only in specific, high-risk contexts.¹⁷ In case *Lucy R. D'Souza v. State of Goa* (1990): which is one of the earliest cases. The Bombay High Court upheld the isolation of an HIV-positive

person under the Goa Public Health Act, prioritizing public safety over individual liberty—a stance that would likely be viewed differently today under the 2017 Act.¹⁸ This case challenged mandatory testing. The court held that individual rights could be restricted for the "collective interest of the community." The petitioner challenged Section 13 of the Goa, Daman and Diu Public Health Act, 1985, which authorized the government to isolate/quarantine any person found to be HIV-positive. The Petitioner's Argument: It was argued that such power was "draconian," violated the right to liberty (Article 21), and led to social ostracization without a scientific basis for the necessity of isolation. The Court's View: The Bombay High Court (Panaji Bench) upheld the validity of the law. In a recent [Case of Chhattisgarh High Court – HIV Privacy Breach Case \(2025\)](#), the Chhattisgarh High Court directed the State Government to pay compensation after a government hospital publicly displayed a notice revealing a mother's HIV-positive status near her newborn. The court described this act as "inhuman, unethical, and a violation of privacy under Article 21 of the Constitution."¹⁹

These legal obligations illustrate the dual ethical aim: upholding confidentiality while safeguarding partners from harm. Indian criminal law also provides a forensic framework for addressing HIV nondisclosure through Sections 269 and 270 of the Indian Penal Code (IPC), which criminalize negligent and malignant acts likely to spread infection of a disease dangerous to life. Section 269 IPC applies where an individual, through negligence, exposes another person to the risk of infection, while Section 270 IPC addresses deliberate or reckless conduct with knowledge of potential transmission. Although Indian courts have not conclusively criminalized mere nondisclosure of HIV status per se, forensic and medico-legal interpretation suggests that intentional concealment of HIV-positive status in a marital or sexual relationship, coupled with unprotected exposure, may attract criminal liability under these provisions if mens rea or gross negligence is established.²⁰

The Evolution of Legal stance for HIV status disclosure

The legal stance in *Lucy R. D'Souza* is largely considered outdated by modern human rights standards and subsequent legislation. The shift in Indian law can be visualized through the changing priorities of the court:

During 1980s - 1990s, primary focus was on public safety where mandatory testing and isolation were seen as valid "reasonable restrictions" on liberty. During 2000s – 2017, primary focus shifted to privacy and rights where Courts began recognizing that stigmatization and "civil death" are worse than the disease itself. During 2017 – Present, primary focus was on Autonomy & Consent, where The HIV Act (2017) expressly prohibits mandatory testing and isolation, making the *Lucy D'Souza* approach illegal today.¹⁸

4. Discussion

Ethical Dilemma in Practice

The real-world ethical dilemma surfaces when these principles conflict:

a. When Patients Refuse to Disclose

If an HIV-positive patient refuses to inform their spouse, healthcare providers face a moral and legal conundrum. Should they maintain strict confidentiality or prioritize the spouse's right to know? In many settings, counsellors feel constrained by legal protections for confidentiality, yet frustrated by inability to protect unaware spouses.^{5, 6}

b. Gendered Implications

Indian society still often places women in vulnerable positions within marriage. The 2017 Act's special safeguard for women highlights the ethical necessity to protect women from potential violence or abandonment that may result from disclosure.^{6, 7, 8}

c. Stigma and Social Consequences

Disclosing HIV status—even with consent—can have devastating social consequences, including discrimination from family and community, forced separation, or divorce. Several Indian news reports describe marital discord after disclosure or concealed HIV status leading to disputes.^{7, 15}

5. Societal and Public Health Considerations

a. Public Health vs. Individual Rights

From a public health perspective, nondisclosure may allow ongoing transmission within couples. Conversely, involuntary disclosure may deter people from seeking testing or treatment due to fear of stigma. This illustrates the delicate ethical balance between individual rights and community health needs.^{1, 5, 15}

b. Stigma and Awareness

HIV/AIDS remains stigmatized in many parts of India. Efforts to reduce stigma through

education, accessible care, and open dialogues are essential to create an environment where disclosure is less dangerous and more supportive for patients and their partners.^{7,8}

