

**Mandates of the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights; and the Special Rapporteur on the human right to safe drinking water and sanitation**

REFERENCE: UA  
IND 16/2015:

15 December 2015

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the right to food; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights; and Special Rapporteur on the human right to safe drinking water and sanitation pursuant to Human Rights Council resolutions 22/9, 24/6, 27/21, and 24/18.

In this connection, we would like to bring to your attention information we have received concerning **the apparent blockage of vessels carrying essential goods from entering Nepal.**

According to the information received:

On 20 September 2015, Nepal adopted its new constitution by an overwhelming majority, though it was allegedly not well received by certain sectors in neighbouring India. On 23 September 2015, a high level Indian authority in Nepal is reported to have proposed a 7-point amendment to Nepal's newly promulgated constitution.

On 24 September 2015, it is alleged that India began imposing an undeclared blockage against Nepal with a view to compelling the latter to amend its constitution. It is reported that on 25 September, India's Armed Border Force, Sashastra Seema Bal (SSB), began blocking trading checkpoints at the Nepal-India border, and all supply trucks were prevented from entering Nepal.

While the border remained open for people crossing on foot or by bicycle, vehicle and rail freight have reportedly been prevented from crossing by the SSB. It is further reported that while trucks are permitted by Indian border officials to return to India, few trucks have been permitted to enter Nepal from the Indian side of the border. As a direct consequence of essential supplies being prevented from crossing the Indian border into Nepal, a severe shortage of essential goods is being experienced throughout Nepal. This is negatively affecting the provision of basic services and putting a number of basic human rights at risk:

The situation is especially precarious considering that Nepal is landlocked and heavily reliant on India's borders, which surround the country from the east, west, and south. Nepal conducts more than three-fourths of its trade with India and has been solely dependent on India for petroleum supplies. Moreover, third-country imports have also been affected as they must transit through Indian ports to arrive in Nepal. Accordingly, the blockage has had multifaceted effects on the entire population. It is reported that the prolonged blockage has escalated the situation to the brink of a humanitarian crisis.

*(i) Right to health*

Scarcity of the most essential supplies, including medical supplies, has severely affected the right to health of people residing in Nepal. Hospitals are increasingly unable to provide basic health care services due to the shortage of oxygen, medicines and blood supply. Medical supplies have run out in hospitals and ambulance services have shut down. The hospital authorities have reported that they are unable to operate without these vital supplies. Certain health services have already been curtailed. Hospitals have reportedly begun reducing ICU units and certain types of surgery. Kidney patients who need regular dialysis are at the verge of serious consequences.

Authorities have also reported that dispensaries will not be able to supply life-saving medicines in the future if the on-going restrictions on entry of supplies into Nepal persists.

Further, the fuel crisis is hampering medical services for persons requiring blood treatment. Supply trucks carrying empty blood bags have been blocked at the border, placing critical patients at severe risk as the country runs out of blood supply. The collection of blood itself is also hindered by this situation. Nepal's blood collection system is facilitated by the use of collection vans, which are now immobilized due to the fuel shortage. The collection problem is exacerbated by the fact that potential blood donors cannot afford the time or fuel to travel to medical facilities to donate.

The shortage of other supplies has also placed the health of people at serious risk. For instance, major public hospitals in the Kathmandu Valley including Bir Hospital, Teaching Hospital, Kanti Children Hospital, Patan Hospital, Civil

Service Hospital, Gangalal National Heart Centre, and Paropakar Maternity and Women Hospital identified that they require 1,700 litres of diesel, 200 litres of petrol, 245 cylinders of oxygen, and 18 cylinders of LPG every day to run their services unhindered. The precarious condition of these supplies could eventually result in complete closure of these medical centres, which would have devastating effects for the health and well-being of the population.

*(ii) Right to Safe Drinking Water*

It is reported that the majority of the water demand in the Kathmandu Valley is fulfilled by water tankers. The shortage of fuel is preventing drinking water from being transported to consumers. As a result people living in the Valley are facing a serious shortage of drinking water.

*(iii) Right to Education*

The border restrictions have also forced the vast majority of schools throughout Nepal to close down, as insufficient fuel is available to facilitate transport. Approximately 80 per cent of the 2,000 private schools operating in the Kathmandu Valley have been closed as they are unable to transport students and teachers to and from schools. An estimated 1.6 million children in the nine districts in the central and eastern plains alone have been deprived of schooling over the past two months. And in recent weeks, schools in the Parsa district only opened for 5 out of 122 days, which deprived 160,000 students to their right to education.

*(iv) Other*

It is reported that victims of Nepal's devastating earthquake of April 2015 have been "re-victimised" by the blockage as a result of the fuel crisis which is also impeding aid and other humanitarian assistance to reach recipients.

Scarce fuel supplies have also had effects on the environment. The lack of cooking gas and kerosene has suddenly spiked the demand for firewood, jeopardizing Nepal's forests. It is reported that Nepalese citizens have been left with no choice but to cut down trees for firewood.

On 8 November 2015, the National Human Rights Commission of Nepal issued a report on the ongoing crisis, noting the harmful effects that the blockage has had on the country. On 24 November 2015, the High Commissioner for Human Rights also publicly stated his concerns and called for all parties involved to ensure safe passage of supplies. And on 30 November 2015, UNICEF published a press release addressing the worsening plight of children in Nepal.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern over the deteriorating human rights conditions in Nepal following the restrictions on transport of goods from India since August/September 2015. Very serious

concern is expressed on the impact that these measures, which could be considered as unilateral coercive measures, have had on a number of fundamental human rights including the right to health, education, food, and water.

In connection with above alleged facts and concerns, we would like to underline that the measures mentioned above, irrespective of their formal qualification or legal status, may qualify as unilateral coercive measures in the meaning of Human Rights Council resolution 27/21. This resolution defines unilateral coercive measures as ‘any type of measure, including but not limited to economic or political measures, to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind’.

We would also like to refer your Excellency’s Government to the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, ratified by India on 10 April 1979; in particular article 25 of the UDHR, and articles 11 and 12 of the ICESCR, which provide that everyone has the right to an adequate standard of living, and that this right is realized through international cooperation and free consent, and everyone has the right to the enjoyment of the highest attainable standard of physical and mental health..

Additionally, the Committee on Economic, Social, and Cultural Rights in its General Comment No. 8 (E/C.12/1997/18) stated that States imposing economic sanctions on another State, by virtue of their commitment in the Charter of the United Nations to promote respect for all human rights (see para. 8) and of their obligations under the Covenant (*ibid.*), must do everything possible to protect the core content of the economic, social and cultural rights of the affected peoples of the targeted State (see para. 7).

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to address the situation described above and safeguard rights of those affected, in compliance with international human rights instruments and standards.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and comment which you may have on the above mentioned allegations.
2. Please provide information on the restrictions on the movement of essential goods into Nepal that Indian Government border officials are reportedly enforcing, including on duration, legal grounds and

compatibility with international human rights obligations of such measures, with full knowledge that Nepal is a landlocked country and is unable to source these essential goods from other countries.

3. Please provide additional information on measures taken by your Excellency's Government to minimize the impact of the measures on the enjoyment of human rights of the Indian and Nepalese population affected by the aforementioned restrictions in place.
4. Please provide details of measures being taken by your Excellency's Government to ensure that affected populations are able to access adequate and nutritious food, and basic health supplies and services.

While awaiting a reply, we urge that all necessary interim measures be taken to permit the safe and essential passage of essential supplies into Nepal.

We are intending to publicly express our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Hilal Elver  
Special Rapporteur on the right to food

Dainius Pūras  
Special Rapporteur on the right of everyone to the enjoyment of the  
highest attainable standard of physical and mental health

Idriss Jazairy  
Special Rapporteur on the negative impact of unilateral coercive  
measures on the enjoyment of human rights

Léo Heller  
Special Rapporteur on the human right to safe drinking water and  
sanitation