



Implications of **COVID-19** and
Economic Recovery Plans
on **Indigenous Peoples'**
Rights and Well-Being



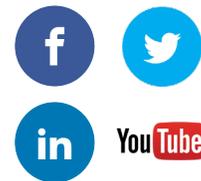
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I **Global Trends on the Impacts of COVID-19 and Governments’ Response Measures on Indigenous Peoples’ Rights and Well-Being**

By
Bernice Aquino-See

COVID-19 has had devastating impacts on Indigenous Peoples given their pre-existing conditions and less access to healthcare services which situate them in the most vulnerable health category with higher risk of infection, related illnesses, and death. They also manifest higher rates of communicable and non-communicable diseases compared to their non-indigenous counterparts, apart from having high mortality rates and lower life expectancies, malnutrition and under-nutrition. Contributing factors that increase their potential for higher risk and exposure and mortality rates are the historically existing “profound infrastructure deficit,” such as lack of or poor access to sanitation and clean and safe water, quality medical services, housing, information, among others.

The usually remote geographic location put many indigenous communities at the risk of being left out in the COVID-19 pandemic responses and recovery efforts. Indigenous Peoples in urban areas depend mainly on cash income to pay basic needs such as food, rent, transportation, and services. The closure of their sources of livelihood and their limited mobility affected access to testing, medical and economic assistance, further excluding or marginalizing them in the pandemic response measures.

Indigenous Peoples experience widespread stigma and discrimination in healthcare services which discourage them from accessing healthcare, if and when available. The pandemic has exacerbated the existing social and economic inequalities that further impact particular sections of indigenous societies, including women, youth, children, persons with disabilities, and the elderly.

The response measures to contain the COVID-19 pandemic and mitigate its impacts affected not only the Indigenous Peoples’ sources of livelihoods and subsistence, but also the practice of their culture and defense of their territories. Restrictions and limitations on movements and border controls, imposed physical distancing, enforced sanitation measures and the use of personal protective equipment, and other measures constrained access to their jobs, production areas, food, social and community networks, and health and education services. Response measures have been used by some governments to suspend constitutional processes and provisions that protect Indigenous Peoples’ rights, further jeopardizing the exercise of their rights to remedy and redress.

With almost 86 per cent of the estimated total population of the world’s Indigenous Peoples engaged in the informal economy, which includes their traditional livelihoods, they are excluded from formal social protection programs, limiting their access to government support in emergency situations such as the pandemic. Thus, extensive recommendations are forwarded to ensure that Indigenous Peoples, including indigenous women, children, youth, persons with disabilities and the elderly, are visible and actively engaged in the crafting and processing of the pandemic mitigation efforts and in the post-COVID-19 recovery measures.

Governments must ensure Indigenous Peoples’ participation in decision-making bodies at all levels including national, regional and local plans of action to curb or mitigate COVID-19. Indigenous Peoples’ own measures and practices must also be integrated into national measures as these have been recognized and proven effective. More importantly, Indigenous Peoples’ right to be consulted for their free, prior and informed consent (FPIC) remains applicable during the pandemic.

A. INTRODUCTION

Almost all reports describe the impact of the COVID-19 pandemic as devastating, not only in socio-economic terms, but also on the well-being of individuals and the collective psyche of groups like the Indigenous Peoples.

The Coronavirus Disease 2019 (COVID-19), which the World Health Organization (WHO) declared as a pandemic in 2020, greatly affected Indigenous Peoples globally, aggravating their pre-existing conditions of racism, discrimination, marginalization, vulnerability, neglect and isolation. On January 19, 2022, WHO recorded more than 332.6 million confirmed cases and 5.6 million dead around the world due to the pandemic.¹

As of 2019, the indigenous population was estimated to be more than 476 million throughout the world.² According to the International Labour Organisation (ILO), majority of Indigenous Peoples live in the Asia and the Pacific region (slightly over 70 per cent), 16 per cent are in Africa, and 11.5 per cent are in Latin America and the Caribbean, while the rest are in Europe and the North America.³ Disaggregated data on health and economic impacts of COVID-19 are not available but reports from various government agencies, international bodies, civil society groups, and news from indigenous communities provide evidence on how Indigenous Peoples have been disproportionately affected by the pandemic.

The United Nations Office of the High Commissioner on Human Rights (OHCHR)⁴ reported that vital gains were being reversed due to the magnitude and scope of inequalities created and exacerbated by the pandemic. These include the rights of Indigenous Peoples, and since the COVID-19 outbreak, numerous reports have cited the disproportionate negative impact on Indigenous Peoples globally.

The COVID-19 crisis caused unprecedented job loss, with women hit the hardest in middle-income countries as they compose the majority in hard-hit sectors like the informal economy, according to the ILO.⁵ ECLAC's survey on COVID-19's impact on Indigenous Peoples in Latin America revealed that among indigenous youth, 32.2 per cent did not have enough economic resources to buy food, 35 per cent of those employed had their employment status worsened under the pandemic, while 21.5 per cent were already jobless pre-pandemic.⁶ The APEC cited a survey completed by 133 indigenous respondents from 40 economies that revealed that the economic impacts of the pandemic contributed to a loss of livelihood among 21 per cent of respondents, changes in the 19 per cent of movement of people, and eight per cent disruption in the selling of their products.⁷

*COVID-19 has triggered a global crisis like no other—
a global health crisis that, in addition to an enormous human toll, is leading to the deepest
global recession since the Second World War.⁸*

- World Bank

B. GLOBAL TRENDS ON THE IMPACTS OF COVID-19 AND GOVERNMENTS' RESPONSE MEASURES ON INDIGENOUS PEOPLES' RIGHTS AND WELL-BEING

A. Raising the Alarm: Pre-existing Conditions

The Indigenous Peoples having higher rates of communicable and non-communicable diseases compared to the non-indigenous people can be traced to various social determinants of health, and less access to healthcare services. They also have high mortality, malnutrition and under-nutrition rates and lower life expectancies⁹ due to the historically existing “profound infrastructure deficit”¹⁰ characterized by the lack of or poor access to sanitation and clean water, inadequate quality medical services and housing, living in territories contaminated with uranium, coal and other mines,¹¹ among others. Further, limited accessibility due to geographic location, e.g., those in island groups and geographically isolated areas put many indigenous communities at the risk of being left out in the pandemic responses. The stigma and discrimination against Indigenous Peoples in healthcare settings compromise quality standards of healthcare and discourage them from accessing healthcare, if and when available.¹² The pandemic exacerbates existing social and economic inequalities that impact Indigenous Peoples, including indigenous women, youth, children and the elderly.¹³

Cash-dependent Indigenous Peoples whose sources of livelihood and mobility are limited due to restrictions experience severe difficulties. Loss of elders¹⁴ to the virus can be devastating, not only as individuals, but as their communities' keepers and transmitters of traditional knowledge, skills, practices, indigenous culture, and custodians of customary law, governance, and language. The effects and impact of diseases on indigenous women¹⁵ deepen existing gender inequalities and discrimination, as they are often over-represented in vulnerable and underpaid sectors, largely within the informal economy.¹⁶ In many indigenous communities, children, adolescents and young people do not have access to the internet at home which hinders their continued schooling in the form of distance learning through digital technology that has been adopted by governments.¹⁷ Indigenous Peoples in voluntary isolation or living in remote areas are already threatened populations and they lack immunity to diseases introduced by outsiders, and infection from the COVID-19 virus could lead to their extinction.¹⁸ Internally-displaced Indigenous Peoples and refugees are being forced out of their homes while facing the threat of the pandemic and living amid inadequate life needs.¹⁹

The lack of official disaggregated data affects the appropriate response to infections among Indigenous Peoples. Data by ethnicity are often not recorded, are incomplete or misclassified, resulting in Indigenous Peoples largely being excluded from any formal social protection systems, thus few have access to medical and financial support in times of crisis.²⁰ Not only is disaggregation a problem in the demographic data on Indigenous Peoples, but their being excluded and identified as “Other” thus technically renders them as non-existent.²¹ Many indigenous communities have limited access to timely and reliable information in a language they understand and in a form they can relate with, thus they are denied informed decisions on the pandemic.²² The limited capacity of governments to monitor Indigenous Peoples' situation and exercise of their rights during the implementation of containment and mitigation measures to deliver relief and amelioration services--and to ensure that they themselves receive these in a manner that is respectful of their rights--increase Indigenous Peoples' vulnerability, making them prone to socio-economic marginalization and risk during public health emergencies.²³

On the other hand, communal undertakings which are a source of resiliency and a hallmark of Indigenous Peoples' lifestyles can also facilitate the spread of the virus. Cultural observations of the life cycle, of loss and victory, of the seasons, among others, require community gatherings. Other indigenous societies live in multi-generational housing and long-house structures which can be risky for vulnerable individuals. Concern has been raised on planned, new and renewed initiatives on natural resource extraction and implementation of development projects in indigenous territories as part of pandemic recovery measures, and entry of outsiders may bring in viruses, among other concerns.²⁴

Governments failed to abide by the advice of the Special Rapporteur on adequate housing as a component of the right of Indigenous Peoples to an adequate standard of living, and on the right to non-discrimination, specifically calling for a moratorium on all evictions during the pandemic.

In India, various State Governments took advantage of the emergency health situation to ruthlessly evict Indigenous Peoples from their homes and lands. Forced eviction of tribal families by the forest department were reported from April 2020 to September 2021 with houses burned and demolished, food grains set on fire, standing crops and agricultural lands damaged/destroyed, and victims subjected to physical torture during eviction.

In Brazil, President Jair Bolsonaro has been accused of murder, even genocide, "for his role in the country's "stratospheric" coronavirus death toll, according to a draft report released in October 2021 from a senate inquiry into Brazil's COVID-19 crisis. In a news report,²⁵ he actually targeted to neglect Indigenous Peoples by vetoing several points of a law aimed at protecting indigenous communities against COVID-19 in July 2020 through the establishment of an emergency plan to combat the pandemic in indigenous territories and classifies Indigenous Peoples and other traditional communities as "groups in situations of extreme vulnerability."²⁶ Brazil's vaccination scheme was criticized as stoking discrimination and segregation as it excluded many Indigenous Peoples who did not have access to the State's unified health system when the Brazilian constitution mandates the special protection of Indigenous Peoples by the State, and thus the need to have a vaccination plan that was tailored to the health and social determinants of the Indigenous Peoples.²⁷

Alarming, indigenous rights defenders report²⁸ that the invaders conducting deforestation within South America's second-largest forest spanning northern Argentina, Paraguay, Bolivia and Brazil, are also the vectors for COVID-19 transmission. They come from urban centers with high infection rates to isolated indigenous territories, thus getting in contact with the Indigenous Peoples there, often resulting in violent clashes as indigenous and peasant farmer communities defend their territories. According to the Yanomami peoples' associations, more than 20,000 gold diggers invaded their land in 2020, spreading violence, infectious diseases, mercury in rivers, alcoholic beverages and drugs in communities, with some children even being put in contact with drugs and alcohol. A report from the Bolivian Chaco stated that 46 indigenous territories faced more than 1,101 cases of COVID-19 infections in 2020 attributed to the presence of companies that operate in their territories.²⁹

B. Impact of Mitigation and Preventive Response Measures on Indigenous Peoples

Under the advice "Protect yourself and those around you," the WHO issued the following basic health and safety protocols, which were adopted and implemented by governments to contain the spread and mitigate the effects of the virus: get vaccinated, maintain physical/social distancing and avoid crowds, wear masks, ensure personal hygiene like frequent hand washing, and self-isolate until recovery if one develops symptoms or tests positive for COVID-19.

Immediate containment was the initial response of governments and Indigenous Peoples to the pandemic. Governments set up COVID-19 response bodies or structures and enacted emergency legislation to meet pandemic requirements; enforced confinement measures like lockdowns, curfews, quarantine, border closure/controls; imposed

health and safety protocols by restricting travel, limiting or banning public gatherings, closing schools, imposing use of face masks and physical distancing, among others; and immediate fiscal response measures like creation of targeted funds for relief. The governments of Canada and the United States dedicated funds for Indigenous Peoples specifically for medical support and economic stimulus, and guidelines were issued, some in indigenous languages. Some governments declared a state of public health emergency to mobilize the resources to implement their response programs without being constrained by financial obligations.³⁰ On the other hand, government-imposed restrictions resulted in economic slowdown, or even shutdown of some industries, declines in domestic consumption and investment, and disrupted global and regional supply chains.³¹

The capacity of Indigenous Peoples to observe these preventive measures exposes the result of government neglect, and the legal and policy frameworks that disenfranchised and disempowered them to effectively face disasters or emergencies like the COVID-19 pandemic. The biosafety protocols had immediate impact on Indigenous Peoples and have long-term implications on their survival and well-being. All these have economic impacts on individuals as they are crucial productive resources in their economies. If people are healthy, they can contribute productively both for their individual and collective needs. It should be noted though, that Indigenous Peoples' health is dependent on their access to the natural resources within their territories which are important components of their well-being, survival and sustenance.

B.1 Right to adequate standard of living

Access to safe and clean water and sanitation

Access to clean and adequate supply of water to maintain sanitary conditions and hygiene is basic and crucial in stopping the spread of COVID-19 and in mitigating its effects on health. Indigenous Peoples' lack of or limited access to clean running water puts them at a higher risk of being infected. In the United States, 30 per cent of the Diné (Navajo) Nation's citizens live in remote areas without running water and/or electricity,³² and "58 out of every 1,000 Native American households lack complete plumbing, as opposed to three out of every 1,000 white households... (R)ace is a more significant predictor of plumbing access than any other factor."³³ The Economic Commission for Latin America and the Caribbean (ECLAC) reports that the uncertain and unsure access to water in many Latin American countries puts indigenous children "in a situation of high vulnerability" during the pandemic,³⁴ and more than 50 per cent of Indigenous Peoples in several countries have limited access to sanitation at home.³⁵

Access to livelihoods and means of subsistence

Restrictions on freedom of movement/mobility and the required physical distancing took a toll on the Indigenous Peoples' capacity to access food, housing, jobs and livelihoods, transportation, markets, traditional sources of medicine, and to practice their traditional food production systems and culture. Loss of income and livelihood sources disabled them to access food, basic necessities and the means to prevent infection and avail of treatment when sick. Severely affected were those whose livelihoods require mobility like the Batwa pastoralists in Uganda,³⁶ those practicing rotational agriculture, and daily wage earners. Closure of workplaces forced indigenous migrant workers, including overseas contract workers, who, aside from losing their income, also lost their accommodations and were unable to return home immediately due to lack of transportation.³⁷ They were exposed, especially women, to further vulnerabilities like trafficking and abuse.³⁸ The same is true for indigenous students based outside their villages, who upon their return home possibly carried the COVID-19 virus.³⁹ On the other hand, their return to their villages is also an opportunity for intergenerational transmission of knowledge from the elders.

Those dependent on tourism and commerce, like women who benefit from culture-based tourism by selling their handicrafts, had their income immediately cut off.⁴⁰ Eighty per cent of Rapa Nui's (Easter Island) population who are fisher folk, artisans and ranchers and totally dependent on tourism lost their income when the government closed

its border.⁴¹ Native American nations whose revenues come from casinos and gaming facilities suddenly lost their income when they closed down to prevent infection and protect the health of their constituencies, even as most indigenous communities reported late and inadequate government aid and stimulus packages.⁴²

Tourism is a vital contributor for poverty alleviation, job creation, socio-economic growth, and environmental protection in Southern Africa, particularly for Indigenous Peoples whose livelihoods depend on it. It is often the sole employer for rural communities throughout Botswana, Namibia and South Africa where selling handicrafts and artwork is the only means of survival for many Indigenous Peoples. Safaris in Namibia and Botswana involve excursions into indigenous communities which normally allow them to earn a living. Working as tourist guides in said places also brings Indigenous Peoples into contact with possible virus carriers who spread this to the community.⁴³ In Namibia, for example, the Himba markets are popular tourist destinations, but now pose a risk to Indigenous Peoples due to the high possibility of tourists bringing the virus. The COVID-19 pandemic has potentially far reaching impacts on communities within wildlife areas.

The Asia-Pacific Economic Cooperation (APEC) reports that among their members, the economies of Indigenous Peoples that traditionally centered on activities such as tourism, food production, mining, and art production, took a real hit in 2020. The impact varied based on the sectors and businesses they belong to, but definitely, tourism-based economies were seriously affected with enormous losses of income for many indigenous communities. APEC cites that unemployment rate among the Māori in New Zealand increased from the start of the pandemic to December 2020 but declined steadily since then until June 2021 to 7.8 per cent, compared to the 3.9 per cent unemployment rate among the non-Māori.⁴⁴

Access to adequate food

The Indigenous Navigator reports⁴⁵ rising food insecurity among indigenous communities which is related to their right to land, territories and resources, subsistence, livelihoods and traditional health remedies. Indigenous Peoples in Bangladesh reported limited access to food due to lost incomes and livelihoods.⁴⁶ Those who have lost or are about to lose their lands and territories highlighted the fact that many communities are no longer self-sufficient in food production due to the continuing entry, encroachment, grabbing, and other forms of disenfranchisement, illegal and State-sanctioned initiatives on their territories. There are those particularly affected by disputes over conservation and development projects, illegal activities and armed conflict. Add to these natural calamities like typhoons, drought, and fires that impact on Indigenous Peoples' right to food. In Asia, some Indigenous Peoples who produce food in their own territory are much more resilient than their counterparts living in urban areas because their lands are governed by indigenous political structure which ensures the well-being of its constituency.

With tourism being closed in many countries, Advancing Rights in Southern Africa (ARISA) reports⁴⁷ that in Africa, the Khomani San of the Kalahari who were dependent on hunting packages on the vast tracts of land they own around the Kagalagadi Transfrontier Park were suddenly without any livelihood, leaving them to face starvation and charged for poaching when they had to hunt for food. ARISA also reports that indigenous territories are being shrunk, like that of the San peoples in Angola whose hunting and gathering areas have been reduced due to the implementation of government mega-projects. The San peoples are prohibited from accessing areas within their territories which had been demarcated by the State for agricultural and mining projects. The issuance of movement permits which is limited per day, limits access to food as experienced by Indigenous Peoples in Botswana who live in remote places.

Access to social protection/security and social amelioration programs

Many governments in Africa do not have dedicated social security programs for Indigenous Peoples.⁴⁸ The United States⁴⁹ and some governments in Asia and Latin America provide some support measures which are either deemed insufficient, inaccessible, or inappropriate, or tinged with corruption and discrimination. In the Philippines, the Modified Conditional Cash Transfer for those not covered by the regular cash transfer program includes Indigenous Peoples. Some governments expanded existing general cash transfer programs to accommodate displaced workers and micro-businesses, but these measures are inadequate to tide over the beneficiaries until a degree of sustainable sources of income and livelihood is reached.

In India, tribals without ration cards are automatically excluded from the National Food Security Act, hence also from the government's food relief package.⁵⁰ In Namibia, the San people could not access emergency income grants as they did not have the required identification and cell phone to access the assistance package.⁵¹ Language is also a barrier in accessing government programs and policies that could benefit them.⁵² Generally, many Indigenous Peoples work in the informal economy ranging from services including domestic work, hospitality and tourism, to commerce, transport, manufacturing and construction,⁵³ thus in the main, they are not covered by government social protection programs.

B.2 Right to Participate in Cultural Life and Defense of Territories

Disruption of traditional practices, political mobilization and social support

The Indigenous Navigator reports that Indigenous Peoples view prescriptions on physical distancing and mobility as disruptive of their traditional ways of life. Social distancing is a foreign concept for Indigenous Peoples living in groups, and indigenous “family and community structures are intrinsically collective and strongly socially cohesive.”⁵⁴ This is especially highlighted in the way Indigenous Peoples handle death which is observed with elaborate group and/or community-wide ceremonies, including extended wakes to accompany the dead to the next life. In some indigenous societies, cremation is taboo, thus the requirement to cremate the bodies of those who died of COVID-19 has been one of the most difficult options Indigenous Peoples have to accept.⁵⁵

Violations of these protocols have been a factor in the rapid increase in COVID-19 cases in indigenous communities. Bans on travel, face-to-face meetings, and social gathering severely disrupted the observance of traditional practices and cultural obligations⁵⁶ which are occasions for intergenerational transmission⁵⁷ of indigenous knowledge.

By their egalitarian nature, many indigenous communities usually make important decisions, including political mobilizations or conflict resolution during traditional gatherings after lengthy discussions,⁵⁸ which are now constrained by the limitations on face-to-face mass gatherings and physical distancing. Technology has not helped indigenous individuals and communities that are not wired, thus depriving them of social connections and disabling them from accessing help.⁵⁹ Isolating the elderly is difficult where they are pillars of authority and heads of families. Elders are at the foundation of indigenous societies thus, “Every time one of those elders leaves this world, it's like a whole library, a whole beautiful chapter of our history, of our ceremonies—all that knowledge, is gone. It's not written, it's not dictated, and you're not going to find it on the internet.”⁶⁰ Adjustments are being done for passing on information through virtual platforms to indigenous youth, but these are not the same as sitting with the elders.

Defense of lands, territories and resources

Social distancing and travel restrictions weakened the capacity of Indigenous Peoples to defend their lands, territories and resources. Government field workers responsible for protecting reserves, monitoring operations of extractive industries, and such similar functions, cannot go on field or had been pulled out, thus allowing loggers, miners, land grabbers and poachers, and others with criminal intents, to have a heyday.

Mongabay reports similar situation in other places of increased illegal harvesting of tropical forest products and sustained demand for these despite the massive economic downturn in numerous countries in Asia and South America with “firm evidence of increased forest clearances in Brazil, Colombia, Cambodia, Indonesia, Nepal and Madagascar, with more anecdotal reports emerging from Myanmar and Peru.”⁶¹ Thus, while the pandemic immobilized indigenous communities and government watchdogs to defend indigenous territories, these are continually being exploited by illegal parties.

On the other hand, efforts of some Indigenous Peoples to impose their own protection measures were threatened with criminalization by governments. The Ogala Lakota and Cheyenne River Sioux Nations in South Dakota were issued notice of legal action by the governor if they do not dismantle the checkpoints they set up against entry into their lands as a protection measure which they rightly refused to do as exercise of their right to self-determination.⁶²

Continuing militarization, violence and criminalization, human rights violations

Some States implement COVID-19 response measures through authoritarian and militarized responses such as crackdowns on civic space and peaceful protests. Enacted laws restrict freedom of expression and target indigenous human rights defenders who are subject to violence, criminalization, intimidation, harassment and even killing. Indigenous Peoples who protest against destructive projects and land grabbing in their territories are labeled as terrorists and subject to criminal laws, their traditional protection strategies prohibited. Indigenous workers in the informal economy, especially in urban areas, have been arrested for violating lockdown or quarantine protocols simply because they have to go out to work for their families’ survival.

In India,⁶³ while people were dealing with the pandemic, the state governments were grabbing Indigenous Peoples’ land in the name of afforestation, in the process taking away the land, employment and livelihood of adivasis and forest dwellers.

Adivasis face criminalization and threats of arrest for protesting against injustice and various forms of oppression. They are charged for violating COVID-19 protocols when they protest against government projects and plans, as in the case of thousands of adivasis who staged a protest walk in October 2021 to the state capital Raipur against the planned coal mining in the forests of Hasdeo Arand in Chhattisgarh.⁶⁴

An Ayoreo leader from the Paraguayan Gran Chaco reported that companies deforest his community with impunity, without any community consultation or concern about spreading the COVID-19 virus, considering that income, food and water are scarce.⁶⁵ The same report attributes the companies’ operations in the territories as the source of COVID-19 infections in the Bolivian Chaco. It also mentions that a spike in deforestation in the Colombian Amazon is due to reduced government supervision, preparation in anticipation of an extended lockdown, the “mobilization of armed groups,” or a late dry season in the country.

*Attacks against organized defenders of the territory have increased. With the lockdown, we were all supposed to stay put in our homes, away from the risk of contagion; confinement was supposed to guarantee at least a respite of protection to our health, but the operations have continued.*⁶⁶

- Luz Mery Panche Chocue
Indigenous woman from the Nasa ethnic group in Colombia

*Unearthed*⁶⁷ reports that since the declaration of the public health emergency in March 2020 and due to the biosafety protocols, human rights violations, like murders, injuries, threats, and other forms of violence in Colombia have not been documented and are actually increasing. Human rights defenders are prevented from seeking help from government oversight bodies and human rights organisations while armed groups lord it over since indigenous territories are far from government centers. Further, it is reported that 90 per cent of the attacks are against human rights defenders who are fighting resource extraction projects and the contractors conveniently escape responsibility for the violence.⁶⁸

In April 2020, Philippine police forcibly dispersed Indigenous Peoples and supporters from blocking fuel tankers of the OceanaGold Didipio mining which is being protested by the indigenous communities and the provincial government, thus violating their right to freedom of assembly to object to the mines' continued destructive operations.⁶⁹ Unfortunately, the government further proceeded to renew the company's license to operate for another 25 years.

C. Gender Disparity and Violence Against Women

THE UN Women reports that the pandemic magnified the plight of indigenous women with increased domestic violence and sexual abuse as evidenced by over 50 per cent⁷⁰ calls for help in emergency helplines in some countries. These forms of violence and discrimination impact on indigenous women's ability to progress in the labor market.⁷¹ ARISA and the Indigenous Navigator report an increase in domestic violence due to loss of jobs, aside from mental distress.⁷² The Organization of American States (OAS) reports that based on Latin America's experience with other epidemics, there are differentiated impacts of any crisis on women in all aspects of their lives. Their nurturing roles as healthcare givers in health centers and as workers in the informal economy and the service industry expose them to higher risks of infection, as well as increased burden as unpaid workers, especially as carers of their families.⁷³

Additionally, they are tasked with traditional chores like water collection which increased during the pandemic when most families had to be at home.⁷⁴ Due to their presence in the informal economy,⁷⁵ especially as handicraft and small producers for the tourism industry, many indigenous women⁷⁶ lost their livelihoods but could not effectively access social protection programs⁷⁷ and economic stimulus measures.⁷⁸ These, and isolation measures and stay-at-home orders, put a heavy emotional and mental toll on indigenous individuals and communities. The psychosocial and financial stressors caused by the COVID-19 crisis led to increased domestic and interpersonal violence, especially on women and children, as observed among Native Hawaiians and Pacific Islanders.⁷⁹

[T]he pandemic magnified the plight of indigenous women with increased domestic violence and sexual abuse as evidenced by over 50 per cent calls for help in emergency helplines in some countries.