6. Ethical and Practical Recommendations

Based on existing legal and ethical frameworks, the following approaches help navigate this dilemma:

a. Strengthen Counselling and Support

Counsellors play a crucial role. Comprehensive, empathetic counselling can encourage voluntary disclosure, helping partners understand risk reduction and treatment.

b. Clear Institutional Protocols

Healthcare institutions should establish explicit protocols aligned with the 2017 Act to guide practitioners on when and how to disclose status to partners ethically and legally. Proper training of handling as well as proper documentation of such records should be provided to concerned doctors.

c. Address Gender-Based Violence

Because of the potential for violence after disclosure, additional safeguards, protective services, and legal support should be provided, particularly for women.

d. Community Awareness Campaigns

Reducing stigma at the community level encourages earlier testing, responsible disclosure, and mutual support among spouses—key to both ethical conduct and public health.^{1,3,9,10,21}

The National HIV Counselling and Testing Guidelines 2024 emphasize:

- Index Testing: A voluntary process where providers offer HCTS (HIV Counselling and Testing Services) to the partners and biological children of PLHIV.
- Integration of Care: Disclosure is permitted between healthcare providers *only* if it is necessary for the immediate care or treatment of the patient.
- Pseudonymity in Courts: Under Section 34 of the 2017 Act, Legal proceedings involving HIV status must be conducted *in camera* (privately) and allow the use of pseudonyms (e.g., "Mr. X") to prevent public disclosure.^{22,23}

Institutional Responsibilities

Under the NACO Data Protection Guidelines, every establishment (hospitals, labs, or offices) that keeps records of "protected persons" (HIV-positive individuals) must:

- Appoint a Complaints Officer to handle grievances regarding privacy breaches.
- Ensure that HIV status is not recorded on general medical files accessible to non-essential staff.
- Use coded identifiers (UIDs) instead of names on samples and public registers.²⁴

Key takeaway Messages

- Informed Consent: Testing or disclosure without informed consent is a violation of the law.
- Right to Health vs. Privacy: If a conflict arises between "Right to Privacy" and "Right to Life" (of a partner), the Right to Life usually prevails, but only following the strict protocols of the 2017 Act.

7. Conclusion

The ethical dilemma of HIV status notification to a spouse in India is multifaceted and deeply sensitive. While confidentiality and respect for autonomy are fundamental, the partner's health and well-being cannot be ignored. The Indian legal framework—through the HIV/AIDS Act, 2017—attempts to mediate this dilemma by setting clear conditions for when disclosure is permitted and by protecting vulnerable individuals from harm.

Effective resolution demands:

- ethical sensitivity,
- robust counselling,
- informed legal practice,
- and societal efforts to reduce stigma.

Only with a balanced approach that respects both individual rights and the health and safety of partners can this dilemma be navigated responsibly in the Indian context.

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References:

1. World Health Organization. Guidance on couples HIV testing and counselling including antiretroviral therapy for treatment and prevention in serodiscordant couples. Geneva: WHO; 2012. [cited on 23rd Dec 2025]. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK138278/>
2. National AIDS Control Organisation (NACO). Annual Report 2022–23. New Delhi: Ministry of Health and Family Welfare, Government of India; 2023. [cited on 23rd Dec 2025]. Available from: <https://naco.gov.in/sites/default/files/India%20HIV%20Estimates%202023%20Technical%20Report%20Final%2017%20DEC%202024%20%281%29.pdf>

