Nepal is facing a public health crisis since April 2021 as the second wave of Covid-19 in the country wreaks havoc on its fragile health care system. Immediate action is needed from both the government of Nepal and the international community to support the public health sector, which is teetering on the edge of collapse.
STRUGGLING TO BREATHE

Nepal is facing a massive public health crisis since April 2021, and help does not seem to be on its way. This briefing paper examines the major challenges facing Nepal in the period 29 April - 21 May 2021, and the immediate action needed from both the government of Nepal and the international community to support the public health sector which is teetering on the edge of collapse.

INTRODUCTION

“If we can get enough oxygen, we can save lives. We are losing youngsters. This morning a 22-year-old was brought to the hospital, dead on admission”

Nepal’s health care system is reeling in the wake of a public health crisis as the second wave of Covid-19 in the country rampages through its fragile health care system. Even as the world focuses on the Covid-19 crisis in India, the number of deaths in the land-locked neighbour Nepal is only now capturing international attention- and just as crucially, international aid is coming into Nepal in terms of oxygen and medical equipment. However, the Nepali government is yet to be held accountable for the current crisis. All of the data analysed by Amnesty International including media reports and the experiences shared by health care workers indicate that the virus is currently widespread across all seven provinces of Nepal, with some people dying at home, and exacerbated by a severe shortage of vital infrastructure to care for patients. Nepal is projecting the total number of cases to increase to an additional 300,000 by July 2021. Dr. Krishna, specialized surgeon and member of the Covid-19 committee at a government hospital in Kathmandu said, “People are dying undiagnosed even in the villages. No place is safe. People are dying at home.”

The office of the UN Resident Coordinator in Nepal issued a situation report on 14 May 2021, confirming that “Covid-19 infections are surging at an unprecedented level”. According to this report, Nepal is among the top ten countries in terms of the absolute increase in cases per day, and has “the highest effective rate of reproduction in the world.” Test positivity was 45 percent, the highest in the

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1 Interview with Dr. Krishna, specialized osurgeon and member of Covid-19 committee, at a government hospital in Kathmandu. 13 May 2021. In terms of age-group wise distribution of cases, the highest number of cases in the 24 hours preceding 31 May 2021, was in the age group of 31-40. However, the largest number of deaths were still from the age group of 60 and above. Government of Nepal, Ministry of Health and Population. 31 May 2021. “Health Sector Response to Covid-19”. https://covid19.mohp.gov.np/covid19_nepal_05_2021.pdf
5 Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee, at a government hospital in Kathmandu. 13 May 2021.
world as of 14 May — while the positivity rate in some parts of the country have now declined, in rural areas where testing is limited, infection rates are reported to be high. The number of reported deaths increased through the month of May, and the health care workers that Amnesty spoke to confirmed that the peak has not yet been reached in Nepal as of mid-May — the number of deaths and infections per day however are reducing since then.

Public health experts say that the number of deaths reported per day is underestimated. As of 10 May 2021, Nepal had reported 3,758 deaths and 403,794 total cases. By 21 May, the number of deaths was 5,657 according to WHO’s Covid-19 tracker and the total number of cases was 480,418.

The week of May 10th recorded the highest number of deaths (1,224 - a weekly increase of 266 percent) and the highest number of positive cases (61,814 - a weekly increase of 8.4 percent). On 7 June, the total number of deaths was 7990 and 606,155 total cases.

The Institute for Health Metrics and Evaluation (IHME) projected 34,887 Covid-19 deaths in Nepal by 1 September 2021. Using a statistical formula that accounts for the reported number of deaths, the testing capacity of the country, and accounting for several other considerations that would impact the number of Covid-19 deaths, IHME predicts that the daily death rate in Nepal is 704 a day as of 18 May 2021 - 500 more than the government and WHO estimates. In comparison, IHME projects

15 WHO. “Nepal Situation” (as of 16:00 IST on 21 May 2021). https://covid19.who.int/region/seoar/country/np
16 WHO. “Nepal Situation” (as of 16:00 IST on 21 May 2021). https://covid19.who.int/region/seoar/country/np
18 IHME is “an independent population health research center at UW Medicine, part of the University of Washington, that provides rigorous and comparable measurement of the world’s most important health problems and evaluates the strategies used to address them.” http://www.healthdata.org/about. Institute for Health Metrics and Evaluation (IHME). Covid-19 Mortality, Infection, Testing, Hospital Resource Use, and Social Distancing Projections. Seattle, United States of America: Institute for Health Metrics and Evaluation (IHME), University of Washington, 2020.
55.35 deaths in Sri Lanka\(^2^1\) as of 18 May 2021 (Sri Lanka recorded 19 deaths on 18 May)\(^2^2\), 11,336.65 deaths in India\(^2^3\) (India recorded 4329 deaths on 18 May)\(^2^4\), 198.23 deaths in France\(^2^5\) (France recorded 195 deaths on 18 May)\(^2^6\) and 720.29 deaths in the United States\(^2^7\) (the United States recorded 302 deaths on 18 May)\(^2^8\).

Dr. Kamal, a physician based in Kathmandu, described the situation as follows:

“We have the collapse of human lives and no one will feel that pain - what remains is the suffering. We are helpless. It is so disrespectful. The dignity of human life is lost”.\(^2^9\)

He highlighted the manifold shortages that have beset the country. “Health workers need medicines, oxygen, ICU beds. I get hundreds of calls a day - [requests for] a cylinder, a concentrator. It’s so sad”.\(^3^0\) Despite having had more than a year to better prepare for these shortages, the country is facing a public health crisis that Dr. Krishna, from a government hospital in Kathmandu, described as worse than the 2015 earthquake that devastated neighbourhoods, homes, and lives.\(^3^1\)

The current Covid-19 wave is exacerbated by the mutated virus that is now ripping through Nepal, leading to higher levels of mortality, and additional complications such as pneumonia, which requires oxygen support at admission—a situation that did not occur in the first wave, even though morbidity was high.\(^3^2\) According to Sangita, Associate Nursing Controller at a government hospital, “The current situation in the hospital looks like that of a war zone. One cannot get a bed in any of the hospitals in Kathmandu”\(^3^3\) The lack of beds for Covid-19 patients is so acute that Sangita reported that people

\(^2^2\) WHO. “Sri Lanka”. https://covid19.who.int/region/searo/country/lk
\(^2^4\) WHO. “India”. https://covid19.who.int/region/searo/country/in
\(^2^9\) Zoom interview with Dr. Kamal, Physician and social-entrepreneur, Kathmandu. 11 May 2021.
\(^3^0\) Zoom interview with Dr. Kamal, Physician and social-entrepreneur, Kathmandu. 11 May 2021.
\(^3^1\) Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee, at a government hospital in Kathmandu. 13 May 2021.
\(^3^2\) Interview with Sangita, Associate Nursing Controller at a government hospital. 13 May 2021.
\(^3^3\) Interview with Sangita, Associate Nursing Controller at a government hospital. 13 May 2021.
have tried to attribute their hospital visits to other ailments to ensure their loved ones are admitted to the hospital.34

METHODOLOGY
In order to assess the extent of the health care situation in Nepal, Amnesty International spoke to four doctors working in private and public hospitals and for the Ministry of Health, a nurse working at a public hospital, and three civil society activists in Nepal. Each was selected to provide a perspective from frontline workers in the private and public health sector of Nepal, as well as the ground situation as assessed by civil society actors working directly with marginalized groups in Nepal. All names and identifying details have been anonymized in order to protect the identity of participants in this report. Dr. Krishna is a member of the Covid-19 coordination committee at a large government teaching hospital based in Kathmandu, the capital of Nepal. Dr. Raju is a Consultant Neurosurgeon at a private hospital based in Kathmandu. Dr. Kamal is a physician based in Kathmandu. Sangita is a nurse who is an Associate Nursing Controller also at a government hospital. Dr. Sushil is from the Ministry of Health, Nepal. The civil society activists that Amnesty spoke to, Pranita, Sushil, and Sapana work directly with marginalized groups including Dalits, women, and migrant workers across Nepal. Amnesty spoke with these different actors in the private and public sector in Nepal to gather information about and to corroborate the information available regarding the challenges facing Nepal’s health system in the face of a rising number of Covid-19 cases. The civil society activists work across Nepal while the health workers were based in Kathmandu. Interviews were carried out remotely over internet-based applications between 10 May and 21 May 2021. However, since all the participants were based in Kathmandu, this briefing has not dealt with the situation in other parts of the country. This information gap has been bridged through secondary sources. Please note that, in many instances, the latest official data available from Nepal government sources is from June 2020, which poses obstacles for a more in-depth analysis.

