



WHITE & CASE

IFRC COVID-19 Emergency Decree Pro Bono Research: India

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1. Is there coordination between state and non-state actors, e.g. through a national emergency response mechanism?

There appears to be a certain degree of coordination between state and non-state organisations and actors. Indian citizens are being urged to become volunteers to support the government's ongoing efforts in the management of the outbreak of COVID-19. Through state initiatives such as "self4society", volunteers are registering to assist with the work of primary healthcare workers, dead body management, transportation of patients, public awareness on hygiene practices and the production of personal protective equipment. These volunteers, who have been referred to in the media as "Corona Warriors", have also been tasked with monitoring social media sites to check rumors that are being spread across in the country. The administrations of each district have also deployed their own systems of collaboration with various non-state groups to ensure field monitoring and effective response mechanisms. For example, Pathanamthitta district has formed teams of health workers and Primary Health Centre medical officers with the help of the Ward Health and Sanitation Committee to ensure that people remain in quarantine, whereas Kozhikode district has formed a Rapid Response Team with the help of the local government.

The Sustainable Environment and Ecological Development Society (SEEDS) has been reaching out to hundreds of thousands of economically vulnerable people in partnership with local administrations in states such as Bihar, Delhi, Karnataka, Kerala, Maharashtra, Odisha and Uttarakhand. Recent work by SEEDS includes awareness campaigns, distribution of essential hygiene items and WaSH promotion activities.

The WHO Country Office for India (WCO) has been working closely with the Ministry of Health and Family Welfare (MoHFW) on preparedness and response measures for COVID-19, including disease surveillance, laboratory and research protocols, risk communications, training on infection prevention and control and tracking of travelers. Together with UNICEF, the WHO is also supporting the MoHFW in crafting evidence-based multimedia communication campaigns that aims to focus on preventive measures, busting myths and equipping the masses with information on guidelines.

2. Is there mention of the role of Red Cross (RC) or humanitarian actors? In what areas/sectors? What responsibilities are ascribed to RC?

No explicit reference has been made to the RC or other humanitarian actors in recent legislative or policy responses to COVID-19. Nevertheless, these humanitarian groups have been active in their response to the virus (see above), which has been praised by both state and non-state actors. Indian RC volunteers, for example, have been reaching out to citizens with accurate information on prevention, hygiene maintenance and keeping surroundings clean.

3. Are there exceptions to travel restrictions that will facilitate the movement of RC/humanitarian relief teams and/or aid across borders? What (if any) quarantine requirements or other conditions are attached?

India has been issuing travel advisories from 17 January 2020, with increasingly more stringent restrictions as the virus continues to spread globally. On 11 March 2020, the Indian government suspended the visas of most persons who had not entered India, although visas issued to “official passport holders”, which includes members of international organisations, were excluded from this suspension. The example provided for these international organisations is the UN. On this basis, it is not clear that the RC or other humanitarian relief teams would fall into under these exceptions.

In addition, the MoHFW has issued restrictions in relation to entering India that must be followed. For example, persons travelling from Italy or the Republic of Korea require a certificate of having tested negative for COVID-19 from designated laboratories authorised by the health authorities of these countries before entry into India will be permitted, and travelers from China, Italy, Iran, the Republic of Korea, France, Spain and Germany are required to be quarantined for a minimum period of 14 days after their arrival in India.

New advisories are regularly being issued, and so a close eye should be kept on them for further updates.

4. Are there exceptions to quarantines, curfews and other restrictions on movement that allow RC/humanitarian organizations access to vulnerable populations (including for psychosocial or non-medical aid)?

Under the Epidemic Diseases Act 1897, district administrations in India have been given far-reaching powers to implement various containment measures in their respective geographic areas, which include the ability to seal-off certain areas and ban all vehicular movement within them. All state governments have recently introduced measures that suspend most train and interstate bus services throughout the country until 31 March 2020.

One exception to note is in relation to those working in “essential services” (see below). Reassurance has been given that goods trains facilitating the availability of essential commodities can continue to operate throughout the country, as can services facilitating the delivery of medical equipment, sanitisers and protective masks.

5. Have any special legal facilities or exemptions been put in place for the importation of medical aid or other relief items or personnel (International Disaster Response Law)? What (if any) quarantine requirements or other conditions are attached?

