**Response of the Government of Nepal**

**to the Special Rapporteur on the human rights to safe drinking water and sanitation**

**I. COVID19 and human right to water and sanitation**

1. In the context of COVID19 pandemic and recovery and relief measures, what measures and steps have been in place to ensure that all populations have access to adequate and sufficient water, sanitation, and hygiene services and facilities?

A notice published by the GoN in gazette dated July 20, 2020 pursuant to section 2 (7) of the Essential Service Operation Act, 1957, has declared water regulation and supply service as an essential service. According to Fifteenth Plan, (FY 2019/20-2024/25), 95% of population have access to basic level and 20% of populations have access to upgraded water facility. *One house, one tap* program is under implementation to ensure water supply in the areas deprived from basic water and sanitation services

The Ministry of Water Supply had circulated instructions to all the service providers across the nation not to hinder the water supply service. The Ministry remained in close coordination with the Covid Crisis Management Committee (CCMC) for any emergency supply needed during lockdown period. The wash cluster was activated immediately as the lockdown was announced and the cluster monitored, collected and prepared report to access the WASH gap. Similarly several retention centers (quarantine and isolation) across the country had been established to safely manage the passages from the border and along with WASH service facilities.

In Nepal, there are 42,205 water supply and sanitation (Large and Small) completed schemes. Most of the schemes are run by Water Supply User and Sanitation Committees. Neither Urban nor Rural WaSH schemes informed about any adverse impact or halt in the service delivery due to COVID 19 Pandemic. So, none of the water supply, sanitation and hygiene services had have impacted due to COVID 19 Pandemic.

In particular:

* 1. What measures and steps have been taken to identify the minimum vital amount of water required by specific individuals and groups in the context of COVID19 which emphasized handwashing as one of the preventive measures against COVID19?

The Ministry of Water Supply ensured that the distributer of water supply distributed the water supply to the household regularly during COVID-19 pandemic. National WaSH Cluster Nepal reached with 337,480 people and 2,736 handwashing station installed in communities, quarantine centers, health care facilities, isolation centers and points of entry. Installation of hand washing centers at the points where mobilization of people is frequent and service can be insured.

UNICEFs Global (JMP) Baseline Report 2019, also reflects the increasing awareness of Hand washing by 48% to 80 %

* 1. In the event that the water and sanitation services that are managed by private operators cannot be provided, what specific measures are in place to regulate and ensure that the population has adequate access to water, sanitation and hygiene services and facilities?

In Nepal, bottled water, jar water and tanker water supply are the only means of water supply operated by the private sectors. During pandemic, the GoN had declared that every water supply agencies ensured regular supply of water, thus no complain or information of obstruction by private operators were reported during the pandemic. Some of the service providers have subsidized the water tariff for marginalized communities.

* 1. In the case of water and sanitation services that are managed by local and municipal (regional) governments, or by community systems, that cannot be performed, what specific measures are in place at the level of the central government to ensure that the population has adequate access to water, sanitation and hygiene services and facilities?

National WaSH Cluster Nepal provided 186 water storage tanks of capacity 100 to 1,000 liters to quarantine centers, Health care facility and Isolation centers and 3,575Kg of bleaching powder supplied to Health Care Facility, Isolation and Quarantine centers, Point of Entry and community. Some of the service providers have subsidized the water tariff for marginalized communities. There was no interruption in water supply services managed by local, municipal, government or by community supply.

1. What temporary legislative or policy measures have been implemented in the context of COVID19 (including state of emergency, emergency laws, moratorium) to prohibit water disconnections for those who are not capable to pay the water and sanitation service tariffs?

The GoN had published a notice in gazette dated July 20, 2020 pursuant to section 2 (7) of the Essential Service Operation Act, 1957, which has declared water regulation and supply service as an essential service. The Ministry of Water Supply had circulated instructions to all the service providers across the nation not to hinder the WS service and remained in close coordination with the CCMC. Some of the service providers have subsidized the water tariff for marginalized communities. To institutionalize the lesson learnt from the pandemic and Hand washing importance, Ministry of Water Supply has started formation of Hand Hygiene for All (HH4A) a national road map.

* 1. In the event emergency laws or moratoriums cased to be in force, what subsequent measures and steps the numbers of people in poverty, increased inequalities and in particular, how these three dimensions' impact people's capacity to pay for water and sanitation services and facilities?

The GoN had published a gazette notice dated April 27, 2020 pursuant to Section 2 of the Contagious Disease Act, 1964, which required the head of office of all government offices, entities or industries to pay the workers and employee their salary during the lockdown period. The GoN had urged landlords of those working in various informal sectors to exempt one month’s rent during Covid-19 lockdown period. Moreover, the GoN extended the deadline for payment of the water supply bill without any extra fine for delay in payment till May 13. Some of the service providers have subsidized the water tariff for marginalized communities.

* 1. What data is available on the impact that COVID19 has had on unemployment, how it has increased the numbers of people in poverty, increased inequalities and in particular, how these three dimensions' impact people's capacity to pay for water and sanitation services and facilities?

The COVID-19 pandemic has significantly impacted lives, livelihood and economic potential of Nepali people. Employment opportunity have substantially decreased and many lost their jobs as a result of the lockdown and low economic activities. However, the GoN ensured that

essential goods, services including water supply were operated continually during the lock down period. All types of social security allowances were continued. The GoN decided to deploy informal sector workers who have been unemployed due to the ongoing crisis in public works that are carried out by the local, provincial and federal governments.

* 1. What steps are being taken to ensure the affordability of water services for those who cannot pay their bills for reasons beyond their control, including unemployment and poverty, which have been exacerbated by the COVID19 pandemic?

Some of the service providers have subsidized the water tariff for marginalized communities.

Informal settlement has been provided service by the government through the tankers and same as in quarantine and isolation centers. The GoN extended the deadline for payment of the water supply bill without any extra fine for delay in payment till May 13.

1. What are the vulnerabilities that have been exacerbated by COVID19 that negatively impact people's access to water, sanitation and hygiene (WASH)? What measures and steps have been taken to identify and target individuals and groups that have been exposed to those vulnerabilities?

The targets set in SDG 6.1 and 6.2 are adversely affected by the CoVID-19 and to cope up with that wash plans of Local Governments (LG) have been supported by federal government. Likewise, robust MIS has been developed to calculate the required resources for LG.

Melamchi water supply project is the national priority project in water and sanitation sector that transfers water from Indrawati river basin to Bagmati river basin. This project got delayed upto six month due to Covid-19 and various other reason. The GoN recently, inaugurated and distributed the water through Melamchi Water Supply Project to the large population of Kathmandu.

* 1. What are the specific challenges faced by the population living in rural areas and those areas that rely on community-based water and sanitation services? How have these challenges been addressed?

It was noticed that for proper hygiene practices, water supply services is prime requirement and as the data suggest more than 30% of existing water supply schemes are providing only limited services. So service level improvement is the major challenge. To address this, improvement is linked with current MIS, enabling all the levels of government to build capacity of service providers and monitored the services.

* 1. What are the specific challenges faced by population living in areas that are suffering hydric stress, and/or semi-arid regions?

Due to insufficiency of water even for daily basic needs, it is even more difficult to manage the water for the hand washing stations.

* 1. What are the specific challenges faced by seasonal workers, by populations living in refugee camps, in host-communities that absorb refugees, displaced persons and other forcibly displaced persons, as well as slums and informal settlements in urban and peri-urban areas?

For informal settlements in urban and peri urban areas, it is very difficult to provide water supply and sewerage system due to dense settlement and even the dwellers create obstruction for carrying out development activities in such areas as they have to shift temporarily or permanently.

* 1. In addition to the above groups which have been identified as gaps in the Special Rapporteur's research thus far, which other groups and populations should be prioritized due to the increased vulnerability that COVID19 has created?

Special focus in policy and its implementation has been given to the groups which include; Women, children, old age, population of remote areas and population with disabilities

**Public policies**

1. What steps have been taken to address vulnerabilities that COVID19 has created for people and groups in public policies-the so-called "Building Back/Forward Better" policies- and other policies to build resilience and sustainability?

Change in technical norms has be forwarded for the hygiene need perspectives.

* 1. What are the lessons learned from responding to COVID19 to build social protection and resilience to prevent future possible public's health crises?

The wash in HCF, schools, public areas, emergency retention centers holding centers should be properly equipped for the better preparedness and resilient to prevent future possible public's health crises.

* 1. What measures and steps have been taken to strengthen access to water, sanitation and hygiene as part of strengthening public health policy?

Wash plan of LGs has started to address the gaps of WASH in healthcare facilities, schools and public places.

**Allocation of funding**

1. What measures and steps have been taken to ensure that water, sanitation and hygiene is considered as a priority in the COVID19 response in terms of the allocation of funding?

Even during the COVID-19 pandemic, the GoN did not limit the budgetary arrangement for the WaSH Sector.

* 1. What percentage of the COVID19 response is allocated to water, sanitation and hygiene (including menstrual hygiene)?
  2. What percentage of funding is allocated or planned to be allocated to improving water, sanitation and hygiene facilities and infrastructure in the context of COVID19?

For WaSH fund of 10 million US$ was allocated for improving water, sanitation and hygiene facilities however, only $6.5 million i.e. (65%) was received.

1. What specific measures and steps are taken to ensure a safe environment for defenders of human rights to water and sanitation in response to protests and advocacy on water disconnections, access and quality?

National WaSH Cluster Nepal organized radio program and aired PSA on risk communication and reached 5.5 million population and behavior change communication through SMS reached 274 K. In the same way, WaSH Cluster organized training and orientation to health worker (366) and service providers (tank operator, waste collector, fecal sludge operators, and sanitary worker- 462)

**II. Climate change and human right to water and sanitation**

**Impact of droughts on availability and quality**

1. During drought cycles, which climate change tends to intensify in frequency and duration, water reserves should be monitored and foreseen. Both domestic and drinking use must be prioritized in order to ensure the human right to water and sanitation, with special attention paid to those groups in vulnerable situations. Likewise, an increase in the concentration of pollutants should be prevented as there are fewer dilution water flows that would normally preserve water quality. In the context, in order for climate adaptation strategies to ensure that the population has access to safe drinking water and sanitation.
   1. Are there legal, policy and regulatory frameworks to ensure that drinking water and water for domestic and personal usages are prioritized over water used for industrial agricultural and other for-profit economic activities in case of scarcity during drought periods?

Existing Water Resource Act 1993 has prioritized drinking water as prime required service rather than water utilities. Rural water supply and sanitation National Policy, 2004 and Rural Water Supply and Sanitation National Strategy, 2004 are key policies adopted by the GoN.

* 1. Are there measures scheduled in drought emergency plants to ensure that priority is given to household water supply and water for domestic and personal use? Is there hydrological planning that establishes specific plants to prevent drought, in which the priority of said water supply is guaranteed?

N/A

* 1. Have areas, neighborhoods or populations in vulnerable situations and most exposed to water cuts in drought periods been identified? If so, please provide information on how they were identified and what has been planned to counter this greater vulnerability.

Current NWASH MIS identifies the groups. Service level improvement is planned for these groups based on LG Wash Plan.

* 1. In periods of drought, how is the quality of drinking water guaranteed? If the water supply is seriously compromised are there any alternative reserves in place, such as reservoirs, aquifers or drought wells that could provide the quality and quantity of water required, especially in the poorest regions and rural areas.

Technological adaptation such as rainwater harvesting, impounding reservoirs are planned to assure the WASH rights and it has been realized that focus in IWRM will make job smoother.

**Impact of droughts on affordability**

1. During drought periods, when availability and accessibility to drinking water and water for domestic and personal use is affected by competing demands for water resources, there may be pressures to increase water supply sources may increase supply costs. Is an increase in rates foreseen in drought cycles? And if so, what is planned for families and individuals in poverty with incapacity to pay for water and sanitation tariffs?

Not measured yet.

**Impact of floods on availability and quality**

1. Floods caused by heavy rains and river floods, apart from causing risk to the lives of those affected, the flooding of homes, destruction of crops and various economic damages, have significant impacts on water and sanitation services. Often, domestic water supply cuts. Sanitation stations tend to collapse when they receive massive storm drains along with domestic and industrial discharges, which produces direct polluting discharges. Especially worrying is the situation of those sanitation stations located next to rivers, which tend to be flooded indefinitely. Sometimes the rise in the level of the rivers and the massive pluvial drainage generate black or grey waters urban floods through the sanitation sewers, even reaching inside the houses. In this context, in order for climate adaptation strategies to ensure that the population has access to safe drinking water and sanitation.
   1. Are there plants for territorial and urban reorganization that make it possible to minimize the vulnerability of populations to flood risks? What specific measures are included for groups in vulnerable situations?

Early warning systems are developed and established in vulnerable places. Technological adaptations such as raised platforms of swallow tube wells, toilets etc has been initiated.

* 1. Are there emergency floods plans for groups in vulnerable situations and generally poorer neighborhoods, guaranteeing in particular water, sanitation and hygiene services for these populations, including the eventuality of evacuation?

Contingencies plan of Provincial governments are already prepared with the aid of federal government. Provision of local government contingency plan is included in WASH Plan.

* 1. What alternative water supply provision is there to guarantee drinking water when floods contaminate habitual sources or affect storage and purification facilities, especially for groups in vulnerable situations?

Jar Water, Tanker water purifiers are providing water supply during the flood and other disasters. Emergency clusters are activated during such situations.

**Impact of Desertification on availability and quality**

1. Rising temperatures and rainfall variability caused by climate change can increase desertification in arid, semi-arid and dry sub-humid areas. In addition, prolonged droughts increase fire risks, accelerating degradation and even destruction of plant protection, soil erosion and desertification. Desertification increases surface runoff and therefore increases the risk of floods, which can impact water supplies and sanitation. It also causes less water infiltration in aquifers, affecting the availability of water. What steps and measures are being taken to combat desertification processes and to ensure safe drinking water and sanitation in case of desertification, especially for groups in vulnerable situations?

Integration of NWASH MIS with meteorological and hydrological data is being discussed to see the impacts.

**Impact on people and their vulnerabilities**

1. What measures and steps are being taken into account when designing and planning climate change adaptation strategies and policies to ensure affected groups and populations and their knowledge are part of the solution? How are affected populations involved from the beginning in the planning design and its subsequent development?

Integration of NWASH MIS with Human Development Index (HDI), poverty profile and other segregated data is being discussed to see the impact.

1. What measures and steps are taken to identify the movement of populations, ongoing or foreseeable due to the impact of climate change on availability, accessibility and affordability of drinking water and water for other uses (what are called climate refugees or migrants)? What information is available on the situation of access to water and sanitation for temporary workers in informal settlements?

Integration of NWASH MIS with HDI, poverty profile and other segregated data is being discussed to see the impact.

**III. Financialisation /commodification questionnaire**

The commodification of water and sanitation has been carried out through different mechanism and policy programs. Each have had an impact on the payments to be covered by users. This includes the privatization and inclusion of private actors in water, sanitation and hygiene (WASH) services and infrastructure, the transformation of public utilities into for profit entities, market based mechanism to manage water scarcity such as water trading and water banks, and bottling of water by private companies. At each point, financial actors become involved when WASH services and infrastructure proves to be a profitable business. This report will explore the implications of these processes on the progressive realization of the human rights to water and sanitation.

On the privatization of water and sanitation services.

1. The former Special Rapporteur, Leo Heller, dedicated a thematic report on the impact of privatization on the human rights to safe drinking water and sanitation (A/75/208) in 2020. Building on this report, the Special Rapporteur aims to follow –up on the recommendations made and to expand the scope to examine the role of private actors, the various ways private actors can take part in water, sanitation and hygiene service provision and to clarify challenges and ways to address compliance with human rights to water and sanitation. In this context:
   1. Has the participation of private operators through long term management contracts guaranteed the necessary investment in water and sanitation services filling the so called financial gaps? If so, what extent?

Not yet in practice.

* 1. Is there a law that prohibits cutting off water to households in vulnerable situations? Is there by law a vital minimum amount of water set as mandatory supply to impoverished households?

45 lpcd is mentioned in as basic water supply in rural water supply and sanitation policy 2004.

* 1. When the management of water and sanitation services is concessioned or contracted out to private or mixed company, or when the operators are public but running as commercial for profit entities, are households in vulnerable situations guaranteed a vital minimum amount of water? And if so, how is this compliance with human rights to drinking water and sanitation financed?

Output Based Aid (OBA) has been provided to targeted group to ensure the vital minimum amount of water.

* 1. When the management is public and nonprofit, is a vital minimum amount of water established for households in vulnerable situations, in compliance with the human rights to drinking water and sanitation? And in such cases, how is this compliance financed?

OBA has been provided to targeted group to ensure the vital minimum amount of water.

* 1. Is there a regulatory framework that guarantees transparency and citizen participation in the management of water and sanitation services, whether public or private, in line with the requirements related to human rights?

Not yet in practice

* 1. During the past financial crisis (2007-2008), due to austerity strategies, private investment was favored to compensate for the lack of public financing in infrastructure and public services. In the present economic crisis accelerated by the COVID19 pandemic and given the need for investments to prevent the impacts of climate change, are there funds provided in public budgets to cover these costs? Or is the pressure for the privatization of water services growing again?

Not yet in practice

* 1. From the current perspective of climate change, are there green funds established to finance investments in WASH services due to the impact of the climate emergency?

N/A

* 1. Are there prospects for higher services rates or charges to cover the costs of investments? Is there any provision to guarantee the affordability of services to households in poverty?

Subsidies in some specific projects but not formally established.

* 1. In relation to the impact of COVID-19, if WASH services were managed by private operators were the costs derived from the pandemic (for example, lower water consumption due to economic restrictions, higher rates of non-payment of tariffs) covered by private operators as contract risks or are they passed on to public institutions?

Not applicable

**On market based mechanism as a response to water scarcity**

1. There are various market-based options for managing water scarcity and its distribution to competing users. Although there are different models, what is common to all is the need to separate water rights and land rights, so that water rights/concessions/allocations/entitlements can be traded and potentially managed as a consumer good. There are models such as Water Bank that organize transactions under public control with strong regulations. There are also water trading markets that facilitate trade between entitlement holders and those who want to use that water. These water markets can be opened to speculators, who are not going to use the water rights at stake. Speculators are financial actors that promote speculative games (with high expectations of short-term benefits) between those who have water rights and those who seek to buy them. Although most water trading markets are localized with the entry of new financial players, water rights can be integrated into global financial markets, where water will receive the same treatment as other commodities, generating speculative impacts on the final costs to pay for water.

Does not Exist

If water markets or water banks exist:

* 1. How are they designed and what is their purpose? i.e. to manage water scarcity, to deal with over-allocations, or to ease trading between water rights/entitlements holders to increase the efficiency of use? Is the water traded or banked understood as public or private property? And if private, what is actually privatized? For example, a set amount of water, a license to extract a certain amount of water, or the concession.
  2. Are there public institutions (such as Water Banks) that manage possible transfers of water rights? If so, are they set up only to manage drought cycles or do they also work where there is no drought?
  3. To what extent do market based transfers under public control affect the affordability of water and sanitation services and the price of water? What about privately managed markets? What is the impact on families in vulnerable situations and the effective fulfilment of human rights to access to water and sanitation?
  4. Are there direct markets for water rights? Does the supply of water and sanitation services depend on access to water through these markets? And if so, to what extent do these market affect rate increases especially for households in vulnerable situations?
  5. In some water market trading is limited to actors buying water for their own use (for example, agriculture, extractive industries, urban water services), while other markets are open to speculators. Who are the largest actors in the water trading market? And if markets are open to private investors what type of companies are they, for example hedge funds, individual investors, or international banks? Are there differences between the impact of each type of actor and design of the water market on the price and availability of water?
  6. Water markets impact communities in vulnerable situations in different ways, for example cultural water rights of Indigenous people or its environmental functions are not taken into account, and small scale farmers can be priced out of the market due to increasing prices. What regulatory bodies are in charge of water trading markets? How has accessibility of water for communities in vulnerable situations been affected? And how have they been included into the design, oversight and regulation of water trading markets? What vulnerabilities may be exacerbated by water trading markets?
  7. Is there the opportunity for water futures trading such as the recently announced Nasdaq Veles California Water Index? If not, are there expectations that futures trading will occur in the future? And how would water futures trading impact affordability, accessibility, and availability of water for communities in vulnerable situations?

**On the commodification of water through bottled water**

1. The extraction of water for beverages is and increasingly profitable industry. Water extraction companies cab be given license to extract water from ground or surface water or given access to municipal water supplies at low or marginal costs. The beverage products created, including but not limited to bottled water, are sold at high profit margins and can target communities where there is limited access to public water services, they are of poor quality, or where suspicion of the quality of public water services exists. This can increase vulnerabilities in communities that need such surface or groundwater, when it is increasingly scare. Bottled water can also increase vulnerabilities in these communities due to high costs and weakening of public utilities.
   1. What regulatory and monitoring mechanism exist to counter possible vulnerabilities caused by private water bottling?

There is a quality regulatory mechanism which monitors the quality of the water distributed by the private sector. Department of Commerce, Supplies and Consumer has authority to monitor, inspect and check quality of drinking water supplied to public use. This department has authority to monitor, inspect and check quality of water supplied by private sector via bottle, Jar and tanker for public consumption. It may levy fine and award punishment to private suppliers if quality of water is found derogative for human health. Likewise, under Kathmandu Upatyaka Khanepani Limited (KUKL), there is a division which looks after water quality. This division has obligation to regularly check the quality of water supplied by KUKL to public for consumption. It occasionally does the monitoring and inspection inside Kathmandu valley to identify whether water distributed by private sector via bottle, jar and tanker meets the standard as set by the GoN.

* 1. How can impacted communities hold private companies to account with in existing regulatory regimes for their impact on access, affordability and availability of water?

There is a quality regulatory mechanism which monitors the quality of the water distributed by the private sector.

**On Financialisation**

1. Water and sanitation services and infrastructure can be financialised in different ways. This can mean a larger role for profit actors including investors and private companies and financial actors- banks, international financial institutions, hedge funds, pension funds, and increasingly insurance companies –involved in the provision of water, sanitation and hygiene(WASH) services and infrastructure. Financialisation can consist of: the commodification of water, with the corresponding water pricing processes; on the commercialization and privatization of public water and sanitation services; or the inclusion of WASH services and infrastructure in global financial markets. The financial sectors are defined by a short rather than a long term management focus that priorities profit maximization and shareholder returns, resulting in a concentration of investment in financial products rather than the production of goods. In this context, risk management is critical, and gives a leading role to the insurance sector and international rating agencies.

Asset management in few water supply schemes has been initiated from last with the help of development partner.

* 1. How has WASH services and infrastructure been turned into a financial asset? For example, as a financial product or private companies traded in global financial markets. What regulations and legislation including private property laws were necessary for this to occur and how are those regulations and legislation compatible with the State's obligation to provide accessible, affordable, safe and acceptable water available to all without discrimination?

Asset management in few water supply schemes has been initiated from last with help of development partner.

* 1. How has the financial sector (hedge funds, investment banks, pension funds) entered the WASH services and infrastructure sectors? And does this mark a difference to previous processes of privatization such as Public-Private-Partnerships or long term concession contracts? And how has this impacted individuals access to water and sanitation and affordability of those services and infrastructure, especially for people in vulnerable situations?

Few concept notes on PPP, cooperatives, water banks, system insurance are being prepared.

* 1. What has been the impact of speculation-speculation in financialised WASH investments, water based hedge funds or in water trading markets-on access, availability and affordability of water and sanitation services?

N/A

* 1. Do you expect speculators to enter existing water trading markets? And If so, what regulations and accountability mechanism are in place to prevent negative impacts of speculation on the affordability and access of water and sanitation services for communities in vulnerable situations?

N/A

* 1. Financial actors are accountable to their shareholders and governed by logic of profit maximization. How is the State able to meet its obligation to progressively realize the human rights to water and sanitation with in these goals? How does the state regulate business and financial actors to respect human rights to water and sanitation?

N/A

* 1. What specific measures and steps are taken to ensure a safe environment for defenders of human rights to water and sanitation in response to the increased role of financial actors in the WASH sector, which have resulted in protests from communities impacted by the effects of Financialisation? Please give specific examples of cases.

N/A