The period reviewed in this briefing is from 29 April to 21 May 2021. The Covid-19 situation in Nepal is changing daily, and the number of infections recorded since mid-May 2021 appears to be reducing as of 7 June; however, the urgent requirements noted in this briefing remains relevant for Nepal as it continues to battle a high caseload spread across the country.

CRITICAL HEALTH CARE NEEDS

“Oxygen, we need oxygen!”
Dr. Raju, Consultant Neurosurgeon35

Oxygen is one of the most important resources needed by health care workers at the moment in Nepal.36 At the time Dr. Raju spoke to Amnesty, he reported that the hospital had sufficient oxygen for only 70 to 80 minutes and 45 patients’ lives were at risk due to possible lack of oxygen supply. He also reported that this had been the situation for the past 5 days, so his job consisted of making calls to different suppliers in Kathmandu valley to ensure that the oxygen cylinders are re-filled.37 In one large government hospital, only 60-70% of the oxygen requirement was currently fulfilled- the situation in private and smaller hospitals seems to be worse.

34 Interview with Sangita, Associate Nursing Controller at a government hospital. 13 May 2021.
35 Interview with Dr. Raju, Consultant Neurosurgeon at a private hospital, Kathmandu. 10 May 2021.
37 Interview with Dr. Raju, Consultant Neurosurgeon at a private hospital, Kathmandu. 10 May 2021.
Some government hospitals in Nepal have their oxygen plants. Others, like some private hospitals in Kathmandu valley, depend on oxygen suppliers to re-fill and deliver oxygen cylinders. Only 26 out of 185 hospitals in the country have their own plant.38 Even the hospitals that have their own oxygen plants are struggling to meet the demands for oxygen due to the increased demand. The current manufacturing facilities both at the oxygen plant at a government hospital in Kathmandu, and via private suppliers in Kathmandu, could not meet the high oxygen demand. 39

“If we have enough oxygen, we can even cater to 500 patients. Our plant produces 2000 liters per minute. Normally this is sufficient- but now, every patient admitted with Covid-19 needs 6-8 liters minimum per minute. Some need 30-40 liters per minute. Regular suppliers are also not able to provide because they are supplying to others. Even our regular operation rooms have a low supply of oxygen and we have asked our surgeons to do the surgeries early so that we can release more oxygen to COVID patients thereafter”. 40

“PATIENTS ARE TURNED AWAY FROM HOSPITALS DUE TO SHORTAGE OF OXYGEN”

On 5 May the government of Nepal announced that it was importing 20,000 cylinders from China along with 100 ventilators, as India continues to be beset with its Covid-19 emergency.41

While the government has taken some steps to address the situation, these seem to be insufficient and at times ineffective. For example, to meet the domestic demand, the government has now imposed a quota system for the distribution of oxygen, which, it was stated, will ensure proportional distribution of oxygen to all and no one would store more than required.42 However, this has meant that overstretched institutions like government hospitals are not receiving sufficient oxygen while other hospitals may have leftover oxygen.43 Dr. Krishna from a government hospital in Kathmandu confirmed that they had been allocated 300 cylinders per day, which was insufficient to meet the

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39 Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee, at a government hospital in Kathmandu. 13 May 2021.

40 Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee, at a government hospital in Kathmandu. 13 May 2021.

41 Prithvi Man Shrestha, Kathmandu Post. “Government importing 20,000 oxygen cylinders and 100 ventilators from China”. https://kathmandupost.com/author/prithvi-man-shrestha


43 Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee at a government hospital in Kathmandu. 13 May 2021.

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demands of over 350 Covid-19 patients on average per day receiving treatment there at the time.\textsuperscript{44} According to nurse Sangita, the quota system is causing further hardship for institutions like government hospitals that are stretched to over-capacity at the moment already:

“Government should not restrict in the supply of oxygen — no red tape- the government doesn't have any idea how many patients are being admitted in a particular hospital, but they supply oxygen on a quota basis. Due to this, hospitals with relatively a smaller number of patients are getting more oxygen cylinders. This creates problems for larger hospitals where we are treating 350+ patients. Is it right to seize 300+ cylinders of government hospitals that need these resources?”

The shortage is expected to exacerbate in the last weeks of May and in June.\textsuperscript{45} Some hospitals in Nepal have already stopped admitting patients with Covid-19 citing the scarcity of oxygen.\textsuperscript{46} Meanwhile, the government has asked private hospitals with more than 100 beds to install their own oxygen plants to cater to the demand and has promised government support for such installations.\textsuperscript{47} Media reports indicate that as of 13 May, 12 hospitals in Kathmandu had announced that they had stopped admitting Covid-19 patients due to the oxygen shortage.\textsuperscript{48} This comes in the wake of the deaths of 16 people reported in one province due to a shortage of oxygen.\textsuperscript{49}

The Covid-19 Crisis Management Centre of Nepal,\textsuperscript{50} the government body that was managing the pandemic in the country, predicted on 13 May that Nepal will need 50,000 oxygen cylinders per day

\textsuperscript{44} Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee, at a government hospital in Kathmandu. 13 May 2021.
\textsuperscript{45} Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee at a government hospital in Kathmandu. 13 May 2021.
by end of July,\(^51\) and that 15,000 cylinders per day are needed to meet the current demand.\(^52\) The Covid-19 Crisis Management Centre oversees oxygen supply to hospitals.\(^53\)

The Oxygen Industries Association, a grouping of suppliers of oxygen in Kathmandu representing eight manufacturers, stated on 5 May that it could collectively produce around 8,000 cylinders per day.\(^54\) Under government orders, oxygen is now only provided to households that can produce a medical prescription, and they have stopped providing it to non-medical businesses, which makes up 30% of the oxygen demand.\(^55\) The industry itself has levelled accusations against the lack of preparedness by the government of Nepal, who had called the industry for a preparedness meeting only after the demand for oxygen had significantly increased.\(^56\) The industry has raised the alarm that raising production capacity immediately would be a challenge.\(^57\) Although private suppliers are saying that there was a dearth of cylinders hampering supply, the actual problem appeared to be in the capacity to produce the required amount.\(^58\)

In some private hospitals, they no longer offer oxygen support- only providing nursing and medical support, with patients asked to arrange for their own supply of oxygen.\(^59\) Sangita, Associate Nursing Controller at a government hospital, said “I also work in private hospitals. The situation is much worse there. Suddenly the supply of oxygen stops, and hospital authority requests the patient party to transfer their patient.” The responsibility to resolve the shortage lies with the government of Nepal. As Dr. Raju pointed out, “the government needs to sort out the crisis right now. The requirement is oxygen immediately, and they should take over the oxygen plants and mobilize into crisis response. By just supplying oxygen we can prevent more deaths”.\(^60\) On 10 May, the government of Nepal requested support from humanitarian aid agencies, to supply seven oxygen plants, ten 13-20 ton liquid oxygen tanks, liquid oxygen of 20 ton per day, 10,000 oxygen concentrators, 60,000 oxygen cylinders, ventilators, and other health products within the next 30 days.\(^61\)

**MEDICINES, INTENSIVE CARE UNIT (ICU) BEDS AND INFRASTRUCTURE**

According to nurse Sangita, apart from oxygen supply and staff, there are other critical tools needed by health workers which are in short supply:

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\(^58\) Interview with Dr. Raju, Consultant Neurosurgeon at a private hospital, Kathmandu. 10 May 2021.