At the time of writing, no special legal facilities or exemptions have been put in place for the importation of relief items or personnel into India. The most recent update to import policy on 18 March 2020 relates to Zinc Dross, Light Naphtha, Heavy Naphtha, Full Range Naphtha and Aviation Gasoline, and so does not affect the goods and services to be provided by the RC.

Instructions have been issued to all major and minor ports which may impact the speed of importation of relief items and personnel. For example, according to governmental instructions issued on 20 March 2020, vessels having persons suspected of COVID-19 are now required to be monitored by the health authorities and put into quarantine for 14 days, if necessary.

6. Is the RC (or humanitarian organizations) categorized as “essential” or “emergency” services, for the purposes of exemptions to restrictions on business operations and opening hours?

Current definitions of “essential services” are broadly similar across various states in India. These definitions are set out in various state legislation, for example the Maharashtra Essential Services Maintenance Act 2017, and are commonly along the lines of the following:

- **Food and products:** groceries, fruits and vegetables, milk and dairy-related products, loading and unloading of wheat and rice at FCI and State food depots, cattle feed and fodder;
- **Medical:** medicines and other pharmaceuticals, health services, manufacturing of health and medical equipment, public health and sanitation;
- **Other Services:** newspapers, banks and ATMs, post offices, telecom, petrol and diesel pumps, railway services, services in any major port, services in any establishment of the armed forces, media services, police and fire services, government offices; and
- **Household services:** electricity and water supply, sanitary services, LPG supply.

The situation is evolving frequently; however at this stage it is not entirely clear whether the RC and similar humanitarian organisations would fall under the Medical category, as a service connected with the maintenance of public health.

State governments in India may expand the list of essential services that will be permitted during the current lockdown in the country, depending on their assessment of the situation. As such, an eye must be kept on government notifications to determine whether further clarity is offered.

7. What other measures are provided in the emergency decrees? (for governmental actors, for communities, for health workers, etc).

Union and state governments in India have been empowered to take all necessary measures to deal with the outbreak of the virus under section 2A and section 2 respectively of the Epidemic Diseases Act 1897 (the Act). This will particularly allow union authorities to deal with the virus at India's points of entry and exit, and state authorities to restrict potential interstate transmission. These authorities are permitted by the legislation to introduce any measures they deem necessary when satisfied that any part of their territory is threatened with an outbreak of a dangerous disease and ordinary provisions of the law are insufficient for the purpose. Section 3 of the Act stipulates that any person who disobeys any regulation or order made under the Act may be charged with an offence under the Indian Penal Code. For example, recent legislation that has been released pursuant to this power includes:

- The Maharashtra Epidemic Diseases COVID-19 Regulations 2020;
- The Punjab Epidemic Diseases COVID-19 Regulations 2020;
- The Himachal Pradesh Epidemic Diseases COVID-19 Regulations 2020; and
- The Karnataka Epidemic Diseases COVID-19 Regulations 2020.

These regulations include provisions on duties and obligations of hospitals and laboratories, powers of district administrations to implement containment measures and combatting COVID-19 related misinformation.

On 14 March 2020, the union government declared COVID-19 as a notified disaster, and assistance is now available under the State Disaster Response Fund, which was in turn established under the Disaster Management Act.

Indian Prime Minister Narendra Modi introduced the "Janata curfew" on 22 March 2020, which is in place from 7am to 9pm daily, urging citizens to stay home except for those in essential services (see above), enforcing public-led social distancing interventions. Universal health screening continues at all points of entry into India.

To allay concerns relating to the abundance and management of masks and hand sanitisers, the government has notified an Order under the Essential Commodities Act 1955 to declare these items as "essential commodities" until 30 June 2020.

8. Have restrictions been adopted or put in place that ban the export of protective medical equipment?

On 19 March 2020, the Indian government issued a notification prohibiting the export of certain domestically-manufactured protective medical equipment, specifically disposable masks (2/3 ply masks and N95 masks), all ventilators and textile raw materials for masks and coveralls. The export of these items has been restricted to ensure their availability in India.

This prohibition is in addition to the Indian government restricting from 3 March 2020 the exports of 26 active pharmaceutical ingredients and formulations to ensure that there is no shortage of drugs in India during the lockdown, given that a major source for these raw materials has been Hubei province in China. The prohibition covers, amongst others, paracetamol, vitamins B1, B6 and B12, tinidazole, metronidazole, acyclovir and progesterone.