3. Government of India. The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017. New Delhi: Ministry of Law and Justice; 2017. [cited on 23rd Dec 2025]. Available from: <https://naco.gov.in/sites/default/files/HIV%20AIDS%20Act.pdf>
4. Beauchamp TL, Childress JF. Principles of Biomedical Ethics. 8th ed. New York: Oxford University Press; 2019.
5. Bennett R, Draper H, Frith L. Confidentiality, disclosure and public health in the context of HIV/AIDS. *J Med Ethics*. 2000;26(5):318–23.
6. Chattu VK, Krishnan S. Ethical issues related to HIV/AIDS in India. *Indian J Med Ethics*. 2010;7(3):148–51.
7. Aggleton P, Parker R. HIV-related stigma, discrimination and human rights violations. UNAIDS Best Practice Collection. Geneva: UNAIDS; 2002. [Cited on 23rd Dec 2025]. Available from: https://data.unaids.org/publications/irc-pub06/jc999-humrightsviol_en.pdf
8. Joge US, Deo DS, Lakde RN. Ethical issues in HIV/AIDS: Indian perspective. *Int J Community Med Public Health*. 2016;3(5):1150–4.
9. Indian Council of Medical Research. National Ethical Guidelines for Biomedical and Health Research Involving Human Participants. New Delhi: ICMR; 2017. [Cited on 23rd Dec 2025]. Available from: https://ethics.ncdirindia.org/asset/pdf/ICMR_National_Ethical_Guidelines.pdf
10. Deokar RB, Patil SS, Chavan KD. Current Medical Ethical Issues. *Int J Educ Res Health Sci*. 2019; 2(3):1-3.
11. Deokar RB, Patil SS. Cybercrime: Medicolegal Perspective. *J Forensic Med Sci Law*. 2025; 34(1):1-3. doi: 10.59988/jfmsl.vol.34issue1.1
12. Almannie R. What is considered enough in disclosure of adverse events? A cross sectional study of medicolegal panel members. *J Forensic Med Sci Law*. 2024; 33(2):37-44. doi: 10.59988/jfmsl.vol.33issue2.7
13. Deokar RB, Patil SS. Artificial Intelligence in Healthcare and Biomedical Research - Ethical aspects. *J Forensic Med Sci Law*. 2024; 33(1):1-4.
14. The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017. Act No. 16 of 2017. Gazette of India (Apr 21, 2017). [Cited on 23rd Dec 2025]. Available from: <https://naco.gov.in/hiv-aids-p-c-act-2017#:~:text=The%20Act%20came%20into%20force,the%20rights%20of%20healthcare%20providers.>
15. UNAIDS. Policy brief: Criminalization of HIV transmission. Geneva: Joint United Nations Programme on HIV/AIDS; 2008. [Cited on 23rd Dec 2025]. Available from: https://www.unaids.org/sites/default/files/media_asset/jc1601_policy_brief_criminalization_long_en.pdf
16. Mr. X v. Hospital Z, (1998) 8 SCC 296 (Supreme Court of India, 1998).
17. M. Vijaya v. Singareni Collieries Co. Ltd., 2001 (5) ALD 522 (Andhra Pradesh High Court; 2001).
18. Smt. Lucy R. D'Souza v. State of Goa, AIR 1990 Bom 355 (High Court of Bombay, Panaji Bench, 1990).
19. Chhattisgarh High Court v. State of Chhattisgarh, [Case of Privacy Breach of HIV Patient], W.P. (C) No. XXX of 2024 (Chhattisgarh High Court; 2025).
20. Sections 271 and 272 of the Bharatiya Nyaya Sanhita (BNS). [Cited on 23rd Dec 2025]. Available from: <https://www.indiacode.nic.in/bitstream/123456789/20062/1/a202345.pdf>
21. Deokar RB, Patil SS, Bhise SS. Medicolegal cases in hospitals. *J Forensic Med Sci Law*. 2018; 27(2):1-2.
22. National AIDS Control Organisation. National HIV Counselling and Testing Guidelines 2024. New Delhi: Ministry of Health and Family Welfare, Government of India; 2024. [Cited on 23rd Dec 2025]. Available from: https://naco.gov.in/sites/default/files/HCTS%20Guideline%202024_High%20Res%20shared%20with%20SACS%20on%203rd%20Dec%202024%20by%20NC.pdf
23. Deokar RB, Dere RC, Arora P. Contemporary Issues in Bioethics. *Journal of Indian Academy of Forensic Medicine*. 2025;47(4):343-345.
24. National AIDS Control Organisation. Data Protection Guideline of National AIDS Control Programme. New Delhi: Ministry of Health and Family Welfare, Government of India; 2018. [Cited on 23rd Dec 2025]. Available from: <https://www.naco.gov.in/sites/default/files/Data%20Protection%20Guideline%20of%20National%20AIDS%20Control%20Programme.pdf>