\(^59\) Interview with Sangita, Associate Nursing Controller at a government hospital. 13 May 2021

\(^60\) Interview with Dr. Raju, Consultant Neurosurgeon at a private hospital, Kathmandu. 10 May 2021.

\(^61\) Letter dated 10 May 2021, sent by the Ministry of Health and Population to Health Sector External Development Partners, Ref. 60. On file with Amnesty International.
“Oxygen and trained human resource are the need of the hour. We also need lifesaving medicines like critical care medication and other antibiotics, as there is a shortage in the market due to limited supply from India. Also, we need Personal Protective Equipment (PPE), N95 masks, special bags to pack dead bodies. Within few days we might even run out of gloves.”

In addition to the impact on people’s health, the shortage of medicines used to treat Covid-19 can exponentially increase the costs of treatment and contribute to illegal markets that exploit the gap in supply and demand.

ICU beds are in short supply in Nepal at the moment in several large public and private hospitals, with patients sharing beds and oxygen supply lines strung along corridors, in parking lots, and in the areas adjoining the hospital to ensure that everyone has access, at minimum, to oxygen supply. In a government hospital in Kathmandu, Dr. Krishna confirmed as of 13 May that patients are seated along corridors, although the 700-bed hospital has dedicated more than 350 beds to Covid-19 patients. He said “We keep patients in the corridors of the emergency wards. We have arranged oxygen support outside emergency wards. Anyone who comes to our hospital, we will at least give as much oxygen as we have, even if beds are not available”. Sangita, a nurse at the same hospital said:

“It was raining yesterday and the day before and people were lying down with oxygen outside Emergency and in the garden and parking area in the open sky. I tried my best not to pass by the Covid-19 Emergency building to see the distressing scene. As a health worker, I cannot bear all this while wearing this white coat”.

According to Dr. Krishna, in the first wave of the pandemic the government hospital he works at managed 130 patients in the ICU and High Dependency beds for Covid-19 patients, even at the peak but now more than 300 Covid-19 patients are admitted, and Nepal had not reached the peak of the second wave yet. He said that they were expecting more than 400 patients in the hospital at any given time once the peak takes place. On 10 May the government requested humanitarian aid agencies to support the government by supplying 2100 ICU beds.

In one private hospital 12 people were sharing four emergency beds and an additional five Covid-19 patients in wheelchairs receiving treatment within the Emergency rooms on 10 May. 36 patients had been admitted with Covid-19, 17 of them at ICU, most of them on invasive and non-invasive ventilators. Another government hospital had upwards of 300+ Covid-19 patients receiving treatment as of 13 May. Due to the lack of beds and capacity in some hospitals, people were being sent back home to self-isolate if they were not in need of oxygen support or critical care. This was also contributing to the high transmission of the disease. As of 31 May, across Nepal, 7,338 people were in institutional isolation, 1492 were in ICU care and 424 on ventilators, while 99,132 were in home isolation.

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62 Interview with Sangita, Associate Nursing Controller at a government hospital. 13 May 2021
63 Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee, at a government hospital in Kathmandu. 13 May 2021.
64 Interview with Sangita, Associate Nursing Controller at a government hospital. 13 May 2021
66 Given the dearth of beds, several patients share a single bed to accommodate as many people as possible who need care. Interview with Dr. Raju, Consultant Neurosurgeon at a private hospital, Kathmandu. 10 May 2021. The overcrowded nature of some of Nepal’s hospitals, with two or more people sharing a single bed at times, is clear from these images from 2019 taken in Bir Hospital, Kathmandu. Arjun Poudel. The Kathmandu Post. 24 August 2019. “How Nepal’s oldest hospital, and the government that runs it, continue to fail the country’s poor”. https://kathmandupost.com/health/2019/08/24/how-nepal-s-oldest-hospital-and-the-government-that-runs-it-continue-to-fail-the-country-s-poor
67 Interview with Dr. Raju, Consultant Neurosurgeon at a private hospital, Kathmandu. 10 May 2021.
68 Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee, at a government hospital in Kathmandu. 13 May 2021.
69 Interview with Dr. Raju, Consultant Neurosurgeon at a private hospital, Kathmandu. 10 May 2021.
isolation.\textsuperscript{70} The highest numbers were reported in Bagmati province, where the capital Kathmandu is located,\textsuperscript{71} as of 31 May.\textsuperscript{72}

Describing the situation in a government hospital in Kathmandu, nurse Sangita said

“All beds are full. Patients are outside and we are using building pillars and windows as support to hold oxygen pipes and other medicine pipes. The scene looks just like a mobile phone charging station in public places. Even in the garden, we are providing oxygen to patients lying there. The emergency ward is full, some are dying on the way to the hospital or at home, limited human resources in hospitals have not been able to provide proper care and support.”\textsuperscript{73}

On 10 May the Ministry of Health and Population wrote to health sector external partners in Nepal asking for support in the form of essential medicines, oxygen and equipment.\textsuperscript{74}

The number of hospital beds in Nepal, in any event, was just 0.3 per 1000 people according to WHO (as of 2012). In the South Asia region, Nepal was on the lower end of the scale with countries like Afghanistan (0.4), Bangladesh (0.8), India (0.5), Maldives (4.3), Pakistan (0.6), Bhutan (1.7), and Sri Lanka (4.2) having a higher number of beds-per-thousand population.\textsuperscript{75} According to Human Rights Watch, Nepal had just 560 ventilators, less than half the amount needed, as of 10 May.\textsuperscript{76} The current crisis has exacerbated a pre-existing issue in the health sector infrastructure in Nepal, leading to a severe dearth in ICU beds and hospital beds, resulting in hospitals struggling to find space for patients. An assessment by the Nepal Health Research Council in June 2020 found that there was a total of 13,724 beds in 93 hospitals, with 809 ICU beds in 35 hospitals. Only 314 had functioning ventilators.\textsuperscript{77}

HEALTH WORKERS: PERSONAL PROTECTIVE EQUIPMENT (PPE) AND WORKING CONDITIONS

As the number of patients increase, personal protective equipment (PPE) will also become a scarcity.\textsuperscript{78} One government hospital in Kathmandu has written to the WHO and UNDP in Nepal, requesting support in the form of PPE, infusion pumps, and ICU equipment.\textsuperscript{79} In terms of bridging the gap of PPE in the present scenario, on 3 March 2021 donations of PPE worth Rs. 30 million (USD


\textsuperscript{73}Interview with Sangita, Associate Nursing Controller at a government hospital. 13 May 2021

\textsuperscript{74}Letter dated 10 May 2021, sent by the Ministry of Health and Population to Health Sector External Development Partners, Ref. 60. On file with Amnesty International.


\textsuperscript{78}Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee, at a government hospital in Kathmandu. 13 May 2021.

\textsuperscript{79}Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee, at a government hospital in Kathmandu. 13 May 2021.
257,558) from the United Nations Population Fund (UNFPA) were also added to Nepal's preparedness for an increase in demand for PPE. Numerous other donations have also come in. 82

Yet, this is not enough. The government of Nepal has requested support from humanitarian aid partners to supply PPE including 1 million N95 masks, 2.5 million coverall protection gowns, hand sanitizer, face shields, safety goggles, gloves, shoe covers, surgical caps, gum boots, makeshift hospital tents and isolation centre tents and 7000 body bags within 30 days. 83 The WHO confirms that Covid-19 is currently widespread across all seven provinces. 84 According to an assessment by the Nepal Health Research Council in June 2020, only 33 percent of health workers were trained to conduct RT-PCR tests. 85 Health workers confirm that PCR kits may also run out soon, 86 While there is no official data on how many health workers are trained to perform these tests in May 2021, it is unlikely that there are sufficient kits to tend to the population’s needs during this second wave. 87 There are 91 laboratories performing RT-PCR tests in Nepal and a total 3,052,424 samples had been tested as of 31 May. 88 Similarly, protocol for conducting antigen tests was issued to all municipalities in early January 2021, but updated information on the number of health

SHORTAGE OF PPE
The government of Nepal has requested support from humanitarian aid partners to supply PPE within the next 30 days.

KATHMANDU, BAGMATI, NEPAL
A health worker collects a nose swab sample from a journalist for a coronavirus polymerase chain reaction (PCR) test in Kathmandu
Photo © Subash Shrestha/Pacific Press/LightRocket via Getty Images

85 Interview with Dr. Sushil, Ministry of Health, Nepal. 21 May 2021.

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STRUGGLING TO BREATHE THE SECOND WAVE OF COVID-19 IN NEPAL 11
workers trained to conduct RT-PCR tests could not be confirmed at the time of writing.\(^87\)

In addition to lack of adequate and sufficient materials, health workers in Nepal report being exhausted and consumed with the number of patients coming in. Dr. Raju described the current situation in Nepal as a critical period.\(^88\)

Dr. Kamal speaking to Amnesty said “If I am feeling so much pressure, all my colleagues are feeling this too. I think there is fatigue and denial. It is common in a pandemic.”\(^89\) He further said “I’m still hopeful of the threshold of our capacity. My friends are tired now. You feel sad, we can’t do much.”\(^90\)

The exhaustion and frustration of health care workers were echoed by all the health care workers who spoke with Amnesty. “As a health worker, I really feel bad and helpless. We cannot do anything. We know that a young patient would die if we don’t admit or give him/her high flow oxygen. But we cannot do anything. I feel I am committing a crime by not saving lives.”\(^91\) She further said “Oxygen can save so many lives. So instead of focusing on election and political things government should focus on this issue. We are struggling so much as health workers.”\(^92\)

The lack of sufficient numbers of health workers was also highlighted by those who spoke with Amnesty.

“Certainly, there is a shortage of human resources including doctors, nurses, and cleaners. They wear PPE sets and work for 8-12 hrs. Many health workers have contracted the virus while on duty. We assume and make a monthly roster of nursing staff, but suddenly they get infected and there is a shortage. Even if they join duty after 10 days of isolation, they are not able to work, they look very weak, and some are still symptomatic. Some of them also contract the virus from their family members as the virus has now spread to community level.”\(^93\)

**VACCINATIONS AND PREVENTIVE MEASURES**

“We should emphasize on procuring more vaccines from other countries as that is the need of the hour.”\(^94\)

Nepal commenced its vaccination drive in January 2021, however, all new vaccinations have now come to halt as the country has run out of stocks (although the second dose for some of those who were previously vaccinated are continuing).\(^95\) According to Dr. Kamal, “We need public health awareness and infrastructure. We can’t have ifs and buts. We need to get our vaccine supply right.”\(^96\) As of 10 May 2021, Nepal had vaccinated 2,091,511 persons with the first jab and 368,811 people

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\(^{88}\) Interview with Dr. Raju, Consultant Neurosurgeon at a private hospital, Kathmandu. 10 May 2021.

\(^{89}\) Interview with Dr. Kamal, Physician and social-entrepreneur, Kathmandu. 11 May 2021.

\(^{90}\) Interview with Dr. Kamal, Physician and social-entrepreneur, Kathmandu. 11 May 2021.

\(^{91}\) Interview with Sangita, Associate Nursing Controller at a government hospital. 13 May 2021

\(^{92}\) Interview with Sangita, Associate Nursing Controller at a government hospital. 13 May 2021

\(^{93}\) Interview with Sangita, Associate Nursing Controller at a government hospital. 13 May 2021

\(^{94}\) Interview with Dr. Krishna, specialized surgeon and member of Covid-19 committee, at a government hospital in Kathmandu. 13 May 2021


\(^{96}\) Interview with Dr. Kamal, Physician and social-entrepreneur, Kathmandu. 11 May 2021.

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**Struggling to Breathe**

*The Second Wave of Covid-19 in Nepal*

Amnesty International
have received the second dose as well (out of the total 3,148,000 doses received by Nepal).

Thus, less than 2.5 million people of Nepal’s 30 million population have received even one jab as of 10 May—less than one in ten people. Nepal has requested a further 37.01 million doses within 30 days from humanitarian aid agencies to vaccinate its priority groups. By 7 June 2021, 2,113,080 people had received the first dose and 691,494 had received the second.

Evidence-based public messaging on the vaccine is important to ensure the vaccination drive is successful. The WHO had raised concerns as early as January 2021 that misinformation on the vaccine must be addressed. In the initial stages, some health workers were reluctant to get the jab. Sangita said:

“Some of the staff (at the hospital) didn’t get the jab citing quality concerns, also some didn’t get the vaccine due to severe side effects, citing trial phase and others. Some health workers took it too lightly saying ‘we didn’t suffer much in the first wave, now infections rates are going down so no need to take vaccine’. A government hospital in Kathmandu [name withheld] was one of the centres for the vaccine. At first, there were not many people but later when the infection flared up, we could not manage the crowd in the vaccination building. We created three booths within the hospital to manage the crowd.”

She further highlighted the importance of public messaging saying “The government must focus on preventive health care as well. Government must run mass awareness campaigns. Hospitals are also..."
one of the sources of contracting the virus. Government should make patients, visitors of patient and families of health workers aware about this.  

Meanwhile, civil society activist Sapana stressed the need for universal access to vaccines saying “Access to the vaccine is our basic human right. But only a small percentage of the Nepali population has been vaccinated.” Many civil society activists, some of whom are on the frontlines, have not been vaccinated, and vaccines are not accessible to these workers.

According to Reuters, Nepal had vaccinated 4.4% of its population as of 18 May and in the preceding week of May 2021, had vaccinated just over 9800 people. Although Nepal has ordered 2 million doses from the Serum Institute of India (SII), and also made an advance payment of 80 percent to the company, 1 million of these have not been delivered yet as India battles its Covid-19 crisis. SII stopped the export of vaccinations in recent months as it scrambled to cater to domestic demand. SII is one of several companies producing vaccines in India.

Globally, just 13 percent of countries have secured half of the promised doses of the Covid-19 vaccine candidates according to OXFAM. These include the United States, the United Kingdom, European Union, Canada, Australia, and Japan. An assessment by Duke University in April 2021 shows that the world’s wealthiest countries have procured the most amount of vaccines in the world- and 16% of the global population account for 53% of all purchased doses. For example, the United States is reported to have enough stocks to vaccinate its population twice over and has recently committed to contributing 60 million doses of Astra Zeneca, which is not approved for use in the US as yet, to the COVAX facility as soon as safety checks are performed. As of May 2021, at least one in two people in the United States had already received at least one jab.

107 Interview with Sangita, Associate Nursing Controller at a government hospital. 13 May 2021
108 Interview with Sapana, civil society activist, Kathmandu. 12 May 2021.
109 Interview with Sapana, civil society activist, Kathmandu. 12 May 2021.
IMPACT ON AT-RISK GROUPS
“The crisis has an impact on the most marginalized communities. It was apparent during the lockdown.”  

The impact on marginalized groups has been immense in Nepal, even during the first lockdown in 2020. Dalits - the oppressed caste-based communities in Nepal faced with intersectional discrimination, are subject to heightened risks and systemic marginalization. Samata Foundation, an organization based in Lalitpur, Nepal, found in 2020 that an overwhelming majority of Dalits faced financial hardship due to the pandemic (82%). 45 percent of the 1500 respondents in a study conducted by Samata in 2020 had reported losing their jobs during the pandemic. The research covered 77 districts of Nepal. 52 percent found accessing daily needs (described as facing a food crisis) a challenge during the pandemic. Only 44 percent felt that actual victims were able to access a relief package. Those facing caste-based discrimination ranged from 48.7 percent to 6.6 percent across districts. According to the Samata Foundation, 112 cases of caste-based discrimination were recorded in 2020, a more than 50 percent rise from 2019. These included murder (267 percent increase), physical assault (56 percent increase), forced abortion, and suicide. Custodial deaths, and discrimination in quarantine isolation centres had led to deaths of Dalits and those belonging to marginalized groups in Nepal. Others starved to death due to their inability to earn a living during lockdown when social protection schemes failed to support the marginalized groups. Sushil, Executive Chairperson of a civil society organization, said:

“Shambhu Sada was found hanging inside the custody of Sabaila area police officers in the Dhanusha District, Province 2 which sparked protests in Janakpur area during the lockdown. Similarly, Raju Sada died in the border isolation centre in Province 2. He was denied treatment and died due to a serious health issue. He tested negative after death. Malar Sada in Province 2 starved to death due to his inability to manage after losing his daily-wage labor work during the lockdown.”

Raju Sada’s next of kin allege that his death was due to hospital negligence and lack of proper care- he had contracted diarrhoea at the isolation centre where he and others received unhygienic food and water, and he had not received adequate treatment. There was no ambulance available- he was finally transported to hospital in a tipper, where he eventually died. Sushil says that the situation for Dalits during the second wave has not improved.

“Samata Foundation has documented 8 deaths in the last one month in 2021, which is one-third of the total deaths recorded within the

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117 Interview with Sushil, Executive Chairperson of a civil society organization, Kathmandu, Nepal. 20 May 2021.
120 Interview with Sushil, Executive Chairperson of a civil society organization, Kathmandu, Nepal. 20 May 2021.
123 Interview with Sushil, Executive Chairperson of a civil society organization, Kathmandu, Nepal. 20 May 2021.
whole year 2020. Another Dalit, Budhu Sada died after denial to get his wage paid and beaten by the contractor”.125

He said “The atrocities and incidences of caste-based discrimination and violence against the Dalit community seem to be never-ending and shows a growing trend in the number of cases against the Dalit community, introducing new types of incidents each year. The situation is alarming, and we need to take speedy action to address the issues” .126

In a situation where even the privileged and politically connected are unable to secure vital access to oxygen cylinders and hospital beds, those who are oppressed and marginalized are doubly at risk of not only succumbing to the pandemic but also of facing other socio-economic crises- “Marginalized people couldn’t go to the hospital. All the government hospitals are already packed”.127 He further said that people who are from marginalized groups are not able to access the health care system without the money, privilege, and political connections that others have- “It’s a crazy situation. It’s very sad, they could not get any support from the government”.128

Other organizations working on the rights of marginalized groups have also highlighted the discrimination faced by Dalits and Dalit women. The Feminist Dalit Organization (FEDO) carried out a rapid assessment in 2020 among its’ district chapters and found as follows:

“The coronavirus has impacted the lives of Dalit women in various aspects as they have been suffering from the economic problems, food supply, health problems, and caste-based discrimination. Further, being Dalit women, they have been facing caste-based discrimination, the burden of household chores, domestic and sexual violence, mental torture and so. Most of the Dalit women didn’t know about the hotline number that is placed in the case of violence to the women and even half of them cannot dial the hotline number.”129

125 Interview with Sushil, Executive Chairperson of a civil society organization, Kathmandu, Nepal. 20 May 2021.

126 Interview with Sushil, Executive Chairperson of a civil society organization, Kathmandu, Nepal. 20 May 2021.

127 Interview with Sushil, Executive Chairperson of a civil society organization, Kathmandu, Nepal. 20 May 2021.

128 Interview with Sushil, Executive Chairperson of a civil society organization, Kathmandu, Nepal. 20 May 2021.


KATHMANDU, NEPAL -
2021/05/02: Relative of a person who has died of COVID-19 mourns before the cremation at Pashupati Electric Crematorium in Kathmandu.
On Sunday only, Nepal has recorded 27 new fatalities as the second wave of coronavirus disease surges across the nation.
Photo © Sujan Shrestha/SOPA Images/LightRocket via Getty Images
FEDO’s report confirms that only half the respondents in that survey were able to access relief packages. Pranita, a human rights activist, said that this crisis affected everybody— but differently, saying “People from the Dalit community— they don’t have much awareness on precautions, symptoms, what to do if they have symptoms. When they are affected by the virus, they don’t have easy access. People are dying due to the difficulty in getting oxygen”. Pranita confirmed that there were cases in the Far Western Province where people could not get beds, and doctors had told people to bring their own oxygen cylinders.

“People are in long queues to get oxygen, but others jump the queue if they have connections, it is happening everywhere. Every sector is politicized. But our people don’t have those kinds of connections. Marginalized people are 100 percent more vulnerable than others. There is no doubt.”

These sentiments were echoed by Sapana, Chair of an organization formed by returned women migrant workers, pointing out that at-risk groups are affected both in terms of accessing health care and earning a livelihood in the current crisis. She said:

“The current situation has badly affected lactating mothers and pregnant women. They are finding it very hard to avail services from health institutions. At the same, time hospitals are taking advantage and charging a high amount of money.”

Because hospitals are filled with Covid-19 patients, pregnant mothers cannot go. The heavy burden on the crumbling health care system is also adversely affecting other patients especially those with health conditions that need attention, who must have regular access to the health care system but are unable to, due to the heavy number of Covid-19 cases in each hospital. They also face the risk of infection when visiting hospitals where Covid-19 patients are treated in corridors, and in entrances and parking lots of hospitals.

In September 2020, the World Bank projected economic growth of 0.6 percent in 2021 in Nepal, a few percentage points higher than the 0.2 percent in 2020. South Asia is set to enter its “worst-ever recession” according to the World Bank, which would have severe effects on the economy. "What’s happening right now in Nepal is ignorance of the Nepali government. They were the ones who needed to control the pandemic and they were not serious. That is what created this difficult situation.”

Sushil, civil society activist

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131 Interview with Pranita, human rights activist, Kathmandu. 20 May 2021.
133 Interview with Sapana, civil society activist, Kathmandu. 12 May 2021.
134 Interview with Sapana, civil society activist, Kathmandu. 12 May 2021.
135 Interview with Sushil, Executive Chairperson of a civil society organization, Kathmandu, Nepal. 20 May 2021.
most vulnerable groups. Workers in the informal sector will be the hardest hit. 50 percent of enterprises in Nepal are in the informal sector, with those in the urban informal sector and self-employed households identified as the most vulnerable. The International Commission of Jurists in 2020 warned that the pandemic has led to diminished access to health care for people in cases of health issues unrelated to the Covid-19 crisis.

Cross border migrants are returning in thousands from India through Nepal’s porous land borders with its neighbour. In June 2020, the ILO estimated that 127,000 workers were slated to return to Nepal from popular destination countries like Qatar, Malaysia, Saudi Arabia, the United Arab Emirates, and Kuwait. In India alone, there are an estimated 587,646 workers from Nepal. Within Nepal itself, 700,000 people are internal migrants of which 13 percent are women. 1.7 million workers are day wage earners and a further one million are on temporary contracts or in the informal sector and are vulnerable to the economic impact of Covid-19 related lockdowns. In addition, in the event of contracting the virus, these workers remain particularly vulnerable given the cost of private healthcare in Nepal which is prohibitive for the average worker, and the scarcity of critical health care systems in both private and public hospitals. Private health care costs between USD 80 to 420 per day in Nepal where the average annual income is around USD 1000- placing private health care outside the reach of the average Nepali.

The problems with quarantine centres included unhygienic food, water, and lack of medical services. In 2020, the International Commission of Jurists (ICJ) reported that facilities in quarantine centres were inadequate and poor conditions led to relatives bringing food and water to quarantined migrant workers - which in turn increased the risk of transmission to more people in Nepal and led to the government finally allowing migrant workers to quarantine in their homes. Pranita who works with returning migrant workers from India said:

“In the Far Western province most people come from India and they are already infected with Covid-19 and they don’t have awareness and they don’t have enough space for home isolation. There was a lot of discrimination in the government’s isolation. They don’t have any acceptable public isolation centre, no beds, no oxygen.”

Maternal mortality rates in Nepal in May 2020 had an almost 200 percent increase in the first two months of Nepal’s lockdown. ICJ reports that the quality of care in hospitals had reduced during

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146 Interview with Pranita, human rights activist, Kathmandu. 20 May 2021.
this period and the number of births in institutions had decreased by half. Gender-based violence has also shown an uptick as the country was in lockdown, raising concerns that a similar situation may arise as the country braces amid another lockdown.

A LASSEZ FAIRE APPROACH: LACK OF ACCESS TO INFORMATION BASED ON SCIENCE AND NEGLIGENCE IN KEY OPERATIONAL AREAS

“We should make people accountable wherever they are”

Dr. Kamal, Physician

The role of the government in responding to the health crisis has been poorly coordinated. According to those who spoke to Amnesty, a combination of the lack of evidence-driven policies and public health directives, premature removal of social distancing rules and the lack of planning led to the current crisis. A lockdown was imposed on 42 out of 77 districts in Nepal only on 29 April 2021 when the cases in Nepal were 162 deaths (a weekly change of 165 percent) and the number of cases was 31,806 (a weekly change of 136.85 percent). The week of 19 April recorded less than half that number, at 13,429 cases. Health workers have pointed out the high transmissibility of the virus, and the delay in commencing lockdown also contributed to the present crisis.

Dr. Kamal illustrated how the government had failed in its public messaging on Covid-19 saying:

“Politicians provided anecdotes on drinking water, etc. There was apathy. I don’t see ownership by the government. We don’t have a solution. Nobody wants to be held accountable. They don’t understand the gravity.”

The laissez-faire approach towards handling the pandemic is blamed by Dr. Kamal for the present health crisis facing Nepal. He said, “people are still doing the same thing. People don’t want to close down.” On 8 April, Prime Minister Oli publicly recommended that gargling with guava leaves could help people get rid of the virus, as the country was reporting more than 300 new cases a day. Between April 1 and 30, the number of cases per day increased by 2900 percent according to media reports - but testing increased by only 260 percent. On 5 April, the Health Minister in Nepal warned that Nepal may witness the second wave in June if precautionary measures were flouted. Even as of 12 April doctors warned that extra precautions were needed given the increasing number of patients...
exhibiting severe Covid-19 infection. However the government response was slow, and according to those who spoke to Amnesty, too late. In January, Nepal was reporting less than 10 deaths per day, and by May 2021, the number of deaths per day increased to over 250 going by official numbers. Previously in 2020, Prime Minister Oli was quoted as having said that home remedies such as hot water and sneezing will ‘drive the virus away’. He has also recommended garlic, ginger and turmeric to combat the disease and further claimed that the strong immune system of Nepalis will protect them along with strong willpower. While ginger, garlic and turmeric have strong immunity boosting properties, they have not been proven to be efficacious in combating Covid-19.

Social distancing measures were also flouted by senior politicians. On 24 April, Prime Minister Oli inaugurated the Dhahara Tower in Kathmandu in a public ceremony, and even as recently as 9 May, denied that the health sector was crumbling claiming that the situation was “under control”. The very next day he contradicted himself saying that Nepal is overwhelmed.

Sapana, a civil society activist said “Government is ignorant and neglecting things. The government should have opened isolation centres in borders with India. The local government has not been mobilized. Leaders are busy fighting for seats.” She further said that although there were local government authorities that could have been actioned to support the Covid-19 response drive, the government failed to do so. “We didn’t adopt safety measures, there were long queues in PCR testing centres without maintaining social distance. Even the government didn’t prepare well and provided information. Local government has public buildings for isolation and beds, but Central government failed to mobilize the local government.” In 2020, local government authorities were mobilized to contain the pandemic.

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168 Interview with Sapana, civil society activist, Kathmandu. 12 May 2021.


In terms of responsibility, she felt that both the public and the government were responsible for the present crisis, saying:

“We people are responsible. People stopped wearing masks and didn’t maintain social distance. When I visited some regions of the country, I found that most of the people were not wearing masks. Equally, government is responsible as it didn’t monitor the people. Government should have monitored the situation until the virus has been eradicated.”

Sushil who works with marginalized groups in Nepal said, “What’s happening right now in Nepal is ignorance of the Nepali government. They were the ones who needed to control the pandemic and they were not serious. That is what created this difficult situation.”

He further added, “The Nepal government doesn’t have any priority for Covid-19. There is a political crisis. Within 30 days they need to win a vote of confidence. 14 people died within one hour because of lack of oxygen. The current government is not doing anything really”.

Dr. Sushil from the Ministry of Health said that the surge in patients was not expected by the government so soon and that the number of Nepali migrant workers returning from India in large numbers over a short period, contributed to this. “We had not anticipated the surge. We expected it in 3-4 weeks, but the number of people returning increased very quickly, 200,000 people returned to Nepal in a week, especially with the Covid-19 situation in India. That took us completely off guard”. He said that the situation was improving in the Kathmandu valley, but they were expecting the situation to get worse outside of the valley in the villages.

**BACKGROUND: NEPAL’S HEALTH CARE WOES**

Healthcare in Nepal is provided by both the private and public sectors. The Ministry of Health is responsible for a range of actions on health care provisions and oversees central and zonal hospitals. The Department of health services is responsible for health provision at the district level and below according to the World Health Organization.

Every citizen is entitled to basic health services free of cost. However, people often pay between USD 80 USD 420 per day for health care (in a country where the average annual income is USD 1,000 per person) as a result of multiple reasons including shortage of some essential drugs and lack of knowledge of free services; thus people rely
on private health facilities, which is expensive and out of reach for the average Nepali. Nepal is one of South Asia’s six most populous countries.

Nepal’s health system has had resource gaps in the early days of response to Covid-19. According to an assessment by the NHRC in June 2020, only 42 of 93 Covid-19 clinics had categorized PPE sets. At that time, the following PPE sets were identified as available in the country:

“There were altogether 10,761 N95 masks; 5,454 Goggles or Visor; 213,033 Gloves (loose/Surgical gloves); 5,310 Water resistant or standard disposable gowns; 107,173 Caps; 1,81,029 non-surgical gloves; 5,331 Gowns, and 2,643 Eye protection.”

According to the NHRC, as of June 2020, there were no CT scan services available at Covid-19 clinics, ambulance services were only available in 40 hospitals and only a few clinics (19.4 percent) had facilities for Central Pipeline Oxygen Supply (CPOS). A more recent compilation of data could not be accessed at the time of writing.

STATE RESPONSIBILITY UNDER DOMESTIC LAW

The right to health care of citizens in Nepal is guaranteed by Article 35 of the Constitution of Nepal. Healthcare is also recognized in the Directive Principles, Policies and Obligations of the State and the Public health Services Act of 2018. However, Nepal has not recognized the full range of obligations under the ICESCR including the right of all persons to the right to health and not just Nepali citizens.

On 11 May, the Supreme Court issued an interim order on the government to manage oxygen supply, medicines, human resources in the form of health care workers and to ensure well-equipped hospitals in responding to the COVID 19 crisis in Nepal. This is in addition to a series of orders issued by the Supreme Court in past years, asking the government to respect and protect the right to health. These have included directives on the provision of medical care to prisoners and assurance of quality health care services.

In addition, the Supreme Court in Advocate Madhav Basnet v. Council of Ministers


held that “health institutions should be well equipped with the necessary infrastructure for such important services related to health”. 188 The right to health has been described as a basic human right by the Supreme Court. 189

STATE RESPONSIBILITY UNDER INTERNATIONAL LAW

Nepal is a state party to the International Covenant on Economic, Social and Cultural Rights. The Committee on Economic, Social and Cultural Rights (CESCR) has clarified that states have a core obligation to ensure minimal levels of economic, social and cultural rights. In the case of the right to health, this includes essential primary health care190 and essential medicines, without delay.191 These measures include prevention, treatment, and control of epidemics and other diseases by making relevant technologies available and implementing and/or enhancing relevant immunization programmes and other strategies.192

171 states are party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which reiterates “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” 193 The body that provides authoritative interpretation of the Covenant’s articles, the Committee on Economic, Social and Cultural Rights (CESCR), has spelled out the duties and responsibilities of states and non-state actors around these rights, respectively, concerning the right to health.194 The few states that have signed but not yet ratified the ICESCR195 are still bound by these principles through the Vienna Convention on the Law of Treaties, which establishes that these states must not “defeat the object and purpose of a treaty prior to its entry into force.”196 International law and standards establish that everyone has the right to health, including preventative, curative and palliative health care. The ICESCR establishes that states must undertake “to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources with a view to achieving progressively the full realization of the rights recognized in the Covenant.”197 General Comment 14 establishes that this means that states must work towards ensuring that all health facilities, goods and services (including information) must be available, accessible (physically and financially), acceptable, and of good quality. Moreover, the right to health framework emphasizes that different groups of people – for example, women, children, older persons, and people living with disabilities – have specific needs and face different

citing Dal Bahadur Dhami vs Nepal Government, Prime Minister and Cabinet of Ministers Secretariate, Supreme Court of Nepal Decision No. 9997 (10 August 2016) and Charles Shobaraj Vs Office of Prime Minister and Cabinet of Ministers, Supreme Court of Nepal, Decision No.9722 (10 August 2016)


191 CESCR, General Comment 14, para 43

192 CESCR, General Comment 14, article 12.2(c), paras 16, 44

193 ICESCR, Article 12.2


195 OHCHR. “Status of Ratification, Interactive Dashboard”. https://indicators.ohchr.org/. As December 2020, these were Comoros, Cuba, Palau, and the United States


197 8 ICESCR, Article 2.1
circumstances that may affect their ability to exercise this right. As a result, states must adequately prioritize these groups when designing and implementing health policies.\cite{198}

The CESCR has further established that these measures are “obligations of comparable priority” to core obligations of the right to health so states cannot justify non-compliance.\cite{199} Within the context of Covid-19, the CESCR has established that states must combat the pandemic in a manner consistent with human rights, which includes extraterritorial obligations to support other states fulfill their duties. For example, the CESCR has said that states should ensure that no decision or unilateral measure obstructs access to essential goods, such as health equipment. Any restriction based on the goal of securing national supply must be proportionate and take into consideration the urgent needs of other countries.\cite{200} Diagnostics, treatments and vaccines fall squarely within the state’s comparable core obligations as goods that play an essential role in curbing communicable diseases. As a surveillance tool, diagnostics detect outbreaks of infectious diseases and offer insight into the effectiveness of immunization programmes.\cite{201}

Treatments reduce morbidity and mortality, easing the strain on health systems and contributing to the overall realization of the right to health. Likewise, vaccines prevent infection and transmission. Indeed, mass vaccination is the only safe way to achieve herd immunity, whereby enough people have developed protection from transmission and infection that all people benefit, including those who have not been immunized, and the disease ceases to exist across a population. For this to be achieved, 70% of the population must become immune so a high uptake is key to the vaccine’s effectiveness.\cite{202} In addition to their legal human rights obligations, states have agreed to prioritize health and control communicable diseases through key global political agreements, such as the Sustainable Development Goals (SDGs). While 13 of the 17 SDGs address health-related issues, SDG 3 specifically calls upon states to end the epidemics of communicable diseases\cite{203} and “reduce by one-third premature mortality from non-communicable diseases through prevention and treatment”\cite{204} by 2030. In line with a right to health framework, SDG 3 also highlights the importance of “access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all.”\cite{205}

CONCLUSIONS
“This is a crisis Nepal has never faced till now. The government doesn’t have a plan. The system has collapsed. They don’t know what

\textsuperscript{198} CESCR, General Comment 14, paras 43, 44, 47. Paragraph 47 states that the “core obligations” in paragraph 43 are non-derogable
\textsuperscript{201} WHO, “Vaccination Greatly Reduces Disease, Disability, Death and Inequity Worldwide”, https://www.who.int/bulletin/volumes/86/2/07-040089/en/
\textsuperscript{203} WHO, SDG 3.3, https://www.who.int/health-topics/sustainable-development-goals#tab=tab_2
\textsuperscript{204} SDG 3.4, https://www.who.int/health-topics/sustainable-development-goals#tab=tab_2
\textsuperscript{205} SDG 3.4, https://www.who.int/health-topics/sustainable-development-goals#tab=tab_2
to do next. If the international community wants to help, this is the time.”

The government of Nepal has an obligation under international human rights law to ensure that essential medicines and health care is available to all people in the country without discrimination, in sufficient quantities, and of good quality. This includes access to hospitalized care for all patients in need of such care, access to ICU beds, oxygen, medicines, and medical equipment necessary for the care of Covid-19 patients. In addition, the government has a responsibility to disseminate evidence-based public information on the necessary precautionary measures in response to Covid-19, buttressed by evidence-driven policy and public health directives. Senior political leaders must not only provide the necessary leadership in ensuring Nepal meets its right to health obligations with respect to care and treatment provision but also lead by example by respecting public health protection rules such as social distancing. They also need to take action to enforce precautionary measures to prevent the spread of the disease, whilst considering the impact of such measures on marginalized groups. Yet it is clear, as this briefing demonstrates, that the government has failed to meet its obligations in these key areas during the pandemic. The country’s lack of readiness for the pandemic has been compounded by the government’s organizational failings and continued negligent approach from lack of PPE procurement to protect health workers, to insufficient availability of essential medicines, to the ongoing crisis concerning insufficient oxygen supplies.

The resounding call from the health workers and others who spoke to Amnesty International was the need for immediate help. “I think if anyone wants to help this country, it has to be done within the next 48 hours. Otherwise there is no point, every second counts. That’s the urgency” said Dr. Kamal, echoing others who spoke to Amnesty and stressed on the need for immediate aid in the form of oxygen, vaccinations, medicine and PPE. It is clear that the country requires urgent action both by the government of Nepal and by the international community. The Nepal government must procure and make available vaccines, medicines and medical equipment, ensure evidence-based dissemination of information on the virus, and ensure that all public policies needed to contain the spread of the virus are taken, whilst considering and mitigating the impact of such policies on marginalized groups. The international community must support the government of Nepal to procure vaccines, oxygen, medicines, and medical equipment, and ensure that intellectual property rights do not prevent any countries from upholding the right to health.

The failure of the government in procuring essential supplies for the health care sector despite ample time for preparation given the relatively slow spread of the disease in the country has triggered the collapse of an already fragile health care system. The Covid-19 re-emergence in India has made procuring supplies like oxygen and medicine from India far more challenging.

Public awareness messaging about precautionary measures to be taken in light of the Covid-19 pandemic by some senior politicians has also been confusing, vague, or misleading. Most seriously the perpetuation of false public health information about the nature of the disease and how it can be treated from some of those in leadership positions in the government has the potential to cost lives whilst lulling the public into a false sense of confidence that Covid-19 has been eradicated in Nepal. Instead of disseminating such falsehoods, those in governments must provide context-specific information which is based on accurate, objective, and scientific information based on accepted international guidance on Covid-19.
RECOMMENDATIONS

TO THE GOVERNMENT OF NEPAL

Information on Covid-19

- Nepal must ensure everyone has free, unhindered, and easy access to credible, reliable, objective and evidence-based information about Covid-19 and about Covid-19 vaccines, in relevant languages and in accessible formats for all people. Nepal also should make every effort to ensure that information reaches all social groups, particularly the most marginalized, and ensure that the scientific benefits of Covid-19 vaccines are explained in a manner that is understandable in a range of social and cultural contexts.

- Nepal must ensure everyone has free, unhindered, and easy access to credible, reliable, objective and evidence-based information about Covid-19 health products. To this end, Nepal must lift all undue restrictions on the right to seek, receive and impart information about Covid-19 health products; adopt adequate frameworks, in line with their human rights obligations, to address the pernicious effects of false or misleading information that could compromise the right to health; and ensure that they disseminate credible, reliable, accessible, objective and evidence-based information.

- Nepal should ensure their information campaigns consider languages and formats (e.g. written or oral, long or short, use of visuals, etc.), channels (e.g. social media, TV, radio, press, community information campaigns, etc.); messengers (e.g. community and faith-based organizations or leaders, health experts or health workers from a variety of backgrounds), among other issues and are developed in consultation with marginalized communities.

Diagnostics, treatments, vaccines

- Nepal must streamline the procurement of oxygen, medicines, PPE, vaccines, and other critical Covid-19 related diagnostics, treatments, and vaccines as a priority to guarantee uninterrupted access to prevention, testing, and treatment including life-saving medication to all people in Nepal without discrimination.

- Nepal must remove all bureaucratic impediments to efficient and effective procurement of oxygen including by assessing the effectiveness of the quota system for distribution of oxygen to hospitals in Nepal.

- Nepal must devise national Covid-19 vaccine distribution plans to be accessible, equitable, inclusive, and non-discriminatory, in line with human rights laws and standards. In addition to criteria identified by the WHO Strategic Advisory Group of Experts on Immunization (SAGE), states should consider factors that may heighten an individual’s or a community’s risk to Covid-19 and pay particular attention to marginalized groups and those with intersecting identities and legal statuses. Factors may include social, environmental, and occupational risks and the impact of systemic discrimination.

- Nepal must ensure that the design and implementation of vaccine allocation plans are informed by the collection and analysis of data around the impact of Covid-19 on specific groups including marginalized groups and intersecting identities, indigenous groups, Dalits, LGBTI and disabled people. All data around the impact of Covid-19 on marginalized and

208 These identities and statuses include sex, gender, age, sexual orientation, gender identity, Indigenous status, ethnicity, work and descent, disability, and migrant or refugee status.
interconnecting identities including Dalits, LGBTI, indigenous and disabled people \(^{209}\) must be available in a transparent and accessible manner.

- Nepal must ensure that any decision-making processes around national allocation are rooted in transparency and the right to information, involving meaningful and effective participation of representatives of civil society, especially with representation from at-risk populations that could be most impacted by these decisions \(^{210}\)

**Health and health care workers**

- The government must ensure that the right to health is guaranteed to all people, regardless of caste, citizenship status, and access to the full gamut of rights in terms of Nepal’s international human rights obligations.
- Ensure that health care workers have access to PPE, training, and infrastructure necessary to carry out the provision of health services safely and effectively.
- Prioritize vaccinations for frontline workers and marginalized groups as and when Nepal can procure more stocks.
- Take measures to address the specific needs of non-Covid-19 patients including pregnant women, lactating mothers, those with comorbidities, and prisoners among others.
- Nepal must ensure that its health system has sufficient health workers across geographic areas. These workers must be adequately trained to work with individuals and communities, particularly those identified as priority populations for Covid-19 health efforts. This is especially important in situations when historical marginalization and discrimination against particular groups have led to mistrust in health systems and workers.
- To ensure preparedness for Covid-19 vaccines and continue ongoing services, Nepal must invest the maximum available resources to strengthen its health system. In addition to prioritizing health workers, investments should be made to address transportation, storage, and vaccine administration. These investments should be made to build a more robust national health system that can sustainably increase the availability, accessibility, affordability, and quality of health facilities, goods, and services for all people.

**TO THE INTERNATIONAL COMMUNITY**

- States in a position to do so must respond to requests by Nepal by providing appropriate and sufficient technical and financial assistance to support its ability to meet its right to health obligations.
- More broadly, all such states must fulfill their obligation to ensure international cooperation by joining and adequately supporting global mechanisms such as COVAX thereby enabling all countries, including low-income ones such as Nepal, to have adequate supplies of vaccines to protect their entire populations.
- States in a position to do so must also join other forms of global cooperation to ensure that Covid-19 health products are accessible to the maximum number of people including in Nepal.
- States must cooperate globally and remove any potential barriers to ensure that vaccines are developed, manufactured in sufficient supply, and then distributed in a timely and inclusive manner.

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\(^{209}\) Data should be disaggregated by sex, gender, age, sexual orientation, gender identity, Indigenous status, ethnicity, work and descent, disability, migrant or refugee status, among other identities and statuses

\(^{210}\) CESCR, General Comment 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (Article 3 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2005/4, 11 August 2005; General Comment 25
manner around the globe. This obligation includes providing technical and financial assistance to other states, as well as refraining from behaviours including bilateral deals that could compromise the ability of other states to do so.

- States must ensure that intellectual property rights do not prevent any countries from upholding the right to health. This includes agreeing to a 'waiver' on certain aspects of the TRIPS agreement for the production of COVID-19 health products, supporting the WHO’s COVID-19 Technology Access Pool (C-TAP), and placing conditions on public funding to ensure pharmaceutical companies share their innovations, technology and data with other manufacturers. States also must assess and make any necessary adjustments to their intellectual property laws, policies and practices to ensure that these do not form a barrier to Covid-19 health products for all people globally including in countries facing a surge in cases like Nepal.

- States must, and businesses should, develop and implement policies to ensure availability, access, affordability, acceptability, and quality of Covid-19 health products for all people. This should be done according to the principles of transparency, participation, accountability, equality, and non-discrimination. All contracts and negotiations concerning Covid-19 health products should be negotiated transparently and be publicly available.

- States must and businesses should refrain from making bilateral agreements that negatively affect the global supply of a vaccine and jeopardize availability across countries, which includes “hoarding” of vaccines beyond what is needed for priority, at-risk populations.