C. GLOBAL TRENDS OF GOVERNMENTS' RECOVERY PLANS RELEVANT TO INDIGENOUS PEOPLES

Governments had to deal with the longer-term impacts of the virus while taking emergency measures to address the economic woes. Early on, the World Bank (WB) warned that the COVID-19 pandemic has triggered a global crisis like no other that, besides the enormous human toll, it is leading the world to the deepest economic recession since the Second World War.⁸⁰ Governments scrambled to craft recovery plans to get their economies out of recession and to prevent them from total collapse. But just as countries were registering high vaccination rates to achieve momentum towards sustained economic recovery, the emergence of the new COVID-19 variant Omicron plunged economies again, cautioning governments with their plans.

The December 2021 statement of the International Monetary Fund (IMF) called for global cooperation to support economic recovery and control the spread of the new variant that affected over 40 countries. The IMF warned that although the global economy continued to recover, “the recovery faces many risks, including the uncertain path of the pandemic amid the arrival of new variants, and the outlook on inflation.”⁸¹ It appears that no economic recovery was in sight without vaccination as a major component as COVID-19 cases were still on the rise. The IMF said the first urgent action is to reach a vaccination rate of 40 per cent in each country by the end of 2021. WHO aims to have 70 per cent of each country’s population vaccinated by mid-2022 and opened the year with the warning that “Vaccine inequity is a killer of people and jobs, and it undermines a global economic recovery.”⁸² WHO added that “the inability of world leaders to work together to increase vaccine coverage in poorer nations with less-developed health systems was one of the biggest failures of 2021.” IMF downgraded its initial forecast of earlier recovery to last until 2023 and almost all national economic bodies are cautious due to the emergence of new variants that create increased uncertainty.⁸³

Many countries reported surges in cases after the year-end holidays. As 2022 started, WHO reported that all geographic regions reported weekly increase of cases, with the Americas, particularly the United States, reporting the largest increase of 100 per cent. Due to new threats, travel restrictions were re-imposed by many governments, severely affecting industries like tourism and hospitality, trade, supply chains, among others. There is no indication of drastic changes in recovery plans, only that some governments are putting some measures on hold. In its end of November 2021 forecast, the Organisation for Economic Co-operation and Development (OECD) said that global recovery could be further derailed by the new variant amidst loss of momentum and uneven recovery, thus, lower global output.⁸⁴

Above all these, the UN Special Rapporteur on the rights of indigenous peoples (UNSRIP) urged that economic recovery measures must support “solutions led by Indigenous Peoples themselves and place Indigenous Peoples’ rights to self-determination and land at the core of COVID-19 recovery efforts, in line with the United Nations Declaration on the Rights of Indigenous Peoples.”⁸⁵

A. Facilitating Measures

A.1. Strengthening healthcare systems

There is no time to spare. All governments must immediately resume and accelerate efforts to ensure every one of their citizens can access health services without fear of the financial consequences. This means strengthening public spending on health and social support, and increasing their focus on primary health care systems that can provide essential care close to home.

- Tedros Adhanom Ghebreyesus, WHO Director-General⁸⁶

Prerequisites to economic recovery plans that governments should consider are a strengthened healthcare system and high vaccination rates. This is an opportunity for governments to address both the framework and infrastructure deficit on health services for Indigenous Peoples. The Office of the High Commissioner on Human Rights (OHCHR) reports⁸⁷ on several initiatives undertaken by States to address COVID-19 related concerns of Indigenous Peoples.

It cites Australia's work with Aboriginal and Torres Strait Islander peoples to develop the *Management Plan for Aboriginal and Torres Strait Islander Populations*, and to ensure the safety of all indigenous Australians identified as a priority population in its Australian Health COVID-19 Emergency Response Plan. New Zealand developed a COVID-19 Maori response action plan and supports Māori communities in tackling COVID-19, including Māori health providers for outreach and testing, setting up community-based assessment centres, and delivering care and hygiene. Costa Rica issued its *Technical Guidelines for the Prevention of COVID-19 in Indigenous Territories* and the *Action Plan for Addressing COVID-19 in Indigenous Territories* that take into account the indigenous worldview on health and well-being.

Colombia and Peru formed the Bi-national Committee to address the specific situation of Indigenous Peoples in the Amazon trans-border areas. Panama improved basic services and infrastructure, and programmed to strengthen the health response capacities of its 12 indigenous territories, including purchase of water and land ambulances, medical supplies and adequate equipment for the indigenous population infected with the virus. The Russian Federation adopted virtual and tele-medical technologies and developed a monitoring system to deliver medical assistance to nomadic Indigenous Peoples in inaccessible areas, and provided essential products and goods to help Indigenous Peoples in self-isolation while supporting the sale of their traditional crafts. Food production support was reported in Chile and Norway, while Greenland established stimulus packages for its Indigenous Peoples working in the private sector and indigenous employees.

A.2. Adequate, timely, relevant data and communications

Information on the pandemic and government responses must be appropriately delivered to indigenous communities to guide their decisions. Peru's Ministry of Culture developed and implemented the Alerting, Tracking, and Monitoring Strategy in COVID-19 for suspected cases among indigenous and native peoples through the *Information and Early Warning Service in Indigenous Languages for the Prevention and Mitigation of COVID-19 in Indigenous or Native Peoples of Peru*.⁸⁸ The same OHCHR report says that Australia's Management Plan for Aboriginal and Torres Strait Islander Populations aims to ensure a two-way flow of communication between national level-health bodies and Aboriginal Controlled Health services apart from engaging an Aboriginal-owned media to develop communication materials on COVID-19 with indigenous language translations.

It also cites Chile's radio campaigns, social and print media distribution of health safety measures in indigenous languages, which Canada and New Caledonia are also doing with both government agencies and indigenous organizations. The government of Greenland established a telephone hotline for COVID-19 related matters, including one dedicated to children.

A.3. Food, jobs, and livelihoods

With jobs, livelihoods and means of subsistence severely impacted, financial and logistical policy and support are necessary to get Indigenous Peoples out of the graver poverty caused by the pandemic. In June 2021, the Canadian government announced the renewal of the Indigenous Community Business Fund (ICBF) which provided an additional \$117 million to support indigenous microbusinesses and community- or collectively-owned businesses across the country that do not qualify for other existing business supports, and whose revenues have been affected by COVID-19.⁸⁹ In the United States,⁹⁰ a \$350 billion emergency payroll relief to small businesses did not include tribal businesses like casinos, which are the financial lifeblood of many tribal governments, due to the technical interpretation of the Small Business Administration (SBA) which oversees the fund. The SBA interpreted the regulation as prohibiting small businesses from getting federal aid if they get one-third of their revenue from gaming activities as applicable even in emergency situation. These casino-dependent economies lost so much precisely because their businesses closed due to the pandemic.

B. Measures that Negatively Impact on Indigenous Peoples

Indigenous lands, territories and resources of Indigenous Peoples have been the main or significant drivers of many countries' economies which governments depend on in the recovery period. Though there are calls "not to do business as usual," reports on the ground point to the contrary: accelerated exploitation of Indigenous Peoples' land, territories and resources; undermining Indigenous Peoples' rights and weakening of legal protection and safeguards; and violation of human rights to adequate standard of living, to be consulted and to redress.

The pandemic has not led to the cancellation of foreign debts of many countries which are homes to Indigenous Peoples. This is evident in governments' response to a proposal by a consortium of indigenous organizations in Peru and Ecuador, called the Amazon Sacred Headwaters initiative, to protect most of the Amazon rainforest in Peru and Ecuador by 2025.

Despite the Ecuadoran and Peruvian government officials' positive responses to the initiative at COP26, they have told the alliance that repaying foreign debt poses a challenge. Currently, both countries rely heavily on revenues from their respective extractive industries operating within the Amazon, to help pay off their debts... (the) international debt is an issue—it's pure destruction. They are trapped in that way.⁹¹

New Zealand's Prime Minister, as 2021 APEC chair declared that "COVID-19 has presented the region with an opportunity to reset...to focus on the choices that will support the Asia-Pacific's future generations, such as decarbonisation and empowering our Indigenous Peoples.⁹² However, the Aotearoa Plan of Action is still framed in WTO rules and aiming for "economic integration in the region in a manner that is market-driven, including through the work on the Free Trade Area of the Asia-Pacific (FTAAP) agenda."⁹³

B.1. Undermining Indigenous Peoples' rights and weakening of legal protection and safeguards

Some governments are taking advantage of the pandemic by imposing constraints on Indigenous Peoples' ability to defend and assert their rights, while accelerating natural resource exploitation and furthering corporate agenda. Environment protection enforcement was suspended, legal safeguards were dismantled and bypassed, and regulations were eased to fast-track development projects that Indigenous Peoples have long opposed. Domestic and foreign investments pushed through, undermining environmental protections and Indigenous Peoples' rights, resulting in environmental harm, violent conflicts over territories and viral exposure through contact with incoming workers.

The UNSRRIP prepared a comprehensive report⁹⁴ on the impact of COVID-19 State recovery laws and policies on Indigenous Peoples and found that some governments used their emergency orders under the pretext of COVID-19 response to accelerate resource exploration and extraction, while delaying land demarcation and official recognition of invaded areas; giving amnesties to illegal logging, fishing and gold prospecting; curtailing certain avenues for monitoring and resisting land incursions from business interests, among others, in indigenous territories. As Indigenous Peoples face the onslaught of the pandemic, the threats to security of land tenure continue as manifested in rising illegal deforestation, incursions, and land grabbing, all leading to violent confrontations and killings, further resource extraction, pollution, food insecurity, deforestation and evictions.

In India,⁹⁵ the government issued the Draft Environment Impact Assessment Notification 2020 which exempts certain projects from public consultation, denying the Indigenous Peoples of their right to be consulted or to give their consent before any project can start in their areas which is guaranteed under the Panchayats (Extension to the Scheduled Areas) Act, 1996, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and judgments of the Supreme Court. It also proposed amendments to the 1980 Forest (Conservation) Act which will dilute the safeguards given to the Indigenous Peoples under the Indian laws.

Case in Point: BRAZIL

President Jair Bolsonaro's outright denial of climate science and protection of indigenous land amid the pandemic was reflected in his Cabinet's plot to exploit the distraction of COVID-19 to roll back protection of land, water and Indigenous People (sic).⁹⁶ Brazil presents the most egregious case of government's violation and weakening of Indigenous Peoples' rights: appropriation of lands and resources even before the pandemic which worsened during the health crisis and outright denial of services that some consider genocidal.⁹⁷

In an August 2019 report,⁹⁸ leaked official government documents revealed the campaign to weaken Indigenous Peoples' rights and block environmental protection programs to facilitate dams, bridge, and road construction projects in the Amazon. Endorsed by the country's powerful agricultural lobby, the government drastically eased enforcement of environmental laws, and reduced fines on environmental law violations in 2019. Critics⁹⁹ accuse Bolsonaro and his allies of using the pandemic to rush amnesty for past destruction and occupation of forested land, and pushing new rules to weaken safeguards against the invasion of indigenous lands and the deforestation of the Amazon.

In August 2021, Brazil's Lower House legalized land-grabs up to 2018, and allowed squatters on public land to receive deeds to their properties as initially proposed by Bolsonaro.¹⁰⁰ Though the bill still has to be passed in the Senate, environmentalists read this as a go-signal that "it pays to invade and deforest public lands."¹⁰¹ Even the designation of indigenous lands for demarcation as "indigenous" in the agency's land registry was lifted, "whether or not Indigenous People (sic), including isolated tribes, live on it."¹⁰²

Land grabbers can legalize their ownership of land which will lead to even greater deforestation, including territories of Indigenous Peoples in isolation. Besides Bolsonaro's political interference and explicit contempt for conservation, the pandemic constrained the capacity of Brazil's environmental watchdog agencies, due to risks faced by the ageing staff members, and travel restrictions. Only a few agents are sent to the field, depriving indigenous communities of added protection. The head of an environmental protection agency was fired by the Minister of the Environment for performing his duty to remove gold-miners from indigenous lands in Pará.¹⁰³

That deforestation within Brazil's indigenous territories is alarmingly increasing in the time of the pandemic is indicative of the State's failure to honor both their obligations to respect, protect and fulfil Indigenous Peoples' rights, and to mitigate climate change. A study on the link between deforestation and the spread of COVID-19 among Indigenous Peoples in Brazil states that "the main mechanisms through which deforestation intensifies human contact between Indigenous and infected people are illegal mining and conflicts."¹⁰⁴

B.2 Acceleration of resource exploitation

The economic recession is being used by States to revive, continue and prioritize large-scale infrastructure projects, extractive industries, and agricultural development mostly opposed by indigenous communities in ancestral domains. Some governments officially recognized invaded areas, allowed forced evictions and displacement of indigenous communities, and failed to enforce private sector obligations to remedy adverse environmental impacts on indigenous territories.

In India in October 2021, thousands of Adivasis in Chhattisgarh took a 300-km. walk to the state capital Raipur to protest the plan to allow coal mining in the forests of Hasdeo Arand. Instead of the state addressing their concerns on the injustice and other forms of oppression, authorities threatened the Adivasis with arrest for violating COVID-19 protocols.¹⁰⁵ The Northeast and the Andaman and Nicobar islands, both predominantly home to tribals, are being opened to oil palm plantation with funding from the National Mission on Edible Oils-Oil Palm,¹⁰⁶ which could lead to "large-scale deforestation, disturbances to sensitive ecosystems and trigger land conflicts in tribal areas," with plans to scale up oil palm cultivated areas by 2025.¹⁰⁷

In Canada, the Alberta Provincial government committed over 1 billion Canadian dollars for the construction of the Keystone XL Pipeline, long opposed by Indigenous Peoples, to bring tar sands oil from Alberta through the US heartland and begin construction immediately despite the pandemic. This is a clear violation of the Indigenous Peoples' cultural, environmental and Treaty rights. In May 2020, the federal judge in Arizona ruled in favor of a bid to push through with uranium mining south of the Grand Canyon against the Havasupai tribe.¹⁰⁸ The United States federal government took the opportunity of crisis to revoke a local Mashpee Wampanoag Tribe's right to their land in Massachusetts.¹⁰⁹

In the Philippines, President Rodrigo Duterte retracted his threat to shut down mining operations by granting a new Financial or Technical Assistance Agreement to the Australian-Canadian miner OceanaGold in April 2020 for another 25 years, after its license expired in 2019, despite protests by indigenous communities and the provincial government. Duterte's spokesperson stated that «This decision recognizes that we need to have more jobs for our fellow countrymen in the time of the pandemic.»¹¹⁰

On a positive note,¹¹¹ on December 7, 2021, the State Business Court (PTUN) Jayapura confirmed the decision of the Sorong Regency to revoke the Planting Business Permit (IUP) of two palm oil companies, whose concessions are within the Moi peoples' territory in the easternmost region of Papua. The company will contest the decision while the lawsuit filed by PT Inti Kebun Lestari (PT IKL) for the same is still pending. Arguing that revoking the permits had harmed their companies, the firms sued the Sorong district head. The verdict comes two months after Indonesia said it would not approve new palm oil permits even after the lapse of a moratorium on plantations.

B.3 Impediments and violations to the right to FPIC

The right to be consulted in good faith, and to the free, prior and informed consent (FPIC) process, and access to remedies is being restricted due to health and safety protocols leading to incomplete, cancelled or prematurely concluded processes. States resort to remote virtual consultations which are not in line with Indigenous Peoples' cultural protocols or traditional forms of decision-making. This is apart from the technical and logistical challenges faced by affected indigenous communities that limit their meaningful and effective participation in the exercise of their right to self-determination in relation to the development in their territories.

In Brazil, the issue of the lack of FPIC on the Ferrogrão has been raised as early as 2017 by the affected Indigenous Peoples who assert that they were not consulted in its planning.¹¹² The pandemic situation is now being used to push for virtual consultations in contravention of the FPIC process which explicitly requires the process to recognize the diversity of forms of social organization and political representation of Indigenous Peoples. This is also disrespectful of the 2020 Inter-American Commission on Human Rights resolution 01/2020 which was issued to guide the OAS-member states to refrain from undertaking legislative initiatives or proceeding with the implementation of projects that may affect indigenous territories, due to the impossibility of conducting FPIC processes during this period of the pandemic.¹¹³

Reuters¹¹⁴ reported in September 2021 that Bolsonaro announced the construction of a power line in Brazil's Amazon region without the FPIC of impacted Indigenous Peoples.

In Peru, in July 2020, indigenous organizations rejected the proposal of the Minister of Economy and Finance to conduct a virtual prior consultation procedures for a mining project, and claimed that a virtual consultation damages and violates their collective rights, as this is not an indigenous process, apart from the fact that it is based on a technology to which they do not have access.¹¹⁵ Some governments are inclined to contravene FPIC principles which require the process to be respectful of the customary laws and protocols of Indigenous Peoples on consultation and consent. Colombia's Ministry of the Interior issued an external circular in April 2020 announcing that in the light of biosafety protocols, it intended to impose virtual consultation processes on rights holders.¹¹⁶

VACCINE EQUITY

The destructive consequences of this pandemic will be felt for years, if not decades, to come. They have revealed how existing and new crises collide, compounding vulnerabilities. On top of this, profits are still trumping humanity when it comes to the equitable distribution of COVID-19 vaccines. As a result, our society is on course for a wildly unequal recovery.¹⁵¹

– Jagan Chapagain and Francesco Rocca
International Federation of Red Cross and Red Crescent Societies

In many countries, the roll-out of vaccines has not reached Indigenous Peoples, nor have they been prioritized, especially those in remote areas. Some countries like Canada and Brazil have taken certain measures to prioritize Indigenous Peoples to receive an initial dose of the COVID-19 vaccine.¹⁵² However, Brazil's plan did not effectively serve all Indigenous Peoples due to the decision of uncontacted tribes and Indigenous Peoples in isolation to be respected as entry even by health workers might expose them to infection. Globally, there is vaccine nationalism, a competition on who first gets the supply of vaccines which marginalizes poorer countries, thus jeopardizing the vaccination of vulnerable groups, including Indigenous Peoples.

In India,¹¹⁷ the Ministry of Environment, Forest and Climate Change issued orders that disregarded new consultations for mining projects which had been granted environment clearance under the EIA Notification of 1994. The same agency seeks to amend the Forest (Conservation) Act, 1980 and which would directly impact the Indigenous Peoples living or depending on the forests as it is totally silent on the guarantees given to the Indigenous Peoples under Indian laws. All these are aimed at diluting public hearing processes that indigenous communities are entitled to while the government takes advantage of the health and safety protocols.

In Malaysia,¹¹⁸ the Malaysia Timber Certification Scheme (MTCS) granted in April 2020 permission for a multinational timber giant to extract timber from the forested area which has long been opposed by the community that maintains and protects the forest reserve.

B.4. Fulfilling the right to adequate standard of living

One good practice by governments is by the National Institute of Indigenous Peoples of Mexico which is preparing comprehensive regional development plans to identify strategies for recovery after the adverse economic conditions caused by COVID-19.¹¹⁹

In August 2021, the Canadian government included in its 2021 budget the Indigenous Community Infrastructure Fund amounting to Canadian \$517.8 million for Inuit communities. It is a distinctions-based fund to support immediate demands, as prioritized by indigenous partners to help close the infrastructure gaps by 2030 that contribute to social and economic inequities between Indigenous and non-Indigenous Peoples.¹²⁰

B.5. Economic, social and cultural rights

Some governments reduced budgets for existing social protection programs and financial assistance to benefit Indigenous Peoples and mitigate their economic losses. Some Indigenous Peoples do not always receive government benefits due to documentary (e.g., birth certificate, ID) and technical requirements (e.g., mobile phone accounts, bank account), and their circumstances, e.g., cultural definition of nuclear family and geographic location, among others.¹²¹ UNESCO raised the inadequate focus given to education in the governments' COVID-19 responses, such as ensuring internet access for indigenous children.

The UNSRRIP also reports that some governments amended labor laws to remove some workers' rights and benefits. This would leave the most vulnerable to bear the financial burden of economic recovery, especially indigenous workers who are already vulnerable due to discrimination and systemic exclusion, high levels of poverty, lack of education and unemployment. According to APEC, previous global financial crises affecting Indigenous Peoples have serious implications on their employment, largely because they are not in the main labor force or more likely not to enter the labor market due to perceptions or knowledge of discrimination.¹²²

The right to be consulted in good faith, and to the free, prior and informed consent (FPIC) process, and access to remedies is being restricted due to health and safety protocols leading to incomplete, cancelled or prematurely concluded processes.



An elderly and disabled couple Halkan Parhiya (73) and his wife Jagiya (69) belonging to the Parhiya tribe, one of the particularly vulnerable tribal groups, in Jharkhand's Garhwa district is on the verge of starvation after being deprived of their ration and pension amidst the pandemic. (Photo credit: Bhola Prasad)

D. GAPS IN THE RECOVERY PLANS AND CHALLENGES TO INDIGENOUS PEOPLES' RIGHTS AND WELL-BEING

Two years after the WB declared that though the global economy is set “to stage its most robust post-recession recovery in 80 years,” there will be expectedly uneven developments across countries, with major economies registering strong growth and many developing economies lagging.¹²³ The OECD likewise warns that the lack of “universal vaccine access is exacerbating differences between the recovery in developed and developing economies. The global economy will remain at risk to negative shocks, like new virus variants and supply chain bottlenecks, until vaccines are widely deployed.¹²⁴

The UN reports that from February to December 2020, governments around the world announced more than 1,600 new social protection measures in response to the crisis.¹²⁵ However, APEC claims that for many economies, a substantive analysis of the impact of economic recovery measures on Indigenous Peoples cannot be fully presented at this time because

the full effects of the pandemic have not yet been realized due to ongoing containment measures imposed to curtail the spread of new variants. Most economies have not yet resumed business as usual. Thus, the full economic effects of the pandemic on Indigenous Peoples will only be revealed once some semblance of normality has returned. Nevertheless, to ensure an equitable recovery and provide timely and targeted assistance, tracking the impact on and recovery of the economy of Indigenous Peoples is crucial.¹²⁶

Several factors hamper the recovery plans of many countries including the resurgences of COVID-19 due to new virus variants, uneven vaccination, and partial withdrawal of government economic support measures. In what the WB¹²⁷ refers as the lasting legacies of the pandemic, any recovery in the long term will be dampened by the erosion of skills from lost work and schooling, a sharp drop in investment, higher debt burdens, and greater financial vulnerabilities. The poorer economies will have a slower pace and it will be worse for those affected by conflict, some of whose per capita income has been set back by at least a decade.

In mid-2021, the UN issued concerns over vaccine inequity between countries and regions negatively impacting on an already uneven and fragile global recovery.¹²⁸ In the 3rd quarter of 2021, when the Delta variant was at its height, the APEC issued its regional analysis that unequal vaccine access leads to diverging growth,¹²⁹ and the OECD pointed out the critical need for a faster and more effective global vaccine rollout.¹³⁰ The UNDP, analyzing IMF's economic forecasts through 2020, then early 2021, showed that "the economic recovery rate is predicted to be faster for countries with higher vaccination rates."¹³¹

By mid-2021, COVID-19 vaccine equity was pointed out as crucial to lasting and sustained economic recovery for lower and lower-middle income economies.¹³² With majority of Indigenous Peoples found in these economies and the kind of healthcare systems thereat, their access to vaccines may be jeopardized and which may not be immediately be known due to limited available data.

The pandemic's devastating effects on health, macro-economic, and social spheres are still being felt and its effective containment is unpredictable in as far as enabling economies to recover. The virus' continuing mutation into several variants causes much uncertainty despite the efficacy of vaccines and effectiveness of measures to revive economies. The uneven situations, responses, and capacity of economies to absorb the needs to contain the pandemic put poorer countries in more vulnerable positions of recovery. The WB warns that "worse outcomes could arise if the pandemic and economic disruptions persist or cascading defaults amid high debt lead to financial crises."¹³³

According to the ECLAC, although the recession is making it difficult to implement public policies and strategies "aimed at reducing the inequalities that disproportionately affect the Indigenous Peoples of Latin America and the Caribbean," it is also presenting an opportunity to "(re)build a more sustainable and resilient planet."¹³⁴ The OHCHR reiterated underlying structural inequalities and pervasive discrimination experienced by Indigenous Peoples that were exacerbated during the pandemic. These need to be specifically addressed in response to this crisis and its aftermath.

The APEC reports¹³⁵ that indigenous communities all over the world displayed an extraordinary amount of creativity and resilience during the pandemic due to the significant and crucial role of kinship, community engagement, connections to the land, and the use of traditional knowledge and wisdom to combat the negative health and economic effects of the pandemic. Access to traditional lands helped several communities avoid food insecurity as they were able to support themselves by producing their own food.

The same study states that in several APEC economies, Indigenous Peoples were left behind in income and employment compared to the non-indigenous population between 2019 and 2020. It then suggests that understanding the economic impact of COVID-19 will allow governments to identify the unique vulnerabilities of their indigenous populations and target policy responses to avoid the negative consequences of past economic shocks. Further, APEC identifies the socioeconomic consequences of the COVID-19 pandemic to include reduced employment and loss of income; increased food insecurity; fewer protections against violence; and exacerbated mental health issues.

To help their governments become economically responsive to Indigenous Peoples, four APEC countries¹³⁶ assessed the impact of COVID-19 on Indigenous Peoples and their economy. Gaps were identified in the study data, information and challenges and the findings validate the lack of disaggregated data on Indigenous Peoples. It also mentions the lack of Indigenous Peoples' participation in the design and implementation stages of the data-gathering process including data from rural and geographically isolated areas thus, their worldview and cultural practices were not reflected in the study.

As the world coped with the swift spread of the virus, the urgency to rethink economic policy making was highlighted, which has so far been focused primarily on economic growth, neglecting critical investments in people and in building resilience. Governments have to address as well the pre-existing issues that impact Indigenous Peoples, and commit to the SDGs, strengthen climate change mitigation and human rights enforcement and protection.

*The Sustainable Development Goals are more important now than ever. Now is the time to secure the well-being of people, economies, societies and our planet.*¹³⁷

- António Guterres Secretary-General, United Nations

The OECD called for a rollback of distortive, inefficient and environmentally harmful support to free up “financial resources for investments in a more productive, sustainable and resilient food system able to meet new challenges.”¹³⁸ However, with governments scrambling for resources to fuel their own country’s economic recovery, land and resources in Indigenous Peoples’ territories become more attractive. Extractive industries as suppliers of metals and minerals are expected to be a key component to fuel economic recovery. With these developments, we see more mining in indigenous territories to fuel economic recovery.

One industry that was deeply impacted negatively is tourism which many Indigenous Peoples rely on for their economic activities and livelihoods and accounted for 10.6 per cent of total global employment.¹³⁹ The closure of international tourism in many countries meant lost means of their subsistence, so indigenous communities are clamoring for its gradual and safe reopening.

The UN Conference on Trade and Development (UNCTAD) calls on stakeholders to rethink tourism in view of concerns such as “over tourism” in many places pre-pandemic. The roles of Indigenous Peoples in tourism have been as beneficiary and host but seldom as the drivers of the bigger businesses. Thus, the recovery period should strive to put policies in place for Indigenous Peoples to drive the tourism industry in their territories, provide support for indigenous communities to effectively and efficiently run their own businesses, and capacity-building for building the industry according to their own self-determined priorities, and in line with sustainability principles.

The COVID-19 pandemic has underscored the urgency of accelerating progress towards digital inclusion. It highlighted the importance of ICTs for continued functioning of societies, but has also brought to the fore the startling digital inequalities between and within countries, especially for indigenous communities.¹⁴⁰

The use of technology, like the internet, is becoming a necessity to participate in education and employment, to access health services, to connect with others and other activities. Access to the internet is now a basic concern and issues of digital divide are apparent. Globally, only just over half of households have internet connection, according to United Nations Educational, Scientific and Cultural Organization (UNESCO).

The insufficient data on the situation of Indigenous Peoples in relation to the pandemic is a big gap in drawing a comprehensive picture of the impacts of COVID-19 and recovery measures on Indigenous Peoples, especially that their lives and societies are economically, socially, culturally, and politically intertwined. Due to their small number in national populations, deaths and incapacitation result in higher rates of loss for Indigenous Peoples. The loss of lives, especially of knowledge keepers, healers, leaders, among others, is important in analyzing the loss of Indigenous Peoples, as peoples.

Data is needed for economic sectors where Indigenous Peoples are involved. For instance, tourism is one of the heavily impacted sectors during the pandemic, where many Indigenous Peoples are involved especially that they and their territories are “cultural assets” and selling points in many national and global tourism programs. Related to this is the present status of conservation and protected areas during the pandemic, as these are part of the socio-economic resources of Indigenous Peoples. Positivity may be identified which can inform policy. There is dearth of

data on indigenous businesses which could indicate where policy support could be advocated.

There is data gap on how the pandemic could have helped in the intergenerational transmission of knowledge to indigenous children and youth to inform policy and legal reform. The situation of indigenous children and youth, especially on their health and education, need to be collected as they are the future of indigenous societies, and this recovery phase would be the best time to surface data on them.

A collection of strategies adopted and being undertaken by Indigenous Peoples as response, prevention, mitigation, and recovery measures to the COVID-19 should be done to comprehensively strengthen advocacy for Indigenous Peoples.



E. RECOMMENDATIONS

The following recommendations are directed mainly to governments as they should redress historical injustices and transform relations between Indigenous Peoples, duty bearers, and other stakeholders towards a new normal:

- **Ensure that COVID-19 recovery measures are relevant and not discriminatory to Indigenous Peoples and their human rights and their right to self-determination are respected, guided by principles of participation, consultation, inclusion, and solidarity.** Governments and States should observe international and legal frameworks on the rights of Indigenous Peoples such as the UNDRIP and other UN instruments, and regional instruments on human rights such as those for Africa and Latin America. Observe FPIC processes properly when considering any COVID-19 measure that directly or indirectly affects Indigenous Peoples' rights and well-being. Ensure their meaningful and substantive participation in the crafting, implementation, monitoring, and evaluation of all COVID-19 related recovery measures that impact on their lives. The design, implementation, and evaluation of damage mitigation and recovery measures should evaluate Indigenous Peoples' development priorities, placing particular emphasis on older Indigenous Peoples, people with disabilities, the leadership role of women and their needs, specific situation of children, adolescents, people with different sexual orientations or gender identities, people with health problems, and indigenous human rights defenders. Solidarity and cooperation among peoples and nations is important if all are to heal and recover together and vaccine equity highlights these more than anything else. Sharing of knowledge and tools that are useful and necessary for government responses to be effective and comprehensive shall be "based on the principles of transversality, intersectionality, inclusion and collaboration. Although it creates major challenges with respect to guaranteeing rights, this pandemic should also create opportunities to guarantee more rights for more people."¹⁴¹ Ensure that Indigenous Peoples' views and specific rights and needs are included when adopting and implementing legislative, administrative, policy, budgetary or regulatory measures in response to COVID-19,¹⁴² and observe their cultural protocols.¹⁴³ States should acknowledge and accommodate the cultural, spiritual, and religious rights and responsibilities of Indigenous Peoples when considering measures to respond to the virus. Take into account their worldview and distinctive concepts of health, which are inextricably linked with the realization of other rights, including the rights to self-determination, development, culture, land, language and the natural environment.
- **Make Indigenous Peoples' numbers count.** Any recovery or reconstruction of social systems requires timely, reliable, consistent, accurate, and disaggregated data by ethnicity, sex, age, disability, geographic location (whether living on traditional lands and territories as well as populations living in urban areas), migration status, among others. The COVID-19 pandemic stresses the strategic role of quality data to aid in identifying how specific issues can be addressed in terms of laws and policies, programs and services, budget allocations, and other pro-active response, mitigation and recovery measures and mechanisms during similar crises and emergencies. Not only States but also Indigenous Peoples, development partners, international organizations, civil society, the private sector and the general public can benefit from these.

- **Provide financial and technical support for data and statistical systems to ensure continuation of statistical operations, monitoring of emergency response efforts, and preparation of mitigation and recovery strategies and support data-generation and management by Indigenous Peoples.** It is vital for governments to use data collected by Indigenous Peoples themselves to highlight the importance of data stewardship in their own pandemic response. Integrate innovative data sources and the use of new data solutions through partnerships with civil society, the private sector and academia, and by integrating geospatial information and statistical data. Recognize the importance of making good use of the data collected on Indigenous Peoples and ensure that these be used to provide solutions to issues that they feel are most important to them. Prioritize the use of data to rectify socioeconomic inequities, and to support Indigenous Peoples to collect, manage, and use the data they need to control and plan the delivery of the services that affect them in the future.
- **Refrain from adopting legislative and administrative measures that affect the rights of Indigenous Peoples** during the pandemic and beyond, as well as from approving extractive, marine, agricultural or forestry expansion projects in indigenous territories to control disease transmission and its effects on indigenous territories, which must also be central to the design and implementation of economic recovery measures in the wake of the public health emergency caused by COVID-19.
- **Ensure that Indigenous Peoples have equal access and are provided with consistent, culturally appropriate and immediate healthcare,** aimed at addressing needs and concerns, in fulfillment of their right to an adequate standard of living including their economic, social and cultural rights without discrimination in any form and basis. Provide information on COVID-19, food, water and sanitation supplies, as well as other humanitarian relief, when necessary; and without discrimination, guarantee the necessary safety conditions for teachers, students and parents alike. Recovery measures must address the long-term needs and financial impacts of the pandemic on Indigenous Peoples in terms of education, employment, housing, health (including mental and sexual and reproductive healthcare) and other social services. These measures must be non-discriminatory, context-specific, age and gender-sensitive, culturally acceptable and with consideration of disability status; respectful of their rights as Indigenous Peoples, as women, as members of a particular sector, and right to self-identify. Transform government institutions to be more responsive through good-faith consultation and cooperation with Indigenous Peoples when developing facilities and infrastructure for healthcare, education, information and communication.¹⁴⁴
- Ensure that **Indigenous Peoples in voluntary isolation and initial contact exercise their right to self-determination and their decision to isolate be respected,** and for States to prevent outsiders from entering their territories.
- **Recognize and provide adequate support to community- and culture-based social prevention and protection mechanisms** implemented autonomously by Indigenous Peoples, or in compliance to State policy, as these are a fundamental contribution to their protection during the pandemic. Implement strategies to strengthen, expand and coordinate them with formal social protection systems to maximize their productive, social, economic, environmental and cultural potential at the territorial level. Such measures could serve as a basis for establishing extended, inclusive and culturally appropriate social protection.¹⁴⁵
- **Establish special financial assistance measures to address the socio-economic effects** of the pandemic, including threats to their traditional livelihoods, food security and food sovereignty, to enable them to cope adequately with the health emergency and its impacts, and ensure access to subsidies and safety net programs and food access in isolated areas, with a view to reducing the risk of contagion posed by travel to centers to access them.¹⁴⁶
- **Provide access to distance learning opportunities to indigenous men and women, especially children and youth,** with technology, infrastructure and logistical support to facilitate the continuity of their education; allow indigenous communities greater opportunity to work and study remotely and facilitate communication of emergency information during future pandemics and other emergencies.

- **Take into account and highlight Indigenous Peoples’ environmental conservation projects and initiatives**, including their traditional knowledge, medicines and health practices, conservation of their vital medicinal plants, animals and minerals.
- **Establish post-COVID-19 reconstruction activities and programs, subsidies, policies, and strategies, to maintain, support, strengthen and promote Indigenous Peoples’ traditional livelihoods, economies, and entrepreneurship** to ensure the sustainability of their communities and achieve resilience and self-reliance, with due consideration for women, youth, persons with disabilities, and migrants. Establish or strengthen State institutions in charge of indigenous issues and ensure that government strategies to tackle the pandemic are respectful of Indigenous Peoples’ rights and responsive to their realities, including their labour rights.¹⁴⁷
- **Formally recognize Indigenous Peoples’ land rights in the form of land demarcation and titling to protect their lands during and after the COVID-19 pandemic.** Refrain from introducing legislation and/or carrying out production and/or extractive projects and religious proselytization, within or on the border of indigenous territories in the duration of the pandemic, given the impossibility of conducting FPIC processes.¹⁴⁸ Adopt measures to ensure protection of Indigenous Peoples against encroachment on their traditional lands and ensure their access to natural resources that are essential to their traditional activities.¹⁴⁹
- **Exhort tourism industry stakeholders to reset and rethink the tourism orientation, and to fast track greener and more sustainable models.** Policy makers need to work with the tourism industry and indigenous communities, in particular, for a better balance between the economic, environmental and social benefits and costs associated with tourism development. Implement strategies with prominent health and safety considerations, clear policy and communication, on the epidemiological criteria to change travel restrictions and containment measures in response to virus outbreaks and the shifting sanitary situation.
- Specifically on climate change, governments should **heed economists and environmentalists’ warning not to neglect climate change in all recovery efforts of the pandemic.** Governments must define concrete steps towards making their climate change pledges a reality,¹⁵⁰ while recognizing and respecting indigenous peoples’ rights, their sustainable management of lands, territories and resources, and supporting their low-carbon, sustainable climate adaptation and mitigation strategies and actions.

Endnotes

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II

A Survey on the Impacts of COVID-19 on Indigenous Pygmy Peoples in the Democratic Republic of Congo

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A. CONTEXT OF THE STUDY

While Africa was preparing to open up to a new momentum to achieve a certain level of Sustainable Development Goals (SDGs) indicators, the World Health Organization (WHO) declared the Coronavirus pandemic (COVID-19) in December 2019, which shocked the entire world. Discovered in Wuhan City in Central China, the pandemic has since spread across all countries of the world, and the Democratic Republic of Congo (DRC), was not spared.

In March 2020, the COVID-19 pandemic in the DRC caused considerable changes in the daily life of the Congolese population in general and of the Indigenous Pygmy Peoples in particular. The application of health measures by the Congolese government such as the closure of schools and the restriction of social activities (prohibition of all gatherings, meetings, celebrations of more than 20 people in public places outside the family home), caused upheavals in terms of interpersonal relationships and mode of work, business, and education.

Globally, states' response to the pandemic has been varied, with some having rolled out COVID-19 programmes focused on Indigenous Peoples, others provided a more limited level of support while some other States, such as the Congolese government, did not adopt specific policies at all and even neglected to include Indigenous Peoples in their COVID-19 responses. However, Indigenous Peoples in DRC as active agents and drivers of change, adopted their own solutions to respond to the health crisis, drawing on their traditional knowledge and practices.¹

As one of their human rights, Indigenous Peoples have the right to be respected. Of particular importance to them during and after this pandemic crisis are the rights to self-determination and that of participating and being consulted on measures that affect them, including the obligation to be sought for their free, prior and informed consent. Alarming, these rights were glossed over by the Congolese State which enforced response measures without consultation with and therefore, the participation of Indigenous Peoples, who have always been marginalized if not unrecognized, in the DRC.

It is in this context that this study will attempt to analyze the measures taken by the Congolese State, and their impact on the rights and well-being of Indigenous Pygmy Peoples who live in poverty. This study will examine how the COVID-19 pandemic influenced the economic life of indigenous women, the elderly as well as people with disabilities.

B. EXECUTIVE SUMMARY

The world is facing an unparalleled health crisis that could be described as a war against the invisible. When COVID-19 appeared in December 2019 in the city of Wuhan in China, some regarded it as a transient disease with localized effects. But with its speed of spread, the WHO declared the viral outbreak as a health emergency of international concern on January 30, 2020, and since March 11, after having exceeded 120,000 cases diagnosed in 110 countries and territories all over the world, COVID-19 was declared a global pandemic.

The COVID-19 pandemic has disproportionately affected Indigenous Peoples and exacerbated underlying structural inequalities and widespread discrimination. These serious repercussions constitute the subject of the present study. The lockdown measures had a negative impact on the lives of Indigenous Peoples' in terms of food security and nutrition, because there was a significant slowdown in agricultural activity and a decline in food supply, and their general well-being.

This study analyzes/provides a general overview of the impact of the COVID-19 pandemic and suggests possible solutions that Indigenous Pygmies in various areas in the DRC can adopt. In general, this report reviews the impacts of COVID-19 pandemic on Indigenous Pygmy Peoples in the DRC.



C. METHODOLOGY

The present study was carried out through the following phases:

- Phase 1: Documentary analysis which included the exploration of the terms of reference as well as preparatory/unification meetings with partners including ANAPAC and IPRI at the national level. The documentary analysis focused on the COVID-19 pandemic in the DRC and its impacts on Indigenous Peoples and the measures taken by the Congolese government.
- Phase 2: Development of the questionnaire and identification of the Indigenous Pygmy leaders to be interviewed and heads of organizations involved in the defense and promotion of the rights of Indigenous Pygmy peoples. Several contact channels were used for this purpose including among others, telephone calls, face-to-face exchanges with indigenous leaders and heads of organizations based in Kinshasa. In addition, some members of the government were contacted for this purpose.
- Phase 3: Data analysis and production of the study report. The data collected were interpreted with a view to understanding the impacts of the COVID-19 pandemic in indigenous communities; the actions and measures taken by the Congolese government and the organizations of Indigenous Pygmy Peoples. Finally, an analysis was formulated on the resilient actions taken by the Indigenous Pygmy Peoples.



D. SUMMARY OF THE IMPACTS OF COVID-19 PANDEMIC ON INDIGENOUS PEOPLES' RIGHTS AND WELL-BEING AND GOVERNMENT RESPONSE MEASURES

The COVID-19 pandemic has led to a general deterioration in the living conditions of Indigenous Peoples, particularly through the destruction of jobs in both the formal and informal sectors, decline in income due to difficult access to employment, scarcity of food, education and health services, the general deterioration of the living environment of Indigenous Pygmy Peoples, and the reinforced inequalities in their respective living environments. Since the declaration of the epidemic on March 10, 2020, there have been 57,338 cases of contamination and 1,091 deaths linked to the coronavirus infection in the country. These figures were declared by DRC's COVID-19 testing centres especially in towns. Most Indigenous Peoples live in rural areas.

The response measures taken by the Congolese State have adverse effects on the Indigenous Peoples' socio-economic capacities and their social well-being. The percentage of indigenous households with inadequate food consumption increased significantly and resulted in an increase in the rate of acute malnutrition. The poverty experienced by Indigenous Peoples combined with the effects of the lockdown measures reduced, for example, the number of meals per day in households and increased the vulnerability of children.

To remedy this trend, the Congolese government should adopt a lockdown strategy based on the local realities of each province (territory, sector, grouping as well as locality/village) and, take into account the Indigenous Peoples' traditional life systems, and their daily activities. For example, include young Indigenous People whose modernity and mobility are defined by an economy dominated by the struggle for daily survival.

In terms of Indigenous Peoples' health

Because Indigenous Pygmies live in areas that are remote and almost inaccessible, their information on COVID-19 is very limited. From first wave to third wave, measures by the Congolese government increased, causing negative impacts to Indigenous Pygmy Peoples, as their mobility was strictly prohibited during confinement.

The inaccessibility of health services to indigenous populations translated into limited or no testing to identify cases of infection, as well as a reduced ability to treat those who may be infected. There is a decline in attendance by Indigenous Pygmy Peoples due to the fear of contamination. In Shasha, Mubambiro, without any testing done on them, three Indigenous Pygmies including a 34-year-old woman, a 43-year-old man and an 8-year-old child, died of malaria but were reported to have been infected with COVID-19. The health structures are not supplied with the necessary medicines and materials, and the healthcare staff are not trained on the mechanisms and protective measures of COVID-19. Infrastructure is almost non-existent in these communities.

During the pandemic period and lockdown, only cases that tested positive were supported by the Congolese government and vulnerable communities and groups were unable to pay for health care for their family members due to their state of poverty. In fact, there was an increase of five per cent in the death rate in rural areas following the COVID-19 pandemic.²

The Congolese government may have strengthened health care mechanisms, yet despite the free care service offered in some public hospitals, the existing health structures of Indigenous Pygmy Peoples have not benefited from aids offered by the State. Their health status is not known, as they have difficulty getting tested vis-à-vis the pandemic because they do not have access to testing services, with centers being installed only in Kinshasa and Goma. In Mubambiro for example, a village located less than 25 km from the city of Goma has more than 150 pygmy households, and more than five sudden deaths were reported during the pandemic whose cause is not known until today.

The risks of COVID-19 infection in Indigenous Peoples' territories could be estimated at 55 per cent according to their support organizations, because no measure has been taken by the Congolese State to deal with this disease in these environments.

These same Indigenous Peoples' organizations and civil society in the DRC have demonstrated that COVID-19 has significantly degraded the nutritional status of Indigenous Peoples. This is due mainly to the mode of food supply linked to restricted daily activities and the very limited and almost non-existing access to care services available to indigenous populations.³

The key measures that the Congolese State with other stakeholders should take in favor of Indigenous Pygmy Peoples should be oriented towards the construction of health infrastructure in their respective villages, facilitation of access to health care for Indigenous Peoples in existing structures with the mutual health system, for example. The Congolese State should support indigenous pharmacopoeia and allow Indigenous Peoples to access medicinal plants found in their protected forests.

Apart from these measures, the Congolese State should put in place provisions or mechanisms to strictly control the entry of any person into indigenous territories. Anyone entering indigenous territory should previously be tested for the virus and undergo a medical examination. However, these measures could hamper medical and humanitarian aid to indigenous populations in emergencies, and the transit of people wishing to leave their communities for medical assistance.

Finally, set up projects with visible impact and particular emphasis on the enhancement of the pharmacopoeia and the conservation of medicinal essences, while identifying and registering Pygmy traditional healers in the National Association of Traditional Healers of Congo.

Consequence of COVID-19 on Indigenous Pygmies' right to education

In March 2020, while school activities were progressing, the DRC President announced measures to fight and prevent the spread of the coronavirus disease across the country. More than 27 million children were not able to attend school and enjoy their right to education. They stayed home with their parents for fear of being infected with the virus. Education is one of the priority pillars of national life, but the children had to remain silent during this time. Neither was there action by the Congolese government to protect them from the pandemic if they were to attend school. It should be noted that courses were organized on television and radio for the secondary and primary school students.

Most Indigenous Pygmy children in rural areas do not have access to radio and television and this denial of technology is a practice of discrimination against Pygmy children to attend the courses. Furthermore, this practice is not suited to the educational system in the DRC because there is no interaction between teacher and student.

In terms of livelihoods, incomes and jobs in indigenous communities

Indigenous Peoples who live in extreme poverty observe utter degradation of their livelihoods in general and the devaluation of plants or medicinal essences as a means of treatment, in particular. Lockdown measures and mobility restrictions negatively impacted Indigenous Peoples' rights to adequate food, as well as natural resources around them.

According to indigenous organizations, the impact of COVID-19 on the livelihoods of Indigenous Peoples is such that they have lost their income and have had difficulty with various income generating activities outside their towns and villages. Nearly 80 per cent of the resurgence of food insecurity among Indigenous Peoples is aggravated by the lack of land to cultivate for survival.

The restrictive measures taken by the Congolese Government to limit the spread of the pandemic in the DRC seriously impacted both the formal and informal economies. These measures made it difficult for several companies to apply labor legislation while others were compelled to follow the directions imposed by health protocols. Several mining companies locked down their employees in their workplaces during the COVID-19 pandemic, as illustrated by crowded accommodation facilities for workers in mining sites such as in Katanga, Tanganyika, North Kivu, South Kivu and Kasai in May 2020. More than 273 Pygmies were victims of this lockdown situation at mining sites for more than two months.

In a 2018 research carried out on the problem of integration of Indigenous Pygmy Peoples in urban areas of the DRC, it was noted that more than 80 per cent of Indigenous Peoples living in the city of Kinshasa⁴ do domestic activities for men and housework for women. They provide non-timber forest products as well as heavy-duty service in towns and shopping centers. During the COVID-19 pandemic, they did not have access to forests due to compliance with strict measures of the Congolese government aimed at infection containment. These being the only activities allowed for Indigenous Peoples to survive during the time of lockdown, they lived miserably because their employers did not allow for any movement into or out of their households for fear of being contaminated. As a result, Indigenous Peoples spent more than seven months without jobs or pay and the State failed to take any related action to address the plight of these vulnerable groups during the lockdown. It is reported that more than 370 people engaged in the production and sale of non-timber forest products became unemployed, unable to maintain their respective households, and even dying of hunger. The conflicts between Indigenous Pygmy Peoples and the surrounding communities were exacerbated leading to violations of their rights, including the killings of several Indigenous Peoples.

Situation of the rights of Pygmy children during the COVID-19 period

This research shows that it is the most vulnerable children who are paying the heavy price for the socioeconomic fallout of COVID-19. They had already been living in poverty, and the lockdown measures further rendered them vulnerable. Thousands of Indigenous Pygmy children lack access to health, education, quality food, while millions of parents struggle not to lose their livelihoods and income. The Congolese government should step up social protection measures by adopting programmes and policies that enable families to access vital health, nutrition and education services.

In the absence of immediate action to mitigate the socioeconomic fallout of the COVID-19 pandemic and the response to it, tens of millions of Indigenous Pygmy children live precariously on the edge of poverty that is definitely leading to collapse.

Distance education programs were put in place by the government and its partners including UNICEF, to aid the students in the time of a health crisis. Unfortunately, these programs catered only to children whose parents have a radio or television set. For parents living in rural areas and in particular Indigenous Pygmy parents in remote

villages who do not own radio or television sets, their children could not follow the courses aired over the radio. Yet the International Convention on the Rights of the Child declares in its article 28 that “all children must have equal opportunities.”

Socioeconomic disruptions increased the risks of early marriages, early pregnancies and gender-based violence for girls. Isolated children who were abused at home or online found it even more difficult to find help. Additionally, the stress and stigma induced by illness and financial difficulties exacerbated difficult family and community situations.

Before the onset of the pandemic, there were already threats to the safety and well-being of Indigenous Pygmy and conflict-affected children on a daily basis. Many Indigenous Pygmy children had extremely limited access to basic health care and facilities, while depravity due to their living conditions made social distancing impractical. The response to COVID-19 must not overshadow humanitarian needs.

It should be noted that many children did not have access to basic hand washing and hygiene facilities. Some pygmy children living in isolated areas or where water is polluted or untreated were deprived of safe water. Others did not have access to such facilities simply because they lived in a suburb or on the streets.

Among the barrier measures, no one could leave their home unless absolutely necessary. The lockdown became a way of life for all. If in normal times, telling a child not to go to school constitutes a violation of their rights, how much more in times of health crisis? A systematic violation of children’s rights, then article 28 of the International Convention on the Rights of the Child stipulates that “State parties encourage the organization of different forms of secondary education, both general and vocational, make them open and accessible to all children, and take appropriate measures such as the establishment of free education for all and offer financial assistance in case of need.”

Despite the lockdown being good for the fight against the coronavirus, it was the worst experience not to wish for. The coronavirus is a cursed disease because it not only kills, but it also keeps students away from the real opportunity to continue their studies.

The pressures that this pandemic put on society took a heavy toll on children’s lives, their safety, well-being and their future. It is only through a multilateral cooperation that the millions of indigenous girls and boys, including children uprooted by conflict, children with disabilities and girls exposed to violence, will be ensured to stay healthy and protected and continue to learn.

Impact of COVID-19 on Pygmy people with disabilities

While the COVID-19 pandemic threatened all members of the Congolese society, people with disabilities were disproportionately affected by the behavioral, environmental and institutional barriers reproduced in the response to COVID-19.

Many people with disabilities in the DRC have pre-existing health conditions that make them more prone to contracting the virus and with more severe symptoms when infected, resulting in a high death rate among them. During the COVID-19 crisis, people with disabilities who depend on support or assistance for their daily lives may find themselves isolated and unable to survive the lockdown measures, while those living in institutions are particularly vulnerable. For people with disabilities, obstacles to access to health services and information are intensifying. They also continue to face discrimination and other barriers in accessing livelihoods and financial support, participating in various forms of online education and seeking protection from violence. Certain groups of people with disabilities, such as prisoners and people living on the streets or without adequate housing, are even more at risk. Awareness of these risks can lead to better responses that can mitigate the disproportionate impact suffered by them.

Impact of lockdown on the health of the elderly during the COVID-19 pandemic

The elderly were at high risk of morbidity and mortality with COVID-19 infection. The drastic measures put in place to limit the spread of the virus have not only economic and social, but also medical repercussions. These measures have resulted in potentially serious complications for the elderly.

The travel restrictions to limit the spread of the virus from March 15, 2020 decreased the elderly's daily walk which worsened the age-related muscle wasting and atrophy. The restriction of movement resulted in an "imposed" sedentary lifestyle associated with physiological muscle loss linked to age, increased pre-existing malnutrition and sarcopenia for the elderly.

Institutionalized elderly people and those living at home therefore saw the serious consequences of a functional decline responsible for a loss of autonomy. The consequences of solitary lockdown also lie in the distress experienced especially by the elderly who were locked in their rooms, transforming them into the status of "potential victims." They remained separated for long periods of time from family and social contact.

Impact of COVID-19 on the rights of Indigenous Pygmy women

Women's employment in the DRC is concentrated in agriculture and small businesses in the informal trade sector where they hold 64 per cent of the jobs, mainly in the sale of low-value food and perishable products. This sector is generally unregulated, subject to heavy informal taxes, and does not benefit from any social security or other benefits offered by the government. Border and market closures implemented in response to COVID-19 limited business opportunities for women, many of whom lost access to their workplaces, customers and goods.

The reduction of household income combined with the closure of schools had an additional impact on the protection and health of children and adolescents. Women interviewed in relation with CASS research reported difficulties in providing adequate nutrition for their children. Other CASS reports suggest that an increasing number of girls are engaging in transactional sex because families are unable to support them financially, and they lack the facilities and security provided by schools. There has also been an increase in the number of children, including girls, living on the streets.

E. BRIEF DESCRIPTION AND ANALYSIS OF REGULATORY AND/OR LEGISLATIVE DEVELOPMENTS IN GOVERNMENT RECOVERY PLANS FOCUSED ON INDIGENOUS PEOPLES

In the context of the COVID-19 pandemic in the DRC, it is important to note the history of development of laws which have not taken into account the specific rights of Indigenous Peoples which is one reason for the discrimination they experience. On the other hand, in the application of these laws, there are violations of Indigenous Peoples' rights in many forms which are being demonstrated during the period of the COVID-19 pandemic.

The situation of Indigenous Peoples' rights has not changed, when analyzing the legal framework of the DRC,⁵ specifically in terms of management and exploitation of natural resources and biodiversity. For example, during the COVID-19 period in 2020 in North Kivu, there was a default judgement on two Indigenous Pygmies from Mukohwa and Nyabiondo villages in Masisi territory. They were dispossessed of their ancestral land by a breeder of large cattle from a non-indigenous community in Masisi. It was deplorable that this transpired at the time of pandemic when freedom of movement and circulation was limited to get justice. Not only did the Indigenous Pygmy Peoples not have means, but also and above all could not travel to respond to the invitation of the court for trial.

The land, mining, forestry and nature conservation laws remain discriminatory against Indigenous Pygmy Peoples and do not take into account their specific rights and realities. However, there has been progress in the process of legal recognition of Indigenous Pygmy Peoples' rights with the adoption by the National Assembly on April 7, 2021 of the Bill on the Promotion and Protection of the Rights of Indigenous Pygmy Peoples and which is currently in the Senate for second reading.

The various legal reforms⁶ underway are currently being monitored by Indigenous Peoples' organizations in order to influence and lobby for the consideration of the traditional land tenure of Indigenous Peoples and their traditional and sustainable use of their lands and territories. It is well known that traditional lands and territories remain vulnerable to forestry threats and mining activities. The DRC should not use the economic and health consequences of COVID-19 as reasons for not fulfilling its obligations and commitments to protect human rights and Indigenous Peoples.

In the execution of Article 7 of Ordinance No. 20/014 of March 24, 2020 proclaiming a state of health emergency to deal with the COVID-19 pandemic, and of Article 3 of Ordinance No. 20/029 of April 23, 2020 on additional measures necessary to deal with the COVID-19 pandemic, the Ministers of the Government of the Republic as well as the Governors of Provinces and of the City of Kinshasa, more particularly those affected by COVID-19, took measures against the COVID-19 pandemic.⁷

a. Measures relating to the exercise of freedom for reasons of health security

- Prohibition of all travels from the capital city and center of the pandemic, Kinshasa, to the provinces and vice-versa, for the lockdown to take effect. To do this, each Head of Institution or Service was responsible for taking minimum service measures to overcome the lockdown including work from home.
- All gatherings, meetings and celebrations of more than 20 people in public roads and places outside the family home were prohibited, the population being asked to stay at home and to only travel for necessary professional, family or health purposes. All migratory movements, by public transport, buses, trucks and other vehicles from the interior to the capital and vice-versa, were prohibited. Thus, barriers were built by the governors of provinces and the crews submitted to the rigorous control.
- Prohibition of all river transport of passengers from Kinshasa to the provinces and vice-versa. Only boats and vessels carrying goods with crews and escorts were authorized.
- Schools, universities, colleges and all establishments as well as meeting places were temporarily closed across the country, from March 19, 2020 for a four-week duration.
- The opening of night clubs, bars, cafes, terraces and restaurants as well as the wakes for the dead in rooms, homes or on the public highway were prohibited. Dead bodies were taken directly from the mortuary to the place of burial with a limited number of persons accompanying them.
- All religious services were suspended for a period of thirty days starting from March 19, 2020, as well as all sports activities in stadiums and other sports gathering places.

b. The organization and its function

A COVID-19 response unit was created with administrative and technical autonomy, operating under the authority of the President of the Republic, whose main mission is to inform the executive power about the COVID-19 health crisis management and to advise them on the measures taken under the emergency situation.

The Coordination of the Response Unit against COVID-19 was headed by Professor Dr. Jean-Jacques Muyembe.

c. Sanitary measures taken

Heads and officials of all institutions, both national and provincial, were required to take appropriate sanitary arrangements to protect their members and staff as well as the entire population from any contamination or any spread of the coronavirus. All public health services are required to ensure extension and the effectiveness of the measures to be applied.

- In order to avoid the spread of the pandemic and to guarantee public health, measures are authorized, under the coordination of the COVID-19 Response Unit, particularly aimed at a systematic health control of any person entering the national territory and from the cities, in particular from the capital, to the other provinces of the country;
- The maritime, river, lake and land entry points of the national territory are equipped with the same surveillance system to strengthen the control of passengers coming from abroad;
- Where the lack of water and electricity is almost permanent, the government is instructed to find means to supply the cities with these to ensure hygiene; to increase the number of hand washing points in the country's airports and support the teams of the *Régie des Voies Aériennes-RVA* (Airways Authority) and the *Direction Générale des Migrations-DGM* (General Directorate of Migration) so that no one escapes hygienic control;

- Quarantine for a maximum of 14 days for people showing symptoms of COVID-19 and likely to be infected by the coronavirus;
- The placement and maintenance in isolation, at their home or any other suitable place of accommodation, of people infected by the coronavirus;
- The Government of the Republic is designing ways and means to increase the reception capacity of hospitals, with pavilions especially dedicated to people with COVID-19, and private hospitals ready to intervene in the event of the worsening situation;
- The Government is instructed to take all measures to make available to patients appropriate drugs for the eradication of the health disaster.



F. THE COVID-19 HUMANITARIAN RESPONSE PLAN ADDENDUM TO THE 2020 HUMANITARIAN RESPONSE PLAN IN THE DEMOCRATIC REPUBLIC OF CONGO

On March 11, 2020, the Congolese government published a first version of the preparedness and response plan against the COVID-19 pandemic. The final version of this plan with a budget of US\$135.2 million was shared publicly on April 1, 2020. The overall objective of this plan is to “help interrupt the transmission of the COVID-19 virus and minimize its health and socio-economic impact throughout the DRC for a period of 12 months.”⁸

This plan is organized around nine specific objectives:

- Strengthen governance;
- Organize the structures for the care of COVID-19 patients;
- Strengthen laboratory diagnostic capacities;
- Strengthen the capacities for surveillance and investigation of cases;
- Improve the infection prevention and control/WASH in all health structures and in the community;
- Strengthen communication on risk and community involvement;
- Strengthen the COVID-19 emergency logistics system;
- Provide psychosocial care;
- Implement measures to mitigate the risk of propagation (social distancing measures).

A *Comité Multisectoriel de Riposte* (CMR-COVID-19) “Multisectoral Response Committee” and a Technical Secretariat were set up at the national level to coordinate the response. The CMR is headed by the Prime Minister with the Minister of Health providing the secretariat.

The Technical Secretariat is headed by the COVID-19 Response Coordinator appointed by the President of the Republic. It ensures the strategic management of all the response and preparation commissions attached to it. The bodies attached to the Technical Secretariat support the Incidents Manager and his deputy through four sections:

1. Response operations, around the following committees: (i) surveillance, (ii) medical care, (iii) psychosocial care, (iv) risk communication and community engagement (CREC), (v) Prevention and Control of Infection / WASH), (vi) laboratory and research;
2. Preparatory operations: (i) strengthening the pillars with the various traditional themes, (ii) rapid intervention teams, (iii) simulation exercises;
3. Support to the Information Management System: (i) information and data management, (ii) planning, monitoring and evaluation;
4. Logistics, Support Services and Risk Mitigation: (i) Logistics, Administration, Finance Commission, (ii) Commission for Monitoring Risk Mitigation and Social Distancing Measures, including Security.

This multisectoral humanitarian plan specific to the COVID-19 response constitutes an addendum to the 2020 Humanitarian Response Plan (HRP) in order to integrate the impact of the COVID-19 pandemic on existing humanitarian needs and on the activities of humanitarian partners.

This plan aligns with:

- The COVID-19 global humanitarian response plan (GHRP);
- The preparedness and response plan against the COVID-19 epidemic in the DRC developed by the government.

This multisectoral humanitarian plan describes the humanitarian needs and the response to be implemented in order to assist the most vulnerable people affected directly or indirectly by the COVID-19 pandemic in the DRC.

These vulnerabilities include:

- A health state that increases their susceptibility to viral infection;
- Weaker access to prevention and treatment services due to their insufficient resources, practices of discrimination, inaccessibility of infrastructure for geographic or security conditions;
- Lower access to basic services such as health or water, hygiene and sanitation;
- A work/social role that exposes them to contamination or that makes it difficult to apply prevention and social distancing measures;
- Limited livelihoods and the risk of increasing negative coping strategies (reduced food consumption, sales of assets, debt, early / forced marriage and forced prostitution);
- Specific increased protection risks (separation, sexual and domestic violence) resulting from the measures used to prevent and control the spread of diseases, such as isolation and quarantine measures;
- Living / housing conditions with high promiscuity making any practice of social distancing difficult.

The national health development plan 2016-2020: Towards universal health coverage

Since 2010, the DRC has had a second edition of the Health System Strengthening Strategy ([SRSS-2] operationalized every five years by a *Plan National de Développement de Santé*-PNDS [National Health Development Plan]). The 2016-2020 PNDS reflects the will of the Government and its partners to provide effective and realistic solutions to the health problems of the entire population.

The plan aims to contribute to the well-being of the Congolese population by 2020, and its general objective is to contribute to the improvement of the state of health so as to allow everyone to live in good health and promote well-being for all of all ages as part of universal health coverage.⁹

This plan targets Sustainable Development Goals (SDGs) and the related impact indicators and aims to increase the coverage and use of quality health care and services by the population with equity and financial protection. Targets linked to services and other pillars of the health system have been identified with the related indicators. Despite the progress observed in having a national health development plan (PNDS 2011-2015) in the vision of global health care, the DRC is experiencing priority health problems especially in Indigenous Peoples' villages due to: (i) low coverage health, (ii) low operational capacity of structures at all levels to carry out interventions, (iii) the low quality of care and services offered, (iv) the low use of the care and services available.

Congolese Government's 2021-2023 Action Programme

In its pillar number 11 relating to the improvement of social conditions: Housing, Health, Education and Employment of Indigenous Peoples, and its axis 49 on the implementation of universal health coverage, the Action Programme of the Congolese Government is as follows:

- Rehabilitate and build health infrastructures as well as provide them with medical equipment according to a standardized approach;
- Increase the availability of quality, essential, and generic drugs by 50 per cent throughout the country;
- Immediately institute compulsory health insurance schemes for government officials, private sector workers, pupils and students;
- Gradually establish compulsory health insurance for the informal sector with pooling of resources for equity;
- Subsidize health care for the indigent and vulnerable groups;
- Ensure the availability of an essential basic package at all levels of the health pyramid, including that related to the fight against gender-based violence and family planning, in accordance with the National Health Development Plan 2019-2022;
- Make the health promotion fund and the health solidarity fund operational through the effective establishment of a special “universal health coverage” account supplied mainly by innovative financing mechanisms based on global enlargement;
- Strengthen digitization for the management of health information at all levels of the health pyramid, in accordance with the national health informatics development plan and the national health information system development plan;
- Strengthen career management of human resources for health; and
- Intensify the promotion of hygiene, prevention and control of infections in health facilities and in the community.

Axis number 50 of this Action Programme insists on improving the fight against major endemics (tuberculosis, malaria, HIV-AIDS, etc.) and epidemics (measles, cholera, Ebola, COVID-19, etc.)

- Strengthen the early warning and detection system as well as that of a rapid and adapted response to health emergencies through a more resilient health system;
- Set up a public institution in charge of disease prevention and control, in this case the “National Institute of Public Health” fiscal space;
- Set up rapid response teams for emergency response with well-trained and well-equipped staff;
- Acquire and pre-position the kits and inputs necessary for prevention, early detection and rapid response to epidemics;
- Set up the network of laboratories for the rapid confirmation of epidemics throughout the national territory; and
- Promote the concept of “ONE HEALTH” through the involvement of other sectors, including the environment, agriculture, fishing and livestock in the management of epidemics.¹⁰

Impacts/implications of recovery plans on the rights and well-being of Indigenous Peoples, including gaps and challenges

Among the preventive measures adopted by the Congolese government, lockdown is the most difficult to observe though it is one of the most effective, because not only does it restrict human freedom but it also imposes a new form of lifestyle. It promotes, on the one hand, communion and the harmony of small families. However, it reinforces aggressiveness and violence which can degenerate into homicide, femicide, infanticide, suicide, parricide, sexual violence, unwanted pregnancies, etc. It also reinforces unemployment and crisis in all the vital sectors which engender technological crime to which the Congolese policy is powerless and ineffective.

The DRC deeply suffered from the economic consequences of this pandemic, in particular the fall in the salaries of civil servants, and price hike of basic food items as a result of famine economies that cannot provide enough food stocks. As Indigenous Peoples' way of life is based primarily on informal economy, they live on a day-to-day rate with an income of less than a US\$1.00. It is a struggle between massive hunger and strict compliance with prevention measures especially lockdown against the coronavirus. These two contradictory obligations (going out or staying home) lead to a dilemma: on the one hand, scrupulously observing lockdown to avoid the progression of the infection implies hunger that has grave consequences on one's health; and on the other hand, disobeying it to find sustenance in a region where promiscuity, unhealthiness, and disorder are common, involves the risk of contamination and its harmful consequences.

Proclamation of a State of health emergency to deal with the COVID-19 pandemic and its impact on the rights of Indigenous Peoples

The measures enforced by the government such as quarantine, closure of schools, lockdowns and limitation of freedom of movement, prohibition of all migratory movements by public transport such as buses, trucks and other vehicles from the interior to the capital and vice-versa, although necessary in view of the scale and severity of the pandemic, should be exceptional, proportional, temporary and subject to control, and should not violate the physical integrity and dignity of a person.

Bahuchet in 1993¹¹ highlighted in his scientific articles that the Indigenous Pygmy Peoples have been presented in various literature as peoples without precise geographical references, because they move when natural resources become scarce. The Congolese State did not take this fact into account in the development of certain ordinances related to the state of health emergency. These measures had negative impacts on the rights and freedoms of Indigenous Pygmy Peoples because the Congolese State did not approach this pandemic from a human rights perspective in order to achieve better results for everyone and not neglect vulnerable groups such as Indigenous Peoples.

In accordance with their right to decide on their way of life and their level of interaction with the environment and reflecting their right to self-determination, some Indigenous Pygmy Peoples chose to remain isolated as a survival strategy, avoiding any type of contact with the outside world. Most of the isolated peoples live in forests or in remote and spacious places and breaking this isolation by force carries enormous risks, especially in terms of the people's health. For decades, the isolation had protected them from infection and death, and thus helped their survival. In most cases, these groups of very vulnerable Indigenous Pygmy Peoples who face high risks of extinction are therefore even more threatened by COVID-19.

The research results obtained show that the Twa are more exposed to contamination from this pandemic. Here is a testimony from a Twa during the interview: "This pandemic further reinforces poverty and there is a severe economic crisis in our historically poor community." As preventive measures, the State must strengthen the notion of income-generating activities so that these communities are resilient during economic upheavals.

In the implementation of the humanitarian plan and response to COVID-19, for example in the strengthening of capacities for surveillance and investigation of cases as well as the improvement of the prevention and control of infections in all community health structures, no measures were considered like the installation of monitoring equipment for the fight against COVID-19 in the living environments and territories of Indigenous Pygmy Peoples. People of good will supplemented community health structures with the equipment that could enable them to deal with the pandemic, whereas the government's response plan should have considered all these mechanisms to fight the pandemic in indigenous environments or territories.

For the success of the humanitarian plan, the Congolese government should meaningfully involve vulnerable groups into various committees that are set up, so that priorities of Indigenous Peoples are well defined and articulated. This plan should define population groups with multiple vulnerabilities including Indigenous Peoples, majority of which live in rural and remote areas of the DRC.

Nevertheless, the 2016-2020 national health development plan provided for and recognized the contribution of traditional medicines which constitute a significant part of the healthcare supply. In some rural areas, these are even the first resort due to the lack of modern structures, poor financial accessibility and certain specific pathologies (fractures, mental disorders, etc.). It is observed that there has been a national traditional medicine programme in place since 2001 in the DRC which does not hinder collaboration with Indigenous Pygmy traditional healers but does not facilitate their full integration into the official health system. No Indigenous Pygmy traditional healer is identified as such in the official health system, and there is perceived and reported institutional mistrust among the chiefs who oversee this health system.

In addition, the Congolese Government's 2021-2023 Action Programme and its involvement in the health of Indigenous Pygmy Peoples includes actions to be implemented in the area of universal health and alludes to Indigenous Peoples and other vulnerable groups through the allocation of a specific health care subsidy for them. In practice however, and especially in the territories of Indigenous Peoples, no measures have been taken to ensure appropriate care for them. The fact that they themselves need to be able to afford their health care is a crucial problem which negatively impacts their lives because in reality, they are in an economically disadvantaged situation to afford their health care during the COVID-19 pandemic characterized by the economic crisis.

Analysis of the constant gaps in the COVID-19 regulatory plans

Too many new structures

The Congolese government created at least five response structures. This multiplication of devices generated more expenditure and more administrative red tape without solving the recurring problems of mismanagement in the field. Despite everything, indigenous communities do not have institutions that facilitate testing for them.

The bonus business

With an emergency response, it is difficult to have a clear vision on financial management. According to the study, out of the \$363 million allocated in April 2020 by the IMF to mitigate the effects of the pandemic, "the government was only able to publish on the website of the Ministry of Health more than forty documents justifying the use of only \$6 million."

There are alleged abuses particularly concerning the billing of care or what is called the "premium business." The Ministry of Health is using international aid to pay premiums to medical staff who are not paid normally. This procedure, which takes place in an emergency context, is rather confusing and lacks transparency. This gratification system promotes patronage without settling the very legitimate issues of improving the living conditions of health personnel.

G. RECOMMENDATIONS

1. Focus on the areas where the most serious risks are, to date; strengthen social protection systems and guarantee access to food for the most vulnerable groups, in particular Indigenous Peoples, youth, children, pregnant and breastfeeding women, the elderly and other risk groups. Tap/draw from public grain reserves to cope with possible food shortages.
2. Develop post-COVID-19 humanitarian action initiatives and ensure that vulnerable groups, such as internally displaced persons, migrants, women, children and the elderly, and Indigenous Peoples are not discriminated against and that their needs are met, in particular by integrating them into health systems and national intervention plans.
3. Strengthen energy infrastructure, internet access and the use of technology in education, including exploring with the media (especially radio) and mobile telecommunications providers low-cost solutions to create access to distance or online learning platforms or to extend these to indigenous communities in rural areas.
4. Set up platforms, or develop those that already exist, for the purpose of sharing and exchanging endogenous knowledge and skills, cross-fertilizing of ideas, traditional initiatives and collaborative research in the fight against COVID-19. Associate and integrate Indigenous Peoples' traditional practices in the fight against the COVID-19 pandemic.
5. Disaggregate and analyze infection and recovery data by sex, age, location and disability, to capture gender inequalities and differences in exposure and treatment, within the framework of an important first step in effective support for marginalized groups.
6. Establish an associated mechanism between the response service, communities and NGOs to develop community sensitization techniques so that Indigenous Peoples receive the COVID-19 vaccine.

Endnotes

- 1 Bureau Conjoint des Nations Unies aux Droits de l'Homme en RDC-BCNUDH "Joint United Nations Office for Human Rights in the DRC." (This office for Human Rights is integrated in MONUSCO DRC: UN for Stability in DRC to protect and promote human rights.).
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- 3 Rapport Narratif de Sensibilisation et Assistance aux Peuples Autochtones Pygmées de la Ville Province de Kinshasa au sujet de la maladie a coronavirus Par ANAPAC-RDC, Avril 2020 "Narrative Report of Awareness and Assistance to Indigenous Pygmy Peoples of the City Province of Kinshasa about the coronavirus disease By ANAPAC-RDC, April 2020" (This activity was carried out by ANAPAC for 117 IP families living in Kinshasa.).
- 4 MWENELWATA. K, Apport des ONG à l'intégration du peuple pygmée dans la société congolaise moderne cas de la ville de Kinshasa, UPN, Inédit, 2018. "MWENELWATA. K, Contribution of NGOs to the integration of the pygmy people into modern Congolese society, case of the city of Kinshasa, UPN, unpublished, 2018." This research was conducted as part of academic work.
- 5 GOVERNANCE AND MANAGEMENT OF PROTECTED AREAS IN THE RDC:
Analysis of the state of the situation on the ground of the respect and protection of indigenous pygmy peoples' rights.
- 6 Two major reforms are underway for the moment, namely the Aménagement du Territoire "Territory Planning" and the Réforme Foncière "Land Reform", whose land policy document has just been validated in a national workshop held in Kinshasa from November 15 to 17, 2021.
- 7 <http://www.leganet.cd/Legislation/JO/2020/Ordonnance%2024.03.2020.html>.
- 8 https://reliefweb.int/sites/reliefweb.int/files/resources/rdc2020_plan_reponse_humanitaire_COVID-19_200410.pdf.
- 9 <https://www.prb.org/wp-content/uploads/2020/06/RDC-Plan-National-de-Developpement-Sanitaire-2016-2020.pdf>.
- 10 http://congominer.org/system/attachments/assets/000/002/086/original/PROGRAMME_D'ACTION DU GOUVERNEMENT DE L'USN_2021-2023_Final.pdf?1623232542.
- 11 BAHUCHET, S., Situation des Populations indigènes des Forêts Denses et Humides, Bruxelles, Commission Européenne, 1993 (Situation of Indigenous Populations of Dense and Humid Forests, Brussels, European Commission, 1993).

III

Our Fight for Life: COVID-19 and the Indigenous Peoples of Brazil

By
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A. THE VIRUS THAT KILLS

In the midst of the COVID-19 pandemic, the lives of the Indigenous Peoples of Brazil became the object of attacks, persecution and extermination. This period highlighted several rights violations suffered by the native peoples due to the historical neglect of their living conditions and their fundamental and constitutional rights. In addition to being in the front line in several preventive measures and fighting to reduce the impacts of the pandemic on indigenous communities, the indigenous organizations began to monitor the progress of cases and deaths of COVID-19, since the confirmation of the first infections in Brazil, among Indigenous Peoples. This is a collective effort that historically marks the participation of Indigenous Peoples as protagonists in the struggle for a differentiated health subsystem, guaranteed by the Brazilian Constitution.

The Federal Government has been the main agent responsible for the transmission of COVID-19 infection among Indigenous Peoples, according to surveys conducted by the Articulation of Indigenous Peoples of Brazil (APIB). Without effective policies to confront the pandemic, the Bolsonaro government neglected its obligation to protect the workers and users of the Indigenous Health Subsystem and thus favored and allowed the entry of the virus in several territories.

On March 11, 2020, COVID-19 was characterized and declared by the World Health Organization (WHO) as a pandemic, and on March 20, the Ministry of Health confirmed community transmission of the virus in Brazil. On July 7, 2020, the National Congress passed LAW NO. 14.021 which provides social protection measures to prevent the contagion and spread of COVID-19 in indigenous territories. This legal device should collaborate to create an emergency plan to confront the disease among Indigenous Peoples and promote support for the communities. Until today, the Federal Government has been creating administrative barriers that prevent the implementation of measures that could serve these populations with effective actions as guaranteed by the Law.

With speeches full of racism and hatred, Bolsonaro continues to foment violence against Indigenous Peoples and paralyzes the actions of the State that should instead be promoting assistance, protection and guarantees of rights. He is taking advantage of the “opportunity” of this crisis to advance with a series of decrees, ordinances, normative instructions, provisional measures and bills that attempt to legalize crimes and diminish the constitutional rights of Indigenous Peoples.

APIB, together with all its regional base organizations, built the “Indigenous Emergency Plan” and started a process of confronting the virus and the violence that have worsened at this time of pandemic.

Given the difficulties in accessing official data, the delay in notifications, and the absence of information on color/race in the records regarding the health care provided to Indigenous Peoples in urban areas, a participatory community monitoring effort of cases and deaths in COVID-19 was initiated by the indigenous movement, coordinated by APIB, with the National Committee for Indigenous Life and Memory.

Through the Committee, APIB sought to raise awareness about the status of the pandemic among the Indigenous Peoples of Brazil, and articulated communication and legal strategies to promote advocacy actions to confront the impacts of the pandemic. Bolsonaro's genocidal policy during the COVID-19 pandemic is reinforced by successive actions to deny the vaccine, which is the main weapon against the virus, and negligence in the management of the immunization campaign. The government's determination to vaccinate only Indigenous Peoples living in villages on ratified lands is another form of violence and selective discrimination, since it excludes relatives living in urban areas, retaken territories and indigenous lands in the process of demarcation.

Faced with the State policy of opting for omission in confronting the pandemic, APIB decided to take the case to the Supreme Court. It was the first time that an indigenous organization went directly to the highest court in the Brazilian legal system to propose an ADPF (*Ação de Descumprimento de Preceito Fundamental*), which is the act of non-compliance with the fundamental law. ADPF 709 was successful in its demand to oblige the Union to establish an emergency plan to combat the advance of COVID-19 in indigenous territories, but to this day, the Federal Government continues to neglect the lives of the people even with court decisions.

The ADPF is an action that inaugurates an unprecedented statute for APIB, which is now legitimized to propose actions before the Supreme Court. Due to the Bolsonaro government's failure to comply with the determinations made by the highest power of the Brazilian judiciary, APIB took another unprecedented action and filed a statement with the International Criminal Court to denounce Bolsonaro for Genocide and Ecocide, in the midst of the pandemic.

This report aims to bring an overview of the impacts of the pandemic on Indigenous Peoples of Brazil, with emphasis on the context of the challenges faced by indigenous women. It also uses information gathered by APIB, its regional indigenous organizations, and the National Articulation of Indigenous Women Warriors of Ancestrality (Anmiga).

Indigenous organizations began to monitor...COVID-19, since the confirmation of the first infections in Brazil, among Indigenous Peoples. This is a collective effort that historically marks the participation of Indigenous Peoples...in the struggle for a differentiated health subsystem, guaranteed by the Brazilian Constitution.

B. OUR RIGHT TO EXIST

Impact of COVID-19 on the income of indigenous women in Brazil

The indigenous women of Brazil are granddaughters, mothers and daughters who compose the decentralized social organization policy as women seeds, roots, rivers and waters or biome women, of the Indigenous Peoples in Brazil. They add up to more than 305 different peoples, with their own political diversity, geopolitics, culture and with more than 274 spoken languages. Of these, 114 are recently contacted or so-called isolated peoples who do not maintain contact with the rest of non-indigenous society. This is not a homogeneous group. The term “Indigenous Peoples,” “Original Peoples,” or even “Indigenous Nations” is used by Indigenous Peoples as a front to fight for rights, considering that the Indigenous Peoples themselves have their own unique terms. These, however, can be interpreted as an attempt at alliance among different groups (some of who in the past were enemies) in the face of massacre and the prospect of extinction (past and present) from the European invasion in what was constituted as the American continent.

The discussion about “the indigenous genocide” through diseases and their impacts on indigenous territories in Brazil begins with colonization and the violent contact with non-Indigenous Peoples and the gender issue in the case of indigenous women. It has little or almost no presence in the historical narrative of Indigenous Peoples, and in some lines of history, women appear only as wives of chiefs, shamans and warriors, and in a narrative written by non-indigenous men.

Considering this narrative, this historical process has seemingly silenced women’s voices in many spaces. For the indigenous women, confronting this new disease “is a cry of resistance.” The indigenous sciences were fundamental because the elders, women, mothers, and Indigenous People as guardians of indigenous science were and are responsible for maintaining this collective care of cure and prevention within the territories and the re-signification of their millennial arts for the survival of families in the communities/villages and families who live in the cities.

In the greatest health and humanitarian crisis of our recent history, indigenous women have saved many lives. The struggle is daily for Indigenous Peoples because there is a need to sensitize non-indigenous society about the understanding that indigenous cultures are dynamic and also respond to the constant threats of the historical process of colonial imposition. In 2010 (the last year for which information was collected by the Federal Government), Brazilian indigenous population was 896,900 with 63.8 per cent of them in rural areas and 36.2 per cent in urban areas.

Impact of COVID-19 on indigenous women in the context of employment, income, livelihood, and health

In the face of the new disease present within the indigenous communities, women were the frontline protagonists of campaigns in their regions. The disease has killed many elders and took indigenous knowledge with it, but it was in this period that there was a process of greater appreciation of indigenous sciences for the prevention and treatment of the disease.

At the same time that indigenous women faced death, loss, and mourning within their communities/village, they also faced increased violence within their territories, intensified by the government and its allies. Women who were coping with the new disease in their territories came together and joined forces between the months of November (2020) to January (2021), and they reorganized, devised, and presented coping projects to strengthen existing actions. In all activities, women united and this union brought strength to talk about worsening diseases in communities and among Indigenous Peoples. The 2019 march that had the theme “Territory: our body, our spirit” has since brought together more than 3,000 women from all over the national territory, as guardians of knowledge. In the time of pandemic, they need to continue the fight for life.

They have participated directly in bringing complaints before the Supreme Court, in the construction of the Indigenous Emergency Plan, and in various campaigns for economic support of Indigenous Peoples. With their own hands, women collaborated directly in the construction of manifestos and debates about indigenous lives, heading campaigns for major mobilizations and action fronts for the people. Amidst the many deaths, technology turned out to be the main ally to carry information and fight against fake news. Women used websites and social media to talk about their challenges of keeping their families together and to share strategies for coping with the pandemic.

The impact of the pandemic on women’s financial income is demonstrated in how they have used their expertise in social media to reach out to the world with their local, regional, and national campaigns. Others have gone on to sell their millennial art online. The women have wisely spearheaded actions to ensure there is no shortage of supplies in their homes.

Starting from the decentralized social organization policy of the National Articulation of Indigenous Women, Guerreiras da Ancestralidade (ANMINGA), two institutions from the northern region worked in a campaign format to strengthen women’s income. The Federation of Indigenous Organizations of Rio Negro (FOIRN) promoted the action “Rio Negro We Care,” an initiative and campaign coordinated by indigenous women who, since 1987 have been working in defense of 750 communities in demarcated lands. Already in the capital of Amazonas in Manaus, the women carried out the strengthening of the association of indigenous women of the lower Amazon of the Sateré Mawé people. They organized an online store and virtual funds to continue creating their art and giving new meaning to their ancient graphics through the sale of masks for the general public to learn more.

Therefore, it is worth remembering and affirming that Indigenous Peoples are in spaces moving and moving for life, from the village/community floor to the centers of capital cities. Women are protagonists in confronting the pandemic amid discrimination and racism; in the genocide scenario with their people; towards spiritual and alimentary empowerment.

It is in the women’s collective denunciation of the absence of specific Government public policies that they strengthen themselves and unite, like rivers that grow and are strengthened when they unite. Without struggle, there is no access to income, and without income, there is no food on the table.

C. THEY ARE NOT JUST NUMBERS

Several studies point out that historically, Indigenous Peoples have faced profound health inequalities, with high infant mortality, high prevalence of preventable diseases and, particularly, with evidence of acute respiratory infections that present high rates of hospitalization and potential deaths. In addition, it is known that infectious diseases spread rapidly, disrupting the organization of everyday life and health care for Indigenous Peoples. In a pandemic, as with the case of COVID-19, epidemiological surveillance data are central to analyzing the progression and impacts of the disease.

In this sense, questions involving the surveillance and notification of the disease, as well as the calculation of indicators (such as lethality and mortality) on Indigenous Peoples have become essential for the formulation, monitoring, and improvement of indigenous health policies in the current context. Within the indigenous movement, the number of infected and recovered cases, and deaths became part of the dialogues and strategic meetings, and the possession of this data became an agenda and demand of the groups that act in the fight against the pandemic.

During the pandemic, serious breaches in access to information and transparency of official data have made it difficult to see the spread of COVID-19 and the impacts caused by the virus. In the face of disputed narratives, an intense discussion is presently taking place around the data on illness and death by COVID-19 in the indigenous population. On the one hand, the Federal Government, through the Special Secretariat for Indigenous Health (SESAI), does not make the data fully available and claims that the mortality and lethality levels of Indigenous Peoples are lower than those observed for the Brazilian population in general. On the other hand, the indigenous movement, in the absence of data from official sources, unfolds and structures an autonomous and participative monitoring of information with a view to give a different dimension of the pandemic's impact.

This tension is public and is even indicated in the title of an article about a session that took place in the National Health Council: "Divergence of data on COVID-19 in the indigenous population hinders effective measures of protection." It is worth asking: Is it really a divergence of data (i.e., different results due to different ways of accounting)? Before the question of divergent data itself is an indispensable question: Why did indigenous organizations need to start producing such data on illness and death from COVID-19?

Official information on the occurrence of cases and deaths caused by COVID-19 in the indigenous population is recorded in different information systems, of which three stand out: Sivep-Gripe, e-SUS Notifica, and SESAI's Information System for Indigenous Health Care (SIASI). The first two systems, Sivep-Gripe and e-SUS Notifica, are based on the color or race variable for the identification of cases among Indigenous Peoples. In turn, SESAI's records, systematized through the SIASI, refer only to the population served by the 34 Special Indigenous Health Districts (DSEIs), which are mostly villagers.

In principle, the cases identified in the subsystem feed the Sivep-Gripe and e-SUS, but refer only to a portion of the indigenous population in the country. Thus, limitations of comparability and complementarity of these systems

hinder a more reliable understanding of the situation of COVID-19 in the indigenous population nationwide. It is noteworthy that the database of the Information System for Indigenous Health Care (SIAI) is not publicly available, unlike the others mentioned, which further exacerbates the limitations for understanding the impacts of the pandemic on Indigenous Peoples.

The indigenous organizations' initiative to follow up and monitor cases of COVID-19 among peoples was motivated by the recognition that the official numbers from SIAI did not represent the totality of cases of Indigenous Peoples infected and killed by COVID-19. To mention one of the most evident facets of the production and discrepancy of the data, COVID-19 cases in Indigenous Peoples living in urban areas or in indigenous lands not yet homologated and not served by the subsystem do not appear in the statistics generated by SIAI.

Therefore, there is a partial answer to the above question "Why did indigenous organizations need to start producing such data on illness and death from COVID-19?" To date, official records such as those from SIAI, even if they presented high reliability, cover only the population recognized by the Indigenous Health Care Subsystem that, for the most part live in villages located on approved indigenous lands. Therefore, these official data do not include Indigenous Peoples living in urban areas, nor those living on non-approved lands (such as retaken territories, for example).

In addition, the public data from SIAI are consolidated and do not present information about, among other important variables, which Indigenous People the person belongs to. In practice, SIAI data on the progression of the pandemic has been publicly available in aggregate form at the DSEI level through Epidemiological Bulletins and Reports, which limits the possibilities of analysis at more disaggregated levels and its replicability.

In addition, the color/race variable in the health system forms has a low quality of registration and its mandatory COVID-19 reporting is being delayed. The eventual registration of Indigenous Peoples under the categories of color or race, particularly "pardo," contributes to the underestimation of the real impacts of COVID-19 on indigenous populations. This absence of information on race/color and people can be seen as an expression of institutional racism in health services. Given a context of underreporting and lack of transparency, both from the SUS and the Indigenous Health System (SIAI) about the data on the impact of the pandemic on Indigenous Peoples, the relevance and validity of community and participatory surveillance mechanisms on the progress of COVID-19 in the territories is highlighted.

It is also worth mentioning that the current initiative of the indigenous movement finds precedents in the debates, since the 1970s, about the prerogatives of social participation in Primary Health Care, in which it is recommended that governments stimulate and ensure the participation of communities in health actions.

In Brazil, the 1st National Conference on Health Surveillance held in 2018 had as one of the axes, "participatory and democratic health surveillance for confrontation against health inequities," pointing out the relevance of the perspective of community action. In addition to these technical dimensions, the issue of civil society involvement, including the indigenous movement, with data production needs to be situated historically. There are concrete and well-documented examples of how the agenda of data production was extremely important not only to bring the indigenous theme to visibility, but also by offering inputs for the elaboration of specific public policies. This was the case with the initiatives of indigenous and indigenist organizations in the 1970s and 1980s that, in the absence of reliable government data, became directly involved in the production of population data, which came to have important impacts on the recognition of indigenous rights.

Considering these historical elements, it is evident that the contemporary initiatives of the indigenous movement need to be understood as resistance and critical strategies that are fundamental in the elaboration and improvement of public policies. Better quality official data is only produced when it is made publicly available, and the scrutiny of civil society is essential for its improvement.

Presently, with a government that is blatantly against the rights of minorities and of Indigenous Peoples in particular, the questioning of the production and availability of official data including those on health, is manifested in the efforts of regional indigenous organizations to monitor and ascertain the cases of death and infection by COVID-19 among their peoples. The motivation arose when it was recognized that many of the deaths were not being accounted for by the SESAI.



D. OUR LIVES MATTER

In the face of historical neglect, the indigenous movement's work on specific data and the struggle for the guarantee of rights in specific health, justifies the initiative of monitoring the cases by the Indigenous Peoples, as part of the civil society, which is organized to carry out community surveillance and social control.

The activity of following up and monitoring the cases throughout the national territory began in March 2020 with the notification of the first death of a woman from the Borari people in Alter do Chão, Pará, which was reported by the Coordination of Indigenous Organizations of the Brazilian Amazon (COIAB). In March and April, regional leaders and organizations began to receive reports of deaths and infections from COVID-19 in their territories and also from Indigenous Peoples in urban areas. At this point, a disparity of data was identified due to the fact that the SESAI only reported the cases it assisted, evidencing a smaller number than those perceived on a daily basis by the Indigenous Peoples themselves.

The issue of underreporting and invisibility of the impact of COVID-19 on Indigenous Peoples was a central theme at the virtual Acampamento Terra Livre (ATL) in April 2020. After this event which brought together leaders, movements, and researchers, the National Assembly of Indigenous Resistance was organized. During the Assembly, APIB's National Committee for Indigenous Life and Memory was created and it has been monitoring COVID-19 cases since April 2020, together with regional organizations.

The Committee's information gathering and verification is done by APIB's regional organizations through local focal points and through the verification of information made available by municipal, state, and federal health agencies. The processes, flows, methodologies and possibilities for monitoring the cases change from organization to organization and are in continuous improvement through collective work.

The actions range from the process of following up on cases of contamination and deaths, to actions to support and structure the territories, in order to strengthen Indigenous People's resistance capacities in their various layers.

The systematization of information at the national level about cases of infection and death by COVID-19 is done by the National Committee for Indigenous Life and Memory. It brings together information on COVID-19 from sources in APIB's grassroots indigenous organizations and fronts in Brazil that collaborate with APIB, SESAI, Municipal and State Health Secretariats, and the Federal Public Ministry.

The Committee's data include both Indigenous Peoples living in traditional territories and those living in urban areas who self-declare and have ties to their people, as stipulated in ILO Convention 69 which was ratified by Brazil. The information about people infected by the coronavirus collected by the Committee comes from confirmations by Indigenous Peoples, municipal and state health departments, and eventually by institutions such as the Federal Public Ministry (MPF), which has collaborated in the testing of indigenous refugees from Venezuela, and the Warao in some states.

Due to the lack of mass testing throughout the country, and particularly in the indigenous context, it is estimated that there is a significant disparity between the number of confirmed cases and the actual number of infected people. Once again, due to the lack of transparency and the absence of detailed information from SESAI, it is not possible to check in detail the cases between the different databases, generating a possible duplicity in the information provided by the Committee.

Indigenous Peoples were proportionally the most affected by the virus. By November 2020, more than 41,000 of them had been contaminated by the new coronavirus, affecting more than half of the 305 peoples living in Brazil. APIB, through the National Committee for Indigenous Life and Memory, and with its indigenous organizations investigated and confirmed 161 peoples with confirmed cases of the new coronavirus in the country, a figure that the SESAI reports and bulletins do not reveal, given the lack of transparency of the data. The number of deaths reached 880 in nine months, according to the monitoring done by the National Committee for Indigenous Life and Memory. It was a tragedy without parallel in recent history.

Figure 1 shows in red the 161 out of the 305 Indigenous Peoples in Brazil who registered as confirmed cases of the coronavirus. The number of people with confirmed cases is more than half of the total.

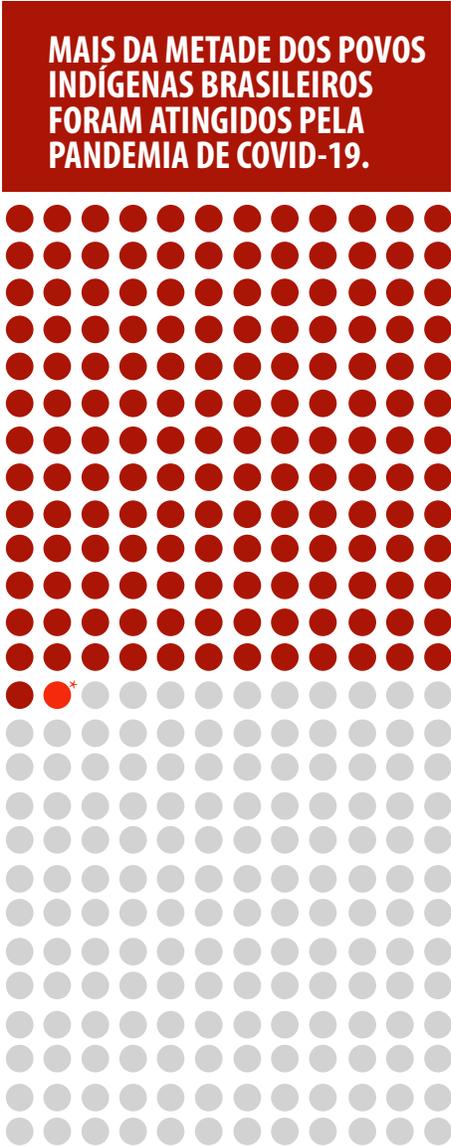
Figure 2 presents the number of confirmed deaths of Indigenous Peoples who were victims of COVID-19 in the ten states with the highest number of deaths, up to November 30, 2020. The state with the highest number of deaths was Amazonas, with 211 cases, and the tenth state with the highest number of deaths was Rio Grande do Sul, with 19 cases.

Figure 2: The 10 states in the federation with the highest number of confirmed COVID-19 deaths of Indigenous Peoples by November 2020.

Estado	Óbitos confirmados
Amazonas	211
Mato Grosso	139
Mato Grosso do Sul	94
Roraima	93
Pará	89
Maranhão	69
Rondônia	29
Acre	27
Amapá	20
Rio Grande do Sul	19

Source: https://emergenciaindigena.apiboficial.org/dados_COVID19/. Accessed on April 5, 2021

Figure 1: Number of Indigenous Peoples with confirmed cases of COVID-19 by November 2020.



*Alem dos indigenas brasileiros, conta se também a passo Warao, refugiados da Venezuela.

Source: APIB (2020)

Figure 3: The 10 indigenous ethnicities with the highest number of confirmed COVID-19 deaths, as of November 2020.

Povos afetados	Óbitos confirmados
SI	262
Xavante	68
Kokama	58
Terena	56
Guajajara	37
Kaingang	22
Macuxi	19
Tikuna	17
Munduruku (PA)	15
Kayapó Mebêngôkrê	12

Source: https://emergenciaindigena.apiboficial.org/dados_COVID19/.
 Accessed on April 5, 2021.

Figure 3 presents the number of confirmed deaths of Indigenous Peoples by ethnicity, who were victims of COVID-19, up to November 30, 2020. The largest number of deaths, 262, occurred among Indigenous Peoples whose ethnicity was not verified. Next are the Xavante, with 68 deaths, and tenth are the Kayapó Mebêngôkrê, with 12 cases.

Each regional APIB base organization built its own methodology and monitoring flow based on the possibilities of following up on cases. The condition to mobilize support to fight the pandemic and the capacity to strengthen actions to maintain isolation are also factors that influence the methodology of each organization. The Committee gathers this information to unify the different methodologies on COVID-19 cases.

Throughout the months of the pandemic, the precarious working conditions of the indigenous health agents became evident due to the number of confirmed cases and deaths among them from north to south of the country. APIB received denunciations from indigenous employees of the DSEI who were forced to work even with symptoms of COVID-19.

The pandemic among Indigenous Peoples has further aggravated the anti-indigenous policy of the Bolsonaro government. The lack of protocols, training, infrastructure and inputs for the structuring of sanitary and emergency measures for the protection of Indigenous Peoples since the beginning of the pandemic has had an impact on the high number of cases and deaths.

Social isolation, a necessary practice in the fight against the pandemic, is a challenge for Indigenous Peoples, both because of their dependence on urban environments for financial and material resources, and because of the pressure from invaders in indigenous lands, who are transmitters of the virus in the territory.

The impossibility of selling their handmade products, of buying food in the cities, or even the risk of going to the cities to receive the Emergency Aid, presents serious threats to the maintenance of indigenous health and territory. Such a scenario, together with the reality of invasions by miners, loggers, and ranchers, and direct attacks on indigenous lands, highlight the difficulties of Indigenous Peoples in defending themselves territorially and healthily.

Many difficulties are experienced by the organizations in this process, both technically and affectively. In addition to the heavy workload of the indigenous organizations in the daily investigation of the reported cases, there is also the difficulty in using the technologies and interfaces necessary for the follow-up that are not always accessible in some territories. However, the greatest difficulty experienced by the people responsible for following up on the cases is the pain of losing their relatives in the face of the speed with which the virus has reached Indigenous Peoples. Dealing daily with the death of loved ones, registering them, and yet implementing coping strategies in an emergency scenario are heavy tasks that affect the bodies, minds, and hearts of everyone.

Much more than numbers, there were shamans, healers, midwives, elders, and caciques who have died. The people have lost the elders who keep the ancestral memories. They were the keepers of knowledge, songs, prayers, and spirituality; leaders who dedicated their lives to the fight for the defense of the territory, the integrity, and the physical and cultural existence of their peoples. We live in mourning for this tragedy that affects not only the Indigenous Peoples, but all of humanity.

In this sense, APIB has even registered numerous denunciations of racism against Indigenous Peoples. Another challenge that many of them have had to face is to fight for the right to bury their dead with dignity, respecting each culture. The violations that occur are based on racism, which makes it impossible to understand the cultural dimension of death for many peoples.

The pandemic among Indigenous Peoples has further aggravated the anti-indigenous policy of the Bolsonaro government. The lack of protocols, training, infrastructure and inputs for the structuring of sanitary and emergency measures for the protection of Indigenous Peoples since the beginning of the pandemic has had an impact on the high number of cases and deaths.

E. WE DECIDED NOT TO DIE

APIB's actions have focused on guaranteeing the rights assured to Indigenous Peoples, the expansion of SESAI's service to include them in the urban context and in non-approved territories, partnerships with doctors, associations for the care of villagers, the purchase and implementation of tests in collaboration with the DSEIs. They have the right to food distribution to ensure social isolation, the use of their ancestral knowledge and traditional medicine as a preventive and palliative measure, and communication campaigns to promote the accessibility of information about COVID-19.

The possibilities of medical care in the reality of the villages are restricted due to the distance and difficulties of transportation to urban centers, in addition to the historical problem of deploying doctors to remote regions and in the interior parts of the country. With the intention of expanding the possibilities of care, APIB has partnered with the COVID-19 Mission initiative and Doctors of the Amazon to provide access to telemedicine and care in the territory.

In addition to health services, many people in various regions have made use of ancestral practices and traditional medicine in the treatment and follow-up of the sick. Teas from leaves, roots, and other traditional preparations have been administered to help people recover and strengthen the community's immunity.

So far, the best treatment to fight COVID-19 is the vaccine. APIB won a decision from the Supreme Court for the Federal Government to prioritize immunization for all Indigenous Peoples against COVID-19, regardless of whether they live in the city or in the villages. There is no treatment or medication for the specific treatment of COVID-19, and even within health units, the measures applied aim to minimize symptoms or discomfort, treat complications, or improve the immune response. In this sense, traditional indigenous medicine has different formulations and applications with the same goals of expectorants and vaporizations to aid breathing, as well as foods that significantly increase immune capacity. That is why the rescue of therapeutic and medicinal knowledge is not only an activity that supports the maintenance of indigenous health, but also an affirmation of culture and traditional knowledge.

In addition to the production and distribution of home remedies, indigenous women have been producing fabric masks for protection, and instructing about their importance of use and facilitating the understanding of how the virus behaves.

One of the pillars of APIB's actions against the pandemic are the communication campaigns that seek to inform in an accessible and popular way, both in terms of language and format. Information on prevention, recognition of symptoms, and alerts were translated into indigenous languages and disseminated virtually and physically through the distribution of materials and newsletters. Regional organizations, influencers, artists, and indigenous professionals have used their networks to disseminate information through posts, lives, and other types of digital content.

It is important to emphasize that APIB and its grassroots organizations have no political intentions, nor human or financial resources to carry out COVID-19 surveillance among Indigenous Peoples. The purpose of the monitoring is to demand that the Federal Government take urgent action on the alarming situation of Indigenous Peoples during the pandemic. It highlights the importance of public access to data as a strategy to identify weaknesses in the quality of information and indicate ways to improve it, in addition to subsidizing the actions of indigenous social control.

In 2021, with the worsening pandemic in Brazil, APIB improved the community monitoring system on the cases with the construction of a platform that will qualify the database with more security for the collection and storage of information. COVID-19 immunization among Indigenous Peoples also began to be monitored by APIB in January 2021, through the National Committee for Indigenous Life and Memory.



IV

India's COVID-19 Recovery Plans and Impacts on Indigenous Peoples

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A. BACKGROUND/INTRODUCTION

The Government of India (GoI) imposed countrywide lockdown to contain the unprecedented coronavirus disease (COVID-19) on March 24, 2020. Following this, over 1.14 crore or 11.4 million migrant workers including Scheduled Tribe/indigenous Peoples returned to their respective homes, as per official estimate.¹ Although the GoI gradually lifted the lockdown after June 2020, restrictions continued to be imposed by local authorities in various parts of the country. It was evident that the Government and the state (provincial) governments were not prepared for the pandemic's onslaught on the health, livelihood, and wellbeing of the people. The second wave which hit in February 2021 crippled the already broken healthcare system and this time, the virus penetrated deep inside tribal regions making the people most vulnerable.

India's Scheduled Tribe (ST) population, which comprises 8.6 per cent of the total population, faced multiple vulnerabilities even before the COVID-19 pandemic. Some of these are remoteness of habitations, socio-economic backwardness, poverty, poor infrastructure, absence of healthcare facilities, and discrimination. Rural poverty among STs was 45.3 per cent and 24.1 per cent in the urban areas as compared to the national average of 25.7 per cent in rural and 13.7 per cent in urban areas in 2011-12.² During the pandemic, these vulnerabilities were exacerbated and new challenges emerged for the tribals/Indigenous Peoples. The pandemic not only increased discrimination and marginalization but Indigenous Peoples also faced State repression in the form of forced eviction, land grabbing, atrocities, and criminalization. Just as the impact of and responses to COVID-19 disproportionately affected the Indigenous Peoples, so did the State's recovery plans. Official measures for economic recovery prioritized and supported the expansion of business operations at the expense of Indigenous Peoples, their lands and resources, and the environment. In May 2020, Prime Minister Narendra Modi announced economic recovery plans which had nothing specific for Indigenous Peoples and had actually dire negative implications for them.

B. EXECUTIVE SUMMARY

The COVID-19 pandemic has brought enormous suffering to the world, including India with greater implications for the marginalized sections particularly the tribals/Indigenous Peoples. Since the beginning of the pandemic in March 2020, Indigenous Peoples have been disproportionately affected, not only because of the pandemic but more so, due to the Government's policies and attitude. Despite the welfare schemes which are meant for all, Indigenous Peoples have been reportedly starving or eating less in many parts of India and the lack of source of income for several months hit their capacity to buy food grain, oil, salt, and vegetables due to sky-rocketing prices. Thousands of Indigenous Peoples without ration cards have been excluded from the government's free ration scheme during the COVID-19 pandemic.

Indigenous Peoples are virtually under siege as the GoI implemented its economic recovery plans. On May 12, 2020, Prime Minister Narendra Modi announced a special financial package of Indian Rupees (Rs) 20 lakh crore (US\$265 billion), or 10 per cent of India's GDP, to help the country recover from the COVID-19 pandemic under the "Atma Nirbhar Bharat Abhiyan" (Self-reliant India Mission).³ But the Abhiyan did not make any mention of Indigenous Peoples, nor did it address their particular needs and situations. Instead, these recovery plans have negative implications for them. As part of the Abhiyan, the GoI launched the online auction of 41 coal blocks for commercial mining on June 18, 2020,⁴ and this increased to 67 of which only 20 coal mines have been successfully auctioned as of August 4, 2021.⁵ More than 80 per cent of the country's coal reserves are in tribal areas,⁶ therefore this comes at the cost of Indigenous Peoples' land and existence.

To do business more easily during the pandemic, the GoI has been amending some of the existing laws to facilitate the granting of environment and forest clearances and land acquisition for projects. For example, the GoI is planning to introduce the Coal Bearing Areas (Acquisition and Amendment) Bill 2021 in the ongoing Winter Session of Parliament to amend the existing Coal Bearing Areas (Acquisition & Development) Act, 1957 [CBA Act].⁷ Currently, under the latter, the land is acquired by the Central Government for "Government Companies only" for coal mining⁸ but the amendment bill seeks to "make provisions for leasing of land and coal mining rights vested under the CBA Act to any company (including private sector company) which has become successful bidders in the auction of coal blocks."⁹ Another proposed legislative change is the Draft Environment Impact Assessment Notification 2020 (Draft EIA Notification 2020) to replace the existing Environment Impact Assessment (EIA) Notification of 2006. On April 11, 2020, in the midst of complete lockdown, the Ministry of Environment, Forest and Climate Change (MoEFCC) released the Draft EIA Notification 2020 giving only 60 days to the public to submit comments.¹⁰ The draft is widely considered as pro-industry and of having potentially compromised environmental safeguards. It allows post-facto clearance of a project, i.e., a project still without environmental clearance could carry out operation under the provision of the new draft EIA 2020.

Since the draft EIA Notification 2020 has not been finalized due to countrywide opposition and has been challenged before the court, the GoI made some amendments through executive decisions by exercising powers conferred under Section 3 of the Environment (Protection) Act, 1986. On February 16, 2021, the MoEFCC came out with an order stating that the mining industry can avoid public hearing for projects which had been

granted environmental clearance (EC) under the EIA Notification, 1994.¹¹ Further, in another gazette notification published on March 18, 2021, the MoEFCC exempted from new public hearing all projects where construction and commissioning of proposed activities have not been completed within the validity period of the EC and a fresh application for EC has been submitted by the project proponents.¹² The exemption from public hearing will make it easier for companies to get EC and forest clearance and acquire land for projects. Further, on October 2, 2021, the MoEFCC released a “Consultation Paper on Proposed amendments in the Forest (Conservation) Act, 1980” calling for comments/suggestions from stakeholders within a period of 15 days from date of issue.¹³ Following public criticism, the MoEFCC extended the deadline to November 1, 2021.¹⁴ The consultation paper mentioned nothing on the rights of tribal communities and hence, it is feared that the amendment to the Forest (Conservation) Act, 1980 may undermine the provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996 (PESA Act), and the Forest Rights Act of 2006.¹⁵

On the other hand, the GoI announced a financial outlay of Rs11,040 crore (US\$1.5 billion) under the National Mission on Edible Oils-Oil Palm (NMEO-OP) to bring about self-reliance in oil palm production. Notably, the NMEO-OP is especially focused on the northeast region and the Andaman and Nicobar Islands, which are predominantly inhabited by tribal communities. Environmental experts and activists say that oil palm cultivation is a recipe for disaster both for ecology and indigenous communities.¹⁶ Hence, as India begins to accelerate implementation of its recovery plans, the threat to Indigenous Peoples, their lands and resources is at all-time high.

Taking advantage of the emergency situation of the pandemic, the state governments have resorted to widespread human rights violations against Indigenous Peoples including forced eviction from forest land, land grabbing, torture, criminalization, arrest and extrajudicial killing with impunity. Indigenous Peoples Human Rights Defenders (IPHHRDs) who defend the rights of Indigenous Peoples continue to face criminalization, as exemplified in the arrest and continued detention since March 9, 2021 of Hidme Markam under the draconian Unlawful Activities (Prevention) Act (UAPA), death of Father Stan Swamy without bail under UAPA in July 2021, and externment notice issued to Valsingh Saste on July 22, 2021.¹⁷

Despite stiff resistance shown by Indigenous Peoples, the GoI is determined to go ahead with several projects without the consent of the local Gram Sabhas. In April 2021, the Odisha Government extended the lease of Hindalco Industries Ltd (part of Aditya Birla Group) to 50 years to mine bauxite in Mali Parbat hill which is considered sacred by the Adivasis in Koraput district. On September 22, 2021, police and paramilitary forces allegedly prevented tribal villagers from attending the public hearing to grant EC to the company. When the villagers protested, the police arrested 22 tribal youths including a class eight Adivasi student and booked them under serious criminal charges such as attempt-to-murder, criminal intimidation, rioting and “obscene acts and songs,” all of which were “false” according to the local tribals.¹⁸ Subsequently, the public hearing held on November 22 also faced stiff resistance from the local tribals under the banner of the Mali Parbat Suraksha Samiti (Mali Hill Save Committee) who demanded that the state government cancel the mining project and protect the virgin hill and forest area.¹⁹ In October 2021, thousands of Adivasis walked 300-km to the state capital Raipur in protest against the plan to allow coal mining in the forests of Hasdeo Arand which are known as the “lungs of Chhattisgarh.”²⁰ But the Government did not heed their demand. Earlier in July 2021, there were reports that 500 tribals were arrested on the ground that they violated the COVID-19 protocols by protesting against pollution caused by a chemical plant in Madhya Pradesh.²¹ Hence, the pandemic has restricted the Indigenous Peoples’ and other human rights defenders’ resistance to government plans and assertion of their rights. Several Indigenous Peoples were arrested and jailed on false charges for protesting against mining projects.

C. SUMMARY OF THE IMPACTS OF COVID-19 TO INDIGENOUS PEOPLES' RIGHTS AND WELL-BEING AND THE GOVERNMENT'S RESPONSE MEASURES

Impact on health

Even prior to the COVID-19 pandemic, the health care system was almost non-existent in India's rural and tribal areas. In January 2019, the Parliamentary Standing Committee on Social Justice and Empowerment reported a shortfall of 1,240 Primary Health Centers, 273 Community Health Centers and 6,503 Sub-Centers in tribal areas as of March 31, 2017 as compared to requirement.²² The pandemic further aggravated the health crisis, particularly in the rural and tribal areas. In Financial Year 2020-21, the Ministry of Health and Family Welfare (MoHFW) released²³ Rs.1,113.21 crore (US\$15 million) to States/Union Territories (UTs) under the National Health Mission for COVID-19 management. Another Rs.8,147.28 crore (US\$1.08 billion) was released to States/UTs under the "India COVID-19 Emergency Response & Health System Preparedness Package" (ECRP) for the containment and management of the pandemic, including for augmentation of infrastructure, oxygen supported beds, isolation beds, Intensive Care Units and Human Resources, supply of drugs, etc. On July 8, 2021, the Union Cabinet approved the ECRP Phase-II for an amount of Rs.23,123 crore (US\$3.08 billion).²⁴ The MoHFW issued an "SOP on COVID-19 Containment and Management in Peri-urban, Rural and Tribal areas" in May 2021 to ensure that community-based services and primary level health infrastructure in rural, peri-urban and tribal areas are equipped and oriented to manage COVID-19 cases.²⁵

Most remote tribal areas still do not have COVID-19 testing facilities, and the number of designated COVID-19 hospitals is inadequate. For example, Mizoram, with a population of 1,091,014 as of 2011 census, has only one COVID-19 designated hospital, i.e., the Zoram Medical College (ZMC) in capital Aizawl. In July 2021, a 39-year-old COVID-19 positive pregnant woman from South Mizoram died while trying to reach ZMC which is 227 km away.²⁶ Also, there are no adequate facilities such as COVID-19 Care Centers or quarantine centers in tribal communities. Wherever these facilities are present, often than not, these are totally funded by the local community in the absence of government funding. Tribal people in Meghalaya are not aware about utilization of the funds by the authorities for COVID-19 relief.²⁷

During the lockdown, when public transport came to a standstill, the poorest among Indigenous Peoples living in the rural areas suffered the most while accessing basic health care facilities. While the rich could afford to hire private vehicles to bring patients to the hospitals in towns, the poor families could not access even the basic health care facilities because they were unable to hire private vehicles.²⁸ The health situation of indigenous women was far worse during the pandemic. For example, on June 9, 2021, villagers had to carry a 26-year-old pregnant Adivasi woman on a "doli" (makeshift cloth palanquin) for 10 km to reach the nearest road, which could be reached by an ambulance in Visakhapatnam district of Andhra Pradesh.²⁹

Impact on livelihood and food security

According to the GoI, as of February 8, 2021, a total of 1.14 crore (11.4 million) migrant workers returned to their respective home states during the first wave of the COVID-19.³⁰ The livelihoods of these migrant workers, including the Indigenous Peoples, have been devastated. The Ministry of Labor and Employment claimed to have taken various initiatives for the migrant workers' welfare and employment generation including payment of both 12 per cent employer's share and 12 per cent employee's share under the Employees Provident Fund (EPF) from March to August 2020. This was for establishments with up to 100 employees with 90 per cent of such employees earning less than Rs.15,000. The Aatmanirbhar Bharat Rozgar Yojna (ABRY) Scheme took effect on October 1, 2020 to incentivize employers to create new jobs along with social security benefits and restoration of lost employment during the COVID-19 pandemic.³¹ To boost employment and livelihood opportunities for migrant workers returning to villages, the Ministry of Rural Development launched Garib Kalyan Rojgar Abhiyaan on June 20, 2020 which generated man-days work in the rural areas of six States,³² namely Bihar, Uttar Pradesh, Madhya Pradesh, Rajasthan, Jharkhand and Odisha³³ but excluded many tribal states such as Chhattisgarh, Andhra Pradesh, Telangana, and the eight Northeastern states.

Wages of rural workers under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) were raised from Rs.182 to Rs.202 per day.³⁴ In addition, farmers currently receive Rs.6,000 per annum through the PM-KISAN scheme in three equal installments. Apart from the ration received by 80 crore (800 million) beneficiaries under the National Food Security Act (NFSA), 2013, the GoI in April 2020 started Pradhan Mantri Garib Kalyan Anna Yojana (PMGKAY) to provide additional 5 kg wheat or rice and 1 kg of pulses per person per month free of cost which has now been extended up to March 2022.³⁵ But this is available only for the 800 million NFSA beneficiaries.³⁶ Tens of thousands of tribals across the country do not possess ration cards.³⁷

On August 10, 2021, the GoI informed the Parliament that since the Government started using "technology" and "Aadhaar," about 4.39 crore (43.9 million) "ineligible, duplicate and fake ration cards" have been cancelled from 2013 to 2020.³⁸ Hence, people without ration cards have been left out of the food security schemes.³⁹ Majority of the country's tribals are struggling to have a square meal during the pandemic. The Hunger Watch survey conducted by the Right to Food Campaign found that 77 per cent Particularly Vulnerable Tribal Groups (PVTGs), 76 per cent Dalits, and 54 per cent tribals/Adivasis (other than PVTGs) were forced to eat less during the lockdown period compared to the pre-lockdown period during the first wave in 2020.⁴⁰ Job losses in the family have disproportionate impacts on women. In several Indian households, including indigenous families, women are the last to eat and therefore have the least to eat due to a hunger crisis at home.⁴¹ The Anganwadi Centers and schools also remained closed and this impacted on nutritional patterns in the tribal areas due to denial of nutrition and mid-day meals.⁴² Even beneficiaries under the NFSA have been starving. In October 2021, media reported that about 8,000 tribals including PVTGs were starving due to denial of ration under the Public Distribution System in Garhwa district of Jharkhand and they were surviving by eating edible roots available in the jungles. Taking cognizance of a complaint from the Indigenous Rights Advocacy Centre (IRAC), the National Human Rights Commission notified the Chief Secretary of Jharkhand on November 16, 2021 calling for a report within six weeks.⁴³ Media also reported in May 2021 that tribal families in Mysore district of Karnataka were forced to venture into the forests in search of food such as edible roots, stems and tubers.⁴⁴

Nearly 87 per cent of Adivasis are dependent on forests for food, medicine and cash income.⁴⁵ The season for collecting minor forest produces (MFP) or Non-Timber Forest Produce (NTFP) from April to June coincided with the nation-wide lockdown in 2020 thus affecting collection, use and sale of MFP by tribals and forest dwellers. On May 1, 2020, the Ministry of Tribal Affairs (MoTA) increased the Minimum Support Price (MSP) for MFP and helped in providing higher incomes for the tribal gatherers. Then, on May 26, 2020, the MoTA added 23 new items under the MSP for MFP list, and these items were included as agricultural and horticultural produce collected by tribal gatherers.⁴⁶ Yet, the restrictions on entering the forests during the lockdown have left majority of tribal families particularly nomadic tribes without livelihood.⁴⁷ Tribals were harassed by the forest department while accessing MFP during the lockdown. Since the market was closed or inaccessible during the lockdown, tribal families had to

sell their MFP, particularly mahua (*Madhuca longifolia*) flowers at cheaper rates to vendors who came to villages to buy these.⁴⁸

As millions of migrant workers returned home, there was a surge in demand for rural jobs under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), the Center's flagship rural employment guarantee program during the COVID-19 pandemic. But on October 29, 2021, the People's Action for Employment Guarantee (PAEG) stated that the GoI reduced MNREGA's total budget for 2021-22 by 34 per cent lower than the previous year and almost 90 per cent of the allocated budget had already been used up with five months remaining of the financial year.⁴⁹ As many as 21 states had run out of funds to pay wages under MNREGA which had impact on the rural poor, including the Indigenous Peoples.⁵⁰ In the tribal state of Mizoram, many families resorted to mortgaging their family job cards under MNREGA to money-lenders for loan taken at high interest rates to feed the family.⁵¹

The COVID-19 pandemic is profoundly affecting the lives of indigenous girls with the surge in child marriages particularly in rural and tribal areas. A local activist in Odisha pointed out that the lockdown caused children to stay home, where they began to develop relationships that led to many child marriages among the Indigenous Peoples. The closure of schools and financial stress also increased the vulnerability of the girl child to child marriages.⁵² Andhra Pradesh officials found the financial crisis to be the main reason for the increased number of child marriages. Many of the parents feel insecure about their daughters' future and think that if they do not marry off their daughters now, they will not be able to do it later due to their financial status.⁵³ According to the Madhya Pradesh State Commission for Protection of Child Rights, 196 child marriages were stopped in the state in 2019-20, but rose to 710 cases in 2020-21, a 262 per cent jump during the pandemic.⁵⁴

Atrocities, forced eviction, land grabbing and criminalization:

The COVID-19 pandemic has brought more miseries to the Indigenous Peoples than they can think of. While announcing the country-wide lockdown on March 24, 2020, Prime Minister Narendra Modi appealed to citizens to stay inside their homes and not to venture out unnecessarily.

The next 21 days are of critical importance for us... If the situation is not handled in these 21 days, several families will get devastated forever. Hence, you must forget what going out means for the next 21 days. Stay inside your home, stay inside your home, and do just one thing—stay inside your home,” he said (emphasis added),⁵⁵ adding that “You must remember that a single step outside your home can bring a dangerous pandemic like corona inside.”⁵⁶

“In the face of this pandemic, being evicted from your home is a potential death sentence,” stated Leilani Farha, then UN Special Rapporteur on the right to adequate housing on April 28, 2020.⁵⁷ However, various State Governments took advantage of the emergency health situation and resorted to ruthless eviction of Indigenous Peoples from their homes and lands. The IRAC documented as many as 14 cases of forced eviction of tribal families by the forest department in different States of India from April 6, 2020 to September 24, 2021. Not only were the tribals forcibly evicted; their houses were also burned down by the forest officials in four cases. There were seven cases of houses demolished, a case of burning of food grains, four cases of crops and agricultural lands damaged/destroyed, and at

least three cases where the victims were subjected to physical torture during eviction.⁵⁸ In Madhya Pradesh, civilians participated in the eviction drive along with forest officials and police force.

On April 24, 2020, without any prior notice, forest department officials demolished homes of 32 tribal families in Sagada village in Kalahandi district of Odisha.⁵⁹ On June 17, 2020, 80 Koya tribal families were evicted from their land by forest officials at Satyaranarayanam Village in Bhadradri Khotagudem district of Telangana in the name of afforestation.⁶⁰ On July 10, 2021, in Negaon village in Khandwa district of Madhya Pradesh, 40 Adivasi families belonging to Bhil and Barela tribes were attacked and forcibly evicted from their land by the forest department, police and a mob consisting of over 200 men. The mob looted food grains, chickens, goats, household items, mobile phones, and cycles from the Adivasis' homes. The thatched huts of the Adivasis were destroyed using JCB machines and their fields were allegedly dug up by JCBs and sprayed with toxic chemicals to prevent any further possibility of farming.⁶¹ On August 3, 2021, *The New Indian Express* reported that huts of tribals were burned down by the forest department in Chinnoor under Amirthi Forest Range in Vellore district of Tamil Nadu.⁶² On September 24, 2021, forest officials reportedly burned down huts to evict the tribals in Charguwan village in Gaurjhamar forest range under Sagar district of Madhya Pradesh.⁶³

In 2021, security forces killed a number of innocent tribals, mostly in alleged fake encounters and branded them as Maoists/Naxalites or insurgents. The victims included three tribal farmers killed during a protest at Silger village in Sukma district of Chhattisgarh on May 17,⁶⁴ but the police claimed they were “Maoists.”⁶⁵ Mangboilal Lhouvum (29 years) who was killed on the night of June 4 by Assam Rifles at Chalwa village in Kangpokpi district of Manipur was alleged to be a Kuki Revolutionary Army militant.⁶⁶ Bramhadev Singh (24 years old) was killed in the Kuku-Piri forest under the Garu police station in Latehar district of Jharkhand on June 12;⁶⁷ and Santosh Markam (35 years old) was allegedly tortured and shot dead by the police in front of fellow villagers and labeled as a “dreaded Naxalite” at Neelavaya village in Dantewada district of Chhattisgarh on June 27.⁶⁸ Further, innocent tribal villagers have been arrested and framed in false cases by the police for protesting against the security forces.

On November 2, 2021, eight tribal villagers⁶⁹ were reportedly arrested as alleged Maoists in Chhattisgarh's Sukma district while they were returning home from a protest against the establishment of a security camp at Silger village. The Chhattisgarh police claimed that the alleged Maoists collectively carried a reward of ₹17 lakh (1.7 million) on their heads and were arrested in a forest near Morpalli village under Chintalnar police station on November 4, 2021 during an “area domination operation” of the CoBRA (Commando Battalion for Resolute Action), an elite unit of the CRPF, and the District Force of Police. The CoBRA further claimed to have recovered 35 detonators, six gelatin rods, two Improvised Explosive Devices (IEDs), batteries, wires and other materials from their possession and the eight tribals were booked under the Arms and Explosives Act.⁷⁰

Indigenous women also faced violence with impunity. On February 18, two young tribal women identified as Pandey Kawasi (20 years old) and Kumari Jogi Kawasi (35 years old) were allegedly picked up by the police from their village Gudse in Dantewada district of Chhattisgarh. The next day, they were photographed along with four others as “surrendered Maoists” under the Lon Varratu⁷¹ scheme. On February 23, Pandey died in police custody under suspicious circumstances.⁷² Similarly, on May 30, Payke Veko (24 years old) was allegedly abducted from her house and killed in police custody in Dantewada district. The police claimed that she was killed in an encounter with the Maoists on May 31 and arms and ammunition were recovered from her, but the deceased's mother alleged that her daughter had injuries on her breasts, thighs and hand.⁷³ IPHRDs or whoever defends Indigenous Peoples' rights continues to face criminalization, as exemplified in the arrest and continued detention of Ms. Hidme Markam under the draconian Unlawful Activities (Prevention) Act (UAPA) since March 9, 2021, the death of Father Stan Swamy without bail under UAPA in July 2021, and externment notice issued to Valsingh Saste on July 22, 2021.⁷⁴

D. SUMMARY DESCRIPTION AND ANALYSIS OF REGULATORY AND/OR LEGISLATIVE DEVELOPMENTS ON THE GOVERNMENT'S RECOVERY PLANS RELEVANT TO INDIGENOUS PEOPLES

On May 12, 2020, Prime Minister Narendra Modi announced a special financial package of Rs20 lakh crore (US\$265 billion) or 10 per cent of India's GDP to help the country recover from the COVID-19 pandemic under the "Atma Nirbhar Bharat Abhiyan" (Self-reliant India Mission).⁷⁵ As part of this, he launched the online auction of 41 coal blocks for commercial mining on June 18.⁷⁶ The GoI explained to the Parliament in September 2020 that the coal auctioning was launched because "In the present COVID-19 situation, the Government of India is making all efforts to kick start the economy. A slew of measures have been taken by the Government as a part of 'Aatm Nirbhar Bharat.' During the present period of economic slowdown, the Government has the duty to attract investment and generate employment."⁷⁷ The number of coal mines for sale increased to 67 of which only 20 coal mines have been successfully auctioned for sale as of August 4, 2021.⁷⁸ While speaking of the economic recovery plans, Prime Minister Modi equated coal with "diamonds."⁷⁹

Coal mining will come at the cost of the Indigenous Peoples' existence. Alok Shukla of the Chhattisgarh Bachao Andolan said that, "More than 80 per cent of the country's coal reserves are in tribal areas and most are under the Fifth Schedule of the Constitution. Both PESA [Panchayats (Extension to the Scheduled Areas) Act, 1996] and Forest Rights Act are applicable over this land, making prior consent of the local Gram Sabhas a constitutional provision."⁸⁰

According to a report, out of 41 coal blocks originally selected for commercial mining, 30 coal blocks or 73 per cent did not have the mandatory Forest Clearance under the Forest (Conservation) Act of 1980 and 37 coal blocks (over 90%) did not have the mandatory Environmental Clearance required under the Environment Impact Assessment Notification of 2006 at the time of auction.⁸¹ Hence, the GoI is facilitating easier acquisition of environmental clearance, forest clearance and land acquisition for projects in these tribal areas by diluting existing laws.

Proposed amendments to the Coal Bearing Areas (Acquisition & Development) Act, 1957

To ease the mining process under the auction, the GoI has been considering allowing land acquisition under the Coal Bearing Areas (Acquisition & Development) Act, 1957 [CBA Act], instead of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (LARR) Act, 2013. This would entail the GoI acquiring land and leasing it to private miners.⁸² To achieve this, the GoI is likely to introduce the CBA (Acquisition and Amendment) Bill 2021 in the ongoing Winter Session of Parliament to amend the existing CBA Act, 1957.⁸³

The draft amendment bill has neither been made public nor has the GoI sought any public opinion on it.⁸⁴ Currently under the CBA Act, 1957, land for coal mining is acquired by the Central Government for "Government Companies only."⁸⁵ According to the Lok Sabha's [Lower House of Parliament] website, the new amendment bill seeks to "make provisions for leasing of land and coal mining rights vested under the CBA Act to any company (including private

sector company) which has become successful bidder in the auction of coal blocks.”⁸⁶ Hence, if enacted, the new law will allow the entry of private companies into coal and lignite mining in tribal areas. Another big change is the use of acquired land which could be used for constructing coal-related infrastructure, allied activities or other public purposes which the CBA Act 1957 did not allow.⁸⁷

Draft Environment Impact Assessment Notification 2020

Another legislative change proposed is the Draft Environment Impact Assessment Notification 2020 (Draft EIA Notification 2020) to replace the existing EIA Notification of 2006. The EIA is a process under the Environment (Protection) Act, 1986, which prevents industrial and infrastructural projects from being approved without proper oversight and ensures that every project goes through the EIA process for obtaining prior environmental clearance. In the midst of complete lockdown, on April 11, 2020, the MoEFCC released the Draft EIA Notification 2020 giving only 60 days to the public to submit comments.⁸⁸ The deadline was extended for a further period of 60 days.⁸⁹ On June 30, 2020, in response to a Public Interest Litigation (PIL), the Delhi High Court (HC) extended the time period for submission of comments and suggestions until August 11, 2020.⁹⁰ As many as 1.7 million objections and suggestions were submitted until the end of deadline,⁹¹ which proves how critical the matter is for the public.

The Draft EIA Notification 2020 is widely considered as pro-industry and of having potentially compromised environmental safeguards. It allows post-facto clearance of a project, that even if a project has no environmental clearance, it could operate under the provision of the draft EIA Notification 2020. This has disastrous consequences as there are many projects running illegally without environmental clearance.⁹² On August 9, 2021, the Ministry of Mines informed the Parliament that a huge number of illegal mining cases including 97,047 cases in 2016-17, 116,198 cases in 2017-18, 115,492 cases in 2018-19, 72,560 cases in 2019-20, and 75,665 cases in 2020-21 were reported to the authorities across the country.⁹³

In June 2021, the National Green Tribunal held that prior Environmental Clearance (EC) is mandatory under the EIA Notification of 2006 and no project/industry should be permitted to operate without prior EC, and “the State has no power to exempt the requirement of prior EC or to allow the units to function without EC on payment of compensation.”⁹⁴ Another contentious issue is that the draft EIA Notification 2020 has exempted several projects from the requirement of prior EC which shall have adverse implications on the environment as well as the Indigenous Peoples. On November 26, 2021, the Delhi High Court asked the GoI to grant 60 days from the date of uploading the draft EIA Notification 2020 in all 22 vernacular languages (recognized in the Eight Schedule of the Constitution of India) for filing of objections by concerned stakeholders.⁹⁵

Exemption from public hearing process

Since the draft EIA Notification 2020 has not been finalized due to countrywide opposition and has been challenged before the court, the GoI has made some amendments through executive decisions by exercising powers conferred under Section 3 of the Environment (Protection) Act, 1986. According to the EIA Notification of 2006, projects that were not completed within the validity period of the Environmental Clearance (EC) will have to go through all stages of scoping including conducting public hearings while seeking EC. But on February 16, 2021, the MoEFCC came out with an order that the mining industry can avoid public hearing for projects which had been granted EC under the EIA Notification, 1994. The project proponent shall invite suggestions/objections as wider part of public consultation for the project instead of public hearing as per procedure prescribed in EIA Notification, 2006.⁹⁶

Further, in another gazette notification published on March 18, 2021, the MoEFCC exempted from fresh public hearing all projects where construction and commissioning of proposed activities have not been completed within

the validity period of the EC and a fresh application for EC has been submitted by the project proponents. The notification stated, "...the concerned Expert Appraisal Committee or State Level Expert Committee, as the case may be, may exempt the requirement of public hearing subject to the condition that the project has been implemented not less than fifty percentage in its physical form or construction."⁹⁷

These MoEFCC orders took away the rights of affected indigenous communities and other local communities to question the Government officials as well as the concerned company and present their claims and objections before them in person. The denial of this right to hearing of the grievances of the project-affected people will have disastrous consequences for Indigenous Peoples.

Proposal to amend the Forest (Conservation) Act, 1980

On October 2, 2021, the MoEFCC released a "Consultation Paper on Proposed amendments in the Forest (Conservation) Act, 1980" calling for comments/suggestions from the stakeholders within a period of 15 days from date of issue.⁹⁸ Following public criticism, the Ministry extended the deadline up to November 1, 2021.⁹⁹ The proposed amendments were criticized on several counts, particularly on facilitating the diversion of forest land since the proposals say that land that was acquired by the Railways and Road Ministries before 1980, but on which forests came up, will no longer be considered forests, and because the Forest Rights Act, 2006 was undermined. According to Mr. C R Bijoy, member of the Campaign for Survival and Dignity, a national forum for forest and tribal dwellers, "The proposed amendments completely ignore the existence of the Forest Rights Act, 2006. This is deliberate and condemnable. This indicates an anti-people intent, particularly against forest dwellers."¹⁰⁰

In its comments submitted to the Ministry on October 28, 2021, the Indigenous Rights Advocacy Centre (IRAC) pointed out that the consultation paper did not mention anything about the rights of tribal communities and suggested that the provisions of the PESA Act of 1996 and the Forest Rights Act of 2006 must be incorporated into the Forest (Conservation) Act of 1980 and the fact that the tribals are the best protectors/conservators of the forests and biodiversity must be given due recognition in the amendments in the Forest (Conservation) Act to make it a progressive legislation.¹⁰¹



Villagers on a protest demonstration over the extrajudicial killing of Mangboilal Lhouvum in north-eastern state of Manipur. (Photo credit: Kuki Students Organisation (KSO), Manipur)

E. ANALYSIS OF THE IMPACTS/IMPLICATIONS OF THE RECOVERY PLANS TO INDIGENOUS PEOPLES' RIGHTS AND WELL-BEING INCLUDING GAPS AND CHALLENGES

Prime Minister Narendra Modi's announcement of a special financial package of Rs.20 lakh crore (US\$265B) was supposed to help the country recover from the COVID-19 pandemic under the "Atma Nirbhar Bharat Abhiyan" (or Self-reliant India Mission).¹⁰² But the Indigenous Peoples were not mentioned in the Mission¹⁰³ although they have been disproportionately affected by the COVID-19 pandemic. On the other hand, India's COVID-19 recovery plans have serious implications on them because economic recovery is directly linked to access to land and natural resources and Indigenous Peoples predominantly inhabit forest lands.

The recovery plans are linked to extractive projects such as mining in the tribal areas. On his the economic recovery plans, Prime Minister Modi had equated coal with "diamonds."¹⁰⁴ According to Alok Shukla, member of the Chhattisgarh Bachao Andolan, "More than 80 per cent of the country's coal reserves are in tribal areas."¹⁰⁵ Hence, coal mining or any other mining will come at the cost of the indigenous peoples' existence. Under the PESA Act applicable in the Fifth Schedule and the Forest Rights Act, consent of the local Gram Sabha is mandatory for diversion of any forest land for non-forest purposes including development projects.

Yet, the Government is determined to go ahead with several mining projects without the consent of the Gram Sabhas. In October 2021, thousands of Adivasis took a 300-km walk to the state capital Raipur in protest against the plan to allow coal mining in the forests of Hasdeo Arand which are known as the "lungs of Chhattisgarh."¹⁰⁶ There was repression against the tribals who faced criminalization and imprisonment for protesting against the mining projects. The Odisha Government's extension of 50 year- lease to bauxite mining company Hindalco Industries Ltd in Mali Parbat which is considered sacred by the Adivasis led to the police and paramilitary forces preventing the tribal villagers from attending the public hearing to grant environmental clearance to the company on September 22, 2021.

This also resulted in police arrests, filing of serious criminal charges, including attempt-to-murder, criminal intimidation, rioting and "obscene acts and songs," all of which were "false" according to the local tribals.¹⁰⁷ The subsequent public hearing held on November 22, 2021 also faced stiff resistance from the local tribals under the banner of the Mali Parbat Suraksha Samiti (Mali Hill Save Committee) who demanded that the state government cancel the mining project and protect the virgin hill and forest area.¹⁰⁸

In 2006, the Supreme Court of India ordered the establishment of a Compensatory Afforestation Fund to be managed by a Compensatory Afforestation Fund Management and Planning Authority (CAMPA) to address instances where forest areas were earmarked for non-forest use such as infrastructure and mining projects. In May 2020, Finance minister Nirmala Sitharaman announced a package of Rs.6,000 crore (US\$800 Million) under the CAMPA funds to create job opportunities including for tribal communities in semi-urban and rural areas under the Atma Nirbhar Bharat Abhiyan.¹⁰⁹ But there were allegations of massive corruption of the CAMPA funds and that the forest departments in various states used the CAMPA funds to illegally evict tribals and other forest dwellers from their land in the name of afforestation.¹¹⁰

In Telangana, CAMPA funds were allegedly embezzled while tribals were forcibly evicted under the “Haritha Haram,” an afforestation program of the state government.¹¹¹ Such actions of forest officials led to frequent conflicts between them and the Adivasis. On August 6, 2021, the police arrested 23 tribal farmers including 18 women on false charges of attempt to murder forest officials at Yellanna Nagar village in Khamman district of Telangana during such an attempt to carry out plantation by the forest officials.¹¹²

Oil Palm plantation in Northeast and Andaman & Nicobar Islands

On August 15, 2021, marking India’s 75th Independence Day, Prime Minister Narendra Modi in his address to the nation said, “There is a huge potential in the fields of tourism, adventure sports, organic farming, herbal medicine, and oil palm in the North East. We have to fully harness this potential and make it a part of the development journey of the country.”¹¹³ Three days later, the Union Cabinet approved the National Mission on Edible Oils Oil Palm (NMEO-OP) with a financial outlay of Rs11,040 crore (\$1.5B) to promote the domestic cultivation of oil palm in the next five years and reduce the country’s dependence on edible oil imports. Notably the NMEO-OP is especially focused on the northeast region and the Andaman and Nicobar Islands, which are predominantly inhabited by tribal communities.

Environmental experts and activists say that oil palm cultivation is a recipe for disaster both for ecology and indigenous communities.¹¹⁴ The Government of India’s decision to promote oil palm in fragile Andaman & Nicobar Islands also goes against the order of the Supreme Court which in May 2002 had said, “There should be no expansion of monoculture or commercial plantations on Forest Land. The existing plantations of oil palm, rubber and teak are reportedly no longer viable and should be phased out.”¹¹⁵

In contrast to traditional jhum cultivation practiced by the Indigenous Peoples in the Northeast, oil palm cultivation is changing the community land ownership as land is gradually getting privatized. In Mizoram, the oil palm farmers of a particular district are required to sell to only a particular company and to no one else, and this unusual arrangement has made their farms “corporate plantations in effect.”¹¹⁶ The control of the traditional institutions or Village Councils has been reduced in the case of oil palm cultivation, thus, the oil palm companies are in indirect control of indigenous lands which is leading to corporatization of plantations.¹¹⁷

As farmers can sell their Fresh Fruit Bunches (FFBs) of oil palm only to one particular company, the free, prior and informed consent (FPIC) of the Indigenous Peoples has been effectively taken away. Hence, the State Government has created a business system where they and the corporates decide everything and the tribal farmers are left with no option.

Further, oil palm cultivation has led to livelihood and food insecurity. Many oil palm farmers are suffering financial loss mainly because of inability to sell their FFBs. They are facing food insecurity as they are no longer growing multiple crops which they traditionally grow in jhums. The companies have set up “collection centers” at roadside locations and they do not buy FFBs from plantations which are inaccessible by road. Even if connected by road, the companies have never reached several areas such as in Mamit district in Western Mizoram, where jhum farmers are into oil palm cultivation following Government assurances and assistance. Yet, no oil palm grower/farmer has been so far compensated for his/her unsold FFBs, nor has any company official been penalized as provided under the Mizoram Oil Palm (Regulation of Production and Processing) Act, 2004. Therefore, many oil palm growers decided to shift back to jhum cultivation or other plantations like areca nut and cut off their oil palm trees.¹¹⁸ Mizoram’s experiment with oil palm cultivation has led to a host of impoverished farmers, and unaccountable companies.¹¹⁹

F. CONCLUSION AND RECOMMENDATIONS

As India begins to accelerate the implementation of its recovery plans, the threat to Indigenous peoples, their lands and resources is at all-time high. The GoI's "Atma Nirbhar Bharat Abhiyan" (Self-reliant India Mission) does not make any mention of the Indigenous Peoples, nor does it address their particular needs/situations. On the other hand, the recovery plans adversely impact on Indigenous Peoples' rights across the country.

In order to safeguard the rights of Indigenous Peoples during the COVID-19 and post-COVID-19 recovery plans, the GoI and the state governments should undertake the following measures:

- **Obligations under international human rights instruments:** During its COVID-19 recovery efforts, the GoI must fulfill its obligations to Indigenous Peoples in accordance with the commitments made under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and other relevant international human rights standards. Recovery and post-pandemic decision-making must involve indigenous organizations and community leaders in the design and implementation of culturally appropriate recovery efforts. The Government must consult Indigenous Peoples and obtain their free, prior and informed consent (FPIC) in matters affecting them.
- **Avoid laws or policy decisions that undercut the rights of indigenous peoples:** The Government should refrain from promulgating any legislation or amendment to the existing legislations or formulating any policy or program that undercuts the rights of Indigenous Peoples to land and forest, self-determination and their wellbeing. Instead, the Government must ensure the participation of Indigenous Peoples in the planning and implementation of COVID-19 recovery measures that affect them.
- **Prevent eviction and rehabilitate those already evicted: Eviction of Indigenous Peoples under any circumstances and land grabbing must be stopped during the COVID-19 pandemic.** All tribal families who were evicted during the pandemic must be provided full and proper compensation, rehabilitation and resettlement within a definite timeframe. Further, Government as well as the private companies must respect the UN Guiding Principles on Business and Human Rights.
- **Prevent, investigate and punish acts of atrocities/violence:** As Indigenous Peoples have been targeted during the COVID-19 pandemic, the Government should prevent, investigate and punish acts of atrocities/violence committed by State and non-State actors including business enterprises against Indigenous Peoples. The Government should implement effective measures to end the criminalization of defenders of Indigenous Peoples' rights and release all Indigenous Peoples arrested on petty crimes, false and fabricated cases during the COVID-19 pandemic.
- **Vaccine strategy:** As tribal-inhabited districts are lagging behind in vaccination, its strategies and health guidelines targeted at Indigenous Peoples should be culturally appropriate, and community leaders should be convinced to end vaccine hesitation. Vaccination should be promoted/encouraged among tribal communities and further official orders/notifications should be communicated in indigenous languages/dialect.

- **Save the most vulnerable among the Indigenous Peoples:** Ensure urgent and effective measures to ensure the survival of Indigenous Peoples living in remote areas who are affected by the COVID-19 and implement the “Advisory on protection of Human Rights of the Particularly Vulnerable Tribal Groups (PVTGs) amid COVID-19 pandemic” issued by the National Human Rights Commission of India on June 3, 2021.
- **Employment and food security:** The Government should ensure food security of Indigenous Peoples by taking the following measures: (a) ensure doorstep delivery of free dry rations/food basket (rice, wheat/flour, pulses, salt, oil etc.); (b) special focus be given to malnourished children, lactating and pregnant women; (c) ensure proper implementation of all such food/ration based schemes (Central Sector Schemes/Centrally Sponsored Schemes/ State Government Schemes) while keeping biometric authentication in halt/suspended mode during the pandemic; and (d) increase the man-days and rate of wages under the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS). Further, the Government should ensure food security of all Indigenous Peoples who do not possess ration cards and are therefore outside the National Food Security Act by providing them food grains free of cost during the COVID-19 pandemic under the Pradhan Mantri Garib Kalyan Anna Yojana (PMGKAY).
- **Study the impacts on Indigenous Peoples:** The Ministry of Tribal Affairs should conduct a comprehensive study on the socio-economic impacts of COVID-19 pandemic on the Scheduled Tribes and the GoI should release a special financial package to cover the loss suffered by Indigenous Peoples.
- **Need for disaggregated data on Indigenous Peoples:** The State governments should collect disaggregated data on indigenous communities that (i) are approved and carried out by the communities themselves; (ii) will assist in better understanding the disproportionate impact of COVID-19 on Indigenous Peoples; and (iii) are regularly and accurately updated and centrally maintained by the Ministry of Tribal Affairs.
- **Digital divide:** Implement measures to bridge the digital divide and technology gap by increasing the number of mobile phone towers; improving internet access; and funding indigenous community radio stations.
- **Gender equality:** Adopt measures to address gender inequality in accessing health services, social benefits, and employment.
- **Healthcare:** Increase spending on healthcare facilities in the tribal areas on a war footing.
- **Land and forest rights:** Ensure full and proper implementation of the Forest Rights Act (FRA) and hold special camps for recognition of Community Forest Rights (CFRs) and Individual Forest Rights (IFRs). Provide unrestricted access/movement in reserved forests, National Parks, Sanctuaries, etc. for collection of minor forest produce by the tribals. Compensatory afforestation funds should be implemented by the Gram Sabhas, instead of the forest departments in the areas inhabited by the tribals. No compensatory afforestation activity should be carried out without free prior consent of Gram Sabhas as mandated by the Forest Rights Act and the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA).

Endnotes

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V Philippines: Implications of COVID-19 Pandemic and Economic Recovery Plan on Indigenous Peoples' Rights and Well-Being

By
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A. BACKGROUND

UN Special Rapporteur on the Rights of Indigenous Peoples (UNSRIP) Jose Francisco Cali Tzay expressed alarm over the devastating impact of the COVID-19 pandemic on Indigenous Peoples (IP). The special rapporteur pointed out that “states of emergency are exacerbating the marginalization of indigenous communities, and in most extreme situations, militarization of their territories is taking place.”¹

The situation is no different for Indigenous Peoples in the Philippines. The primary agency which is mandated to protect Indigenous Peoples’ rights has been blind to their situation during the pandemic. In the span of nearly two years of facing the pandemic and dealing with the measures and restrictions imposed by the Philippine Government, the National Commission on Indigenous Peoples (NCIP) and the Philippine Government as a whole have not seriously addressed the issues of Indigenous Peoples, and how they are being left behind in the supposedly holistic approach and response to the pandemic and its impacts.

In a crisis situation like the pandemic, the NCIP should mobilize all its personnel especially those in the provincial offices and community service centers, all Indigenous Peoples Mandatory Representative (IPMRs) and community-recognized indigenous leaders or elders to closely monitor the situation in indigenous communities and facilitate assistance by concerned local government units (LGUs) and concerned national agencies when needed by Indigenous Peoples.

The situation of the different indigenous groups in the Philippines may differ from each other, but they all experience institutionalized national oppression. As they bear the weight of historical injustices committed against them, they suffer even more because of the inadequate if not delayed government response to address the pandemic’s impact while failing to deliver proper and basic services to them.

It is important to look more deeply into how the pandemic has affected the lives of everyone particularly the Indigenous Peoples and analyze if the Philippine Government’s economic recovery plan did respond to their plight in facing the health crisis and its socio-economic impacts.

B. EXECUTIVE SUMMARY

The following indigenous communities were represented by their organizations and movements dedicated to upholding their rights: T'boli-Manobo S'daf Claimants Organization (TAMASCO) for the T'boli Manobo; Timuay Justice and Governance (TJG) for the Teduray and Lambangian communities; the Didipio Earth Savers Multi-Purpose Association (DESAMA) for the Tuwali community in Quirino Province, and the Cordillera Peoples Alliance (CPA) for the different indigenous communities and tribes of the Cordillera region.

The experiences of the different Indigenous Peoples were recorded and collated through research, interviews, focused group discussions (FGDs) and sharing with selected leaders and members. As they grapple with the pandemic, they are also struggling to defend their ancestral lands and heritage from development aggression. Their resistance is met with military force as the government, in siding with big businesses, deploys state security forces in indigenous communities. To justify the attacks on Indigenous Peoples, the military and police label them as supporters and members of the Communist Party of the Philippines-New People's Army-National Democratic Front of the Philippines (CPP-NPA-NDFP).

Whenever Indigenous Peoples express their opposition or apprehension to large projects such as hydro-electric dams and mining, they are subjected to harassment and surveillance, and their lands are bombarded by the military in the guise of anti-insurgency campaigns. From 2020 to June 2021, 33 Indigenous Peoples were killed, some of whom were gunned down in three massacres.²

In the experience of TAMASCO, the T'boli and Manobo communities are struggling against the Consunji-owned companies Silvicultural Industries Inc. (SII) and M&S Company in South Cotabato. Since the 1990s, residents have been displaced because of the said companies' activities. One of the most gruesome incidents of rights violations was the massacre of eight TAMASCO leaders and members, including their tribal chieftain, Datu Victor Danyan on December 3, 2017 by the military. Officials of the 27th and 33rd Infantry Battalions of the Philippine Army (IBPA) claimed that they chanced upon members of the NPA in the area and engaged them in a gun battle killing eight people. The so-called gun battle did not happen, and the eight killed were not guerrillas.³

The Teduray and Lambiangan peoples meanwhile, are facing the threat of being minoritized in the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM). The persistence of the different armed separatist groups in Mindanao poses a danger to the civilians especially the Moro as well as Non-Moro people including the Teduray and Lambiangan.⁴

The Tuwalis in Quirino Province are opposing the operation of the OceanaGold Corporation (OceanaGold), a gold and copper mining company whose Financial and Technical Assistance Agreement (FTAA) expires in 2019. The Philippine government issued a 25-year FTAA in 1994 to explore 27,000 hectares in the Nueva Vizcaya town of Dipidio, which OceanaGold obtained in 2006.⁵ In the past, OceanaGold demolished at least 187 houses to excavate its open-pit mine without legal permits or compensation agreements when it first began operations in the early 2000s.⁶

The mining company's operation is being strongly opposed by the Indigenous Peoples and the DESAMA because of its negative environmental impacts wherein water sources are being heavily polluted, affecting the agricultural productivity in the area. The Department of Environment and Natural Resources (DENR) is openly supporting the renewal of its FTAA despite the Didipio community's opposition. To ensure that there will be no more mining activities by the Australian-Canadian company following the expiry of its FTAA, the Indigenous Peoples in Didipio set up barricades at the doors of OceanaGold's mine site. The barricade was effective for months but at the height of the COVID-19 pandemic, the company deployed a diesel tanker for dewatering which was escorted by at least 100 members of the police force. Because of the persistence of those at the barricade not to allow the entry of the vehicle, they were violently dispersed and one of the indigenous leaders was arrested. Fifteen others who stood up to block the entry of fuel supply were charged with violating the law on reporting communicable diseases.⁷

In the Cordillera, the Cordillera Peoples' Alliance (CPA) is the longest existing indigenous organization working with indigenous communities and tribes against large dams, mines and other extractive industries that destroy their ancestral lands. Such projects resulted in the displacement, loss of livelihood and cultural identity of Cordillera Indigenous Peoples.

Even before the pandemic, CPA members and leaders were being subjected to state-sponsored harassments, unlawful arrests, illegal detention, torture, extra-judicial killings, and disappearances implemented by state agents and paramilitary groups. From the resistance against the World-Bank-IMF funded Chico dam project in the 1970s during the administration of the dictator Ferdinand Marcos, to the present opposition of the Cordillera Peoples against development aggression, countless indigenous leaders and members of the Cordillera Peoples Movement such as Dulag Macliing have been gunned down. Many others went missing and their bodies never surfaced.

With the pandemic aggravating the Philippine economic crisis,⁸ the lives of the vulnerable sectors especially the Indigenous Peoples became more miserable.⁹ They who have been at the receiving end of inequalities, discrimination, marginalization, bastardization of culture, non-respect of their rights to their ancestral lands and territories, development aggression that threaten their lives, livelihood, resources, and militarization since time immemorial, are now made to carry the burden of having a government who from day one responded so dismally to the crisis that ensued from the COVID-19 pandemic. The government's deplorable response aggravated the situation of the Indigenous Peoples and their chance in coping with the economic and health challenges the pandemic brought.¹⁰

Indigenous Peoples in Palawan, Mindoro, and Rizal express difficulties tending to their kaingin during the lockdown. The mobility constraints obstructed them from selling their commodities at the local market, forcing them to peddle their agricultural goods at reduced rates to avoid transportation costs, while vegetables were thrown out or given away for free in Cordillera since they could no longer travel to distribute the crops.

The government's aid with these livelihood problems was insufficient, meeting only a portion of the people's needs. LGUs provided relief supplies that contained a few kilos of rice, noodles, and sardines—stocks that could barely last a day or two and were inadequate to meet the families' nutritional needs.

The Social Amelioration Program (SAP) did not assist all indigenous communities. In Mindanao, several single-parent households expressed dissatisfaction with the lack of cash assistance, while cash assistance for families who worked abroad was not available in Cordillera.¹¹ Despite these, the Department of Social Welfare and Development (DSWD) in the Cordillera Administrative Region (CAR) disclosed the return of surplus SAP funds, totaling PHP19,524,300, because the cash aid had already been dispersed to low-income families in their respective areas by the local government units (LGUs).¹² The debatable return of excess SAP funds could have been distributed to families outside the lower income bracket or used to increase financial aid further.

Moreover, social inequality has become more pronounced in the entire COVID-19 response of the Philippine Government. As the government, through the Inter-Agency Task Force on Emerging Infectious Disease (IATF-EID) imposed lockdowns and restrictions on the movements of the population, the rights and needs of Indigenous Peoples were ignored. While it is true that lockdowns help in preventing the further spread of the virus, the quarantines were

abused by officials and companies to violate human rights. For instance, while the cases of COVID-19 infections quickly spread across the archipelago, the attacks on Indigenous Peoples ramped up, particularly those whose vocal opposition to development aggression was getting public attention and concern.

At the height of the pandemic, the government expedited the construction of the Kaliwa Dam despite communities' opposition against the construction. The energy project was rejected by five out of six community clusters of the Remontado-Dumagat Indigenous Peoples in the Rizal and Quezon provinces. Despite the explicit disapproval, defects, and irregularities in the FPIC process, and the exclusion from negotiations of other community members opposed to the dam project, the MWSS (Metropolitan Waterworks and Sewerage System) and the National Commission of Indigenous Peoples (NCIP) proceeded in the MOA signing. The Department of Environment and Natural Resources issued the contractors an Environmental Compliance Certificate (DENR).¹³

In March 2021, two Dumagats named Puroy Berhemedo dela Cruz and Randy “Pulong” Berhemedo dela Cruz were killed by state forces during Synchronized Enhanced Managing Police Operations (SEMPO). The massacre is commonly known as the Bloody Sunday massacre in the Philippines. The victims, Puroy and Pulong, were both members of an organization that aimed to protect the Sierra Madre and united with the rest of the Dumagat people to reject the Kaliwa Dam project in Rizal Quezon.

On December 30, 2020, one of the most gruesome massacres ever recorded in the Philippines was the “Tumandok massacre.” The military and police killed nine Tumandok leaders and arrested 16 others in Iloilo and Capiz. The victims and their communities were known for their firm opposition against the Jalaur River Multi-purpose Project that will affect 17,000 Tumandok upon construction, the Pan-ay dam, the National Greening Program projects in Panay Island.¹⁴

Amid the lockdowns, corporations connived with government agencies and officials, wreaked havoc with their continued operations of destructive projects, unmindful of indigenous communities' opposition to the destruction of their lands and their future.

This report provides an overview of the implications of the COVID-19 pandemic and how the Philippine Government's economic recovery plan responded to the plight of the Indigenous Peoples who are struggling to keep their existence, to nurture their land, and to preserve their culture amid the changing times.

[W]hile the cases of COVID-19 infections quickly spread across the archipelago, the attacks on Indigenous Peoples ramped up, particularly those whose vocal opposition to development aggression was getting public attention and concern.

C. SUMMARY OF THE IMPACTS OF COVID-19 TO INDIGENOUS PEOPLES' RIGHTS AND WELL-BEING, AND THE GOVERNMENT'S RESPONSE: IMPACTS TO THE HEALTH AND LIVELIHOODS

On Health

Many of the Indigenous Peoples reside in remote and mountainous areas. The rugged terrains and lack of good serviceable roads contribute to their difficulty of accessing basic health and medical services, exacerbating the existing inadequate social services provided to them by the government. In remote villages where news and information hardly reach the people due to impassable roads, lack or absence of telephone and cellphone signals and electricity, the Indigenous Peoples were among the last to be informed of the COVID-19 pandemic. They learned of the existence of such deadly viruses only when their communities were subjected to lockdowns and their movements were suddenly restricted. They were told to remain in their homes as part of the government's effort to curb the spread of the disease. They were informed that their mobility may cause the viral infection to spread and their respective government health departments were not yet ready to deal with the disease.

Lina, a Taboli-Manobo, became aware of the coronavirus when barangay officials arrived to inform her village of a lockdown. As part of the quarantine measures, villages were prohibited from going to their farms, and face-to-face classes were suspended. A few weeks after the lockdown was imposed, officials ordered them to wear facemasks despite the barangay having made no provisions. In addition, there were no educational materials available for them to learn about COVID-19. The Taboli-Manobo were concerned that if the situation worsened, it would impact their economic activities, and they might die of hunger. Finally, barangay (village) officials gathered tribal leaders to explain COVID-19 after a few weeks of lockdown.¹⁵

During the lockdowns, part of the enforced health protocols is the wearing of face masks and face shields, which to the Indigenous Peoples is something new and strange. Since time immemorial, they have enjoyed the fresh and natural air hardly experienced in heavily populated urban areas and cities. The Dumagat community from Sitio Tinapak in General Nakar, Quezon province, expressed difficulty adjusting to wearing masks, especially elders who had spent their lives breathing clean air in their community. Because of a lack of education, they are hesitant to get vaccinated, which leads to assumptions and misinformation among the Dumagat.

The Indigenous Peoples, like other citizens of every country, have the right to be informed of matters that concern them and their survival. As stated in the Indigenous Peoples Rights Act (IPRA), they should be consulted on government-imposed policies such as lockdowns and movement restrictions in accordance with the principle and their right to free, prior and informed consent (FPIC). But like in the case of development projects and extractive industries being forced on them, such rights are seemingly never respected.

At the start of the lockdowns, the few health workers who rarely visited the isolated communities of the Indigenous Peoples had a hard time reaching them. The barangay (village) health workers who are supposedly assigned to them were pulled out to help in other areas prioritized by the government. This is reflective of how the government itself discriminates against the Indigenous Peoples and disregards their right to health. This is in violation of the Universal Declaration of the Rights of the Indigenous Peoples (UNDRIP), which ensures the protection of Indigenous Peoples

against discrimination. The right to access health services is explicitly mentioned in Article 24 (1), which states that “indigenous individuals shall have the right to access, without any discrimination, to all social and health services.” As to health standards, they have the right to an equal enjoyment of the highest attainable standard of physical and mental health and the State is directed to take necessary steps to the full realization of this right.

The reality of poor deliverance of health services contradicts the Department of Health (DOH) Administrative Order No. 2004-185 (Establishing the Geographically Isolated and Disadvantaged Areas in Support to Local Health Systems Development). This was issued to address inequity and improve availability as well as access to health resources/services in the hinterlands or far-flung areas by populations/communities that are marginalized, physically and socio-economically separated from the mainstream health service delivery system.

Because of this situation, the Indigenous Peoples became more vulnerable to the virus because they not only suffered from anxiety of having even a single case of infection in their community, but they are also among the marginalized sectors who were not given free COVID-19 mass testing, as per popular clamor. Only those with COVID-19 symptoms were tested, and they had to pay for the expensive tests in every region where Indigenous Peoples reside. If they were found positive of the virus, the infected were isolated where health facilities are available, or settled for home quarantine and the entire family of the patient subjected also to home quarantine. Such a situation severely disrupted the economic activities of indigenous families who had to tend their farms and animals or other sources of livelihood. This resulted in hunger and poverty among the Indigenous Peoples especially those in remote and isolated areas where government presence is hardly felt.

The Commission on Human Rights recommended that all DOH and local government units’ (LGUs) health services in relation to the COVID-19, testing included, must be made equally accessible to all without distinction, exclusion, restriction or preference. Members of the ICCs/Indigenous Peoples especially in Geographically Isolated and Disadvantaged Areas(GIDA) should not be deprived of all relevant information and shall be encouraged to avail of COVID-19 related and culture-sensitive health services, if needed. To ensure that the highest attainable standard of health services are delivered to them, LGUs may set up COVID-19-ready health facilities like health centers or mobile clinics or telehealth services and quarantine areas in GIDA areas (in anticipation of COVID-19 cases).

While the Indigenous Peoples have no idea on how to effectively deal with the virus itself, the lack of information worried them as the government did nothing to systematically educate the people especially in remote areas about the coronavirus and the COVID-19 pandemic, and what the measures the government is doing to mitigate the effects of the pandemic. Many times, what indigenous communities receive are various bits of misinformation on how to deal with the disease. Indigenous Peoples are vulnerable and insecure about what information they should accept because of the lack of education. Indigenous Peoples develop qualms and fears, leading to assumptions about the COVID-19; some misinformation is also spread by the general public from the community, including the media. The news of the existence and provision of anti-COVID vaccines reached the indigenous communities late. The education and information campaign on the vaccines and their benefits was not effectively and thoroughly carried out among the Indigenous Peoples and other uninformed sectors especially to those who still have doubts regarding vaccination. Such a situation reflects the type of government that is reactive and inefficient in responding to health crises and disasters.

On livelihood

Even before the pandemic, the livelihood of Indigenous Peoples was always in peril because of the aggression of huge corporations, extractive industries and big businesses. Indigenous communities were relentlessly being driven out from their lands by companies aided by mercenary armies of the state and company security forces. The militarization of indigenous territories in the guise of counter-insurgency campaigns disrupted the Indigenous Peoples' economic activities.

Thus with the pandemic, the lockdowns, strict movement restrictions, plus the lack of information from the government aggravated the already beleaguered and stunted economy of indigenous communities, especially their agricultural activities. For example, the Indigenous Peoples in Palawan, Mindoro and Rizal found it difficult to go to their swine farms. They could not sell their products in the markets and for them to earn money, they were forced to sell their agricultural products at lower prices to people who took advantage of their situation.¹⁶

Because of travel restrictions, Indigenous Peoples who mostly earn by selling their agricultural products are unable to dispose of their produce, thereby being deprived of income. Those who attempted to travel from their farms to transport their produce were stopped at provincial boundary checkpoints and disallowed to pass through, thus, some of them opted to dump their vegetables along the way. In the Cordillera Region, the farmers threw away their vegetable products that were bound to get rotten or they gave them for free.¹⁷ Many Cordillera farmers were not able to plant because they were not allowed to go to the markets or farm supply stores to buy seeds and other farm inputs.

In Southern Philippines particularly in Davao del Norte and Davao de Oro, indigenous farmers were forced to sell their bananas at the lowest price even as their expenses for production and transportation bloated.¹⁸ They are in dire financial straits, and could not even recoup their capital, which is often borrowed from loan sharks and lending companies that impose high interest rates.

In situations like these, the Government, particularly the LGUs should be aggressive in supporting both indigenous and non-indigenous farmers. LGUs should prioritize the purchase of their crops to be included in the food packs being distributed as aid or assistance to affected daily wage earners and other vulnerable groups during the entire duration of the community quarantines. Although some LGUs opted to buy the crops especially from indigenous farmers and distributed these to their constituents, these initiatives are short-spanned and the agricultural losses continue.

When the government distributed cash aid ranging from P5,000 to P8,000 (US\$100 to US\$160), not all the Indigenous Peoples, especially those in the remote and interior areas were given such. Many families with relatives working overseas were disqualified from receiving the said aid just like in the Cordillera. Members of TAMASCO only received P2,000 per household.¹⁹

In Mindanao, several households with single parents were also not given aid. Indigenous women who are single parents suffer doubly as they have no way to feed their families due to the discrimination against them.²⁰ This is a violation of the implementing rules and regulations of the IPRA Law, which states that indigenous women shall enjoy equal rights and opportunities with men, as regards the social, economic, political and cultural spheres of life. The participation of indigenous women in the decision-making process in all levels, as well as in the development of society, shall be given due respect and recognition. The State shall provide full access to education, maternal and child care, health and nutrition, and housing services to indigenous women.

Such is the blatant disregard of the Human Rights advisory on Indigenous Cultural Communities/Indigenous Peoples (ICCs/Indigenous Peoples) amid the COVID-19 pandemic issued by the Commission on Human Rights (CHR). The CHR stated,

Since the indigenous communities are generally poorer and more vulnerable than the rest of the population, food supplies or cash allowance should be provided during the ECQ not only to affected families in cities and to communities near town or barangay centers, but also to low-income Indigenous Peoples..., the LGUs should be at the forefront in extending food supplies to all affected households and shall prioritize Indigenous Peoples in upland communities who may be lacking food provisions due to the limited movement.

While it is true that the LGUs and other government agencies like the Department of Social Welfare and Development (DSWD) distributed relief packs, these were never enough to address the hunger that indigenous families felt during the lockdowns. A relief bag containing a few cans of sardines, a kilo or two of rice and noodles lasted only for a few days for a family of six.

Indigenous Persons with Disabilities (PWDs) and their children were also severely affected because of the absence of livelihood during the lockdown. In Baguio City, many indigenous PWD are masseurs who get their daily income based on how many clients they serve in a day, but during the lockdowns, their massage centers or clinics had to close. When the relief operations of the LGUs and the DSWD began and the so-called economic recovery plans rolled out, the indigenous PWDs were left behind as they were not considered nor consulted in the planning. Their rights as provided by the Magna Carta for the Disabled especially in equal opportunities were disregarded in the recovery plan of the government.



D. SUMMARY DESCRIPTION AND ANALYSIS OF REGULATORY AND LEGISLATIVE DEVELOPMENTS ON THE GOVERNMENT'S RECOVERY PLANS RELEVANT TO INDIGENOUS PEOPLES

Republic Act 11494 or the Bayanihan to Recover as One Act outlining the programs that will help the Filipino families cope with the challenges of the pandemic is much-needed by indigenous families who are struggling daily to put food on their table. The distribution of financial aid would have alleviated their situation, especially those whose livelihood completely stopped because of the lockdowns.

The laws (Bayanihan 1 and Bayanihan 2) declare the existence of a national emergency arising from the Coronavirus Disease 2019 (COVID-19) situation to:

- a. mitigate, if not contain, the transmission of COVID-19;
- b. immediately mobilize assistance in the provision of basic necessities to families and individuals affected by the imposition of Community Quarantine, especially indigents and their families;
- c. undertake measures that will prevent the overburdening of the healthcare system;
- d. immediately and amply provide health care, including medical tests and treatments, to COVID-19 patients, persons under investigation (PUIs), or persons under monitoring (PUMs);
- e. undertake a program for recovery and rehabilitation, including a social amelioration program and provision of safety nets to all affected sectors;
- f. ensure that there is sufficient, adequate and readily available funding to undertake the foregoing;
- g. partner with the private sector and other stakeholders to deliver these measures and programs quickly and efficiently; and
- h. promote and protect the interests of all Filipinos in these challenging times.

While the national government boasts of these two Bayanihans, the most vulnerable sectors including the Indigenous Peoples are left behind. There has been discrimination since the planning of who should be prioritized, to the distribution of monetary aid as well as relief packs or goods, and the provision of other economic relief measures of the government. For example, several indigenous families were not included in the list of people who should be given aid because they did not qualify as beneficiaries. Many indigenous families with households headed by single parents and those with relatives abroad were excluded from the aid.

In the DSWD program on the expanded and enhanced Pantawid Pamilyang Pilipino Program or enhanced 4Ps which is supposedly a poverty reduction strategy, many indigenous families who were not listed since the program started were not also included in the said enhanced 4P's especially during the pandemic. In the said program, the DSWD and the Department of Labor and Employment (DOLE) shall transfer cash, cash vouchers, or goods through the LGUs or directly to families who have no income or savings. This included families working in the informal economy and those who are not currently recipients of the current 4Ps. They were supposed to receive an adequate amount to restore capacity to purchase basic food and other essential items during the duration of the quarantine.

In reality, however, more and more IP families who are living in remote areas continue to experience hunger.

Another government recovery program is the DOLE's Integrated Livelihood Program (DILP) or KABUHAYAN Program. The program is supposed to contribute to poverty reduction and reduce risks of vulnerability of the poor, vulnerable and marginalized workers, either through transitional emergency employment and promotion of livelihood and entrepreneurship. Program beneficiaries shall be provided with training on planning, setting up, starting and operating their livelihood undertakings; working capital in the form of raw materials, equipment, tools and jigs, and other support services necessary in setting-up a business; and continuing technical and business advisory services to ensure efficiency, productivity, and sustainability of the business or enterprise.

Such a program would be of great help to indigenous workers who are far away from home. Many of them lost their jobs because of the closure of many businesses and companies. Yet such information about the existence of the program rarely reached the indigenous workers especially those working in farms and agricultural industries and those who went back to their communities.

The same is true for the DOLE's COVID-19 Adjustment Measures Program or CAMP. Many indigenous workers who lost their jobs and livelihoods could have benefited from the program.

The problem, however, is that the process of application for CAMP was tedious. The fact that it is a digital application made it even more difficult for most indigenous workers who have little or no access to the internet. Even employers of indigenous workers found it frustrating to apply and many of them just gave up trying to avail of the said program. Even for the second part of the distribution of CAMP, many still found DOLE's application process arduous. The indigenous workers who were able to apply had to wait patiently and desperately for the much-needed relief because of the slow process of the labor agency. There were also regional line agencies that closed their online portals early thereby depriving indigenous workers who came from far-flung areas to access the program. Other regional agencies also closed the application process because of alleged lack of funds to implement the program.

During the lockdowns and quarantines, LGUs closed their borders, denying the entry or the passage of people to and within their territories. Indigenous farmers and agricultural traders were unable to transport their products from their farms to the markets such as in Manila, the National Capital Region (NCR). In the Cordillera, vegetable farmers were actually crying because their vegetable produce, especially the perishable ones, were left rotting. They appealed to the Department of Agriculture (DA), the agency mandated to act on their plight, which issued a Memorandum Circular No. 06, s.2020: Implementing Guidelines for the Delivery of Food and Other Agricultural Commodities to, from, and Passing Through National Capital Region During the Thirty (30) Day Community Quarantine. The issuance was released to ensure unhampered trade and delivery of agro-fishery produce (fruits, vegetables, rice, fish, poultry and livestock and its related products) and agri-fishery inputs (fertilizers, feed, feed ingredients and etc.) to, from, and passing through NCR through "Foodlane Accreditation" and other operationalization of other food delivery mechanics.

Likewise, the DA initiated the Survival and Recovery (SURE) Aid Program and allotted P2.8 billion for this, to provide loans of up to P25,000 for smallholder farmers and fisherfolk affected by calamity and disasters. This initiative includes a one-year moratorium without interest on payments of outstanding loan obligations of small farmers and fisherfolk borrowers under the ACPC Credit Program amounting to P2.03 billion. Indigenous farmers found it hard to fulfill the requirements which include proof of Registry System for Basic Sectors in Agriculture (RSBSA) registration.²¹

Such programs of the DA are good to hear especially for the indigenous farmers who have long been suffering from the hardships of transporting their vegetable products to the markets especially to the NCR and the rest of the country. But these programs are only temporary solutions as the bigger issues that affect the farmers and vegetable traders especially the Indigenous Peoples are still not being addressed.

Even long before the pandemic, indigenous farmers have been in distress due to vegetable smuggling that denies them of their markets. Smuggled vegetables with cheaper food items have been flooding local markets all over the country, and many of the consumers prefer the cheaper ones while the produce of local farmers especially the Indigenous Peoples are left rotting.

While the pandemic continued, and as the government eased on travel restrictions abroad, the entry of smuggled vegetable products continued.²² After vegetable farmers and traders sounded the alarm and brought the matter to the DA and the Bureau of Customs, it was only then that the said agencies responded. Despite the DA's and the BOC's investigation of the issue, the problem of vegetable smuggling persists.

The Philippines is still tied to the unfair General Agreement on Tariff and Trade - World Trade Organization (GATT-WTO) which allows the country's importation of vegetables, among many agricultural products. This makes for a difficult life for the indigenous highland vegetable farmers of the Cordillera and the rest of the indigenous, as well as the lowland farmers of the country.

The vaccination roll-out of the government is still far from reaching the remote indigenous villages and communities. The Indigenous Peoples willing to be inoculated have to travel great distances to the designated vaccination centers in the urban areas of the provinces. In most instances, the Indigenous Peoples are unable to follow or reach the scheduled dates of vaccination because of their travel time, which has been affected by restrictions in mobility. This is again contradictory to the government's plan under the Joint Memorandum Circular No. 2913-01 (Guidelines on the Delivery of Basic Health Services for Indigenous Cultural Communities/Indigenous People), or the guidelines that will address access, utilization, coverage, and equity issues in the provision of basic health care services for ICCs/Indigenous Peoples to achieve better health outcomes.



E. ANALYSIS OF THE IMPACTS OR IMPLICATIONS OF THE RECOVERY PLANS TO THE INDIGENOUS PEOPLES

The Indigenous Peoples in the Philippine are severely affected by the COVID-19 pandemic. Because most of them are located in remote villages where access to health care is extremely difficult, many fear that once a single case of infection enters their territory, the possibility of a community epidemic is higher. It is an illustration of the actual situation of many indigenous communities who are left behind in the implementation of an unsatisfactory Philippine health care system, making them vulnerable to the deadly virus.

Because of the public health care system that leaves much to be desired, many indigenous communities opted to rely on their cultural traditions and practices in their bid to prevent the entry or the spread of COVID-19 in their communities. Although practices like the temporary ban of visitors' and outsiders' entry to and exit from the community is effective and proven, still, the COVID-19 virus is potent and contagious enough to be able to penetrate even the most remote places in the country. As health experts have said, COVID-19 knows no boundaries.

It is challenging on the part of Indigenous Peoples because the situation of their communities now are much different from their surroundings before. Because of the unbridled entry of extractive industries into their territories which resulted in the degradation of their environment and their resources, plus the adverse effects of climate change, their traditions and practices which are mainly dependent on how the surroundings normally work or move are seemingly diminishing in terms of practicality and effectiveness. The Indigenous Peoples in olden days followed their agricultural calendar or cycle as well as the movements of the environment, but because of the entry or introduction of fast-crop and high yielding agricultural methods supplied by synthetic agricultural inputs, there have been numerous changes that affect the agricultural life of the Indigenous Peoples.

Just like the rest of the Filipino population, the Indigenous Peoples are reeling from the loss of livelihood, income, jobs while bearing the consequences of having an inept government that was obviously caught unprepared in dealing with such a crisis. The Indigenous Peoples are vulnerable to the COVID-19 spread due to their limited access to adequate medicine, lack of access to health and other social services. Their lack of access to adequate health services has put indigenous families and their children at risk of coronavirus. Other factors such as food insecurity and malnutrition have compromised their resistance to viral diseases and predispose them further to more serious health conditions. Based on past experiences, they tend to be excluded in humanitarian and other government services when disasters and other calamities occur. With this pandemic, it is no different. Due to their marginal position in society, Indigenous Peoples are not often represented and are not part of major decision-making processes which may result in serious neglect when the whole country is in crisis and there is an intense need for health services and essential supplies. Therefore, it is the task of the government to ensure that no one is left behind and are protected from the threat of COVID19.

The Indigenous Peoples who should be as assured by the Philippine Constitution and the IPRA, the Indigenous Peoples who continue to face multiple discrimination and have lower social and economic capital should be given special attention by the state. During the COVID-19 pandemic, it is evident that these groups are the most vulnerable. Therefore, it is the responsibility of the government to develop program assistance for indigenous groups for them

to be able to: access medical assistance without any discrimination; access emergency aid regardless of status; and receive information about COVID-19 and its prevention for their families especially their children and the elderly to keep them safe. Information dissemination on how to prevent the spread of the disease should be carried out in as many local, simple, and easy to understand languages. There should be reliable information coming from the government through an aggressive information drive and concerned officials should refrain from discrediting their critics who voice out disappointment over the government’s late response to the crisis.

Based on the experiences of the Indigenous Peoples during the pandemic while under a poorly administered government response, something serious should be done before drafting recovery plans which affect all the sectors in a society. It should be anchored on the supposed battle cry of the Philippine Government which is to “heal as one and recover as one.”

In the Philippines, there have been 3.7 million cases of COVID-19 since March 2020, with approximately 57,000. The Duterte administration is accountable for the country’s worst economic disaster in history last 2020. Given the government’s surface-level approach to the pandemic in the absence of a comprehensive health-centered and research-based approach, the overt reliance on extended militaristic lockdowns and chronic quarantines inevitably led to the economic tumult. There were at least 5.8 million unemployed Filipinos and 18 million poor and low-income families as of February 22, 2021.²³ Despite the economic and health crises, the Duterte administration has accelerated destructive megaprojects, organized SEMPO, and rolled out fabricated charges, smear campaigns, and red-tagging, among other things. The government should direct its resources toward mass testing, contract tracing, and immediate vaccination rollouts, as well as mobilizing its agencies to educate and assist at the time of the pandemic



F. RECOMMENDATIONS

- The Philippine Government should **include Indigenous Peoples’ representatives, leaders and traditional authorities in emergency and health response committees** or any entity dedicated to the COVID 19 pandemic, both during the outbreak as well as in the aftermath.
- The Philippine Government **should not implement any policy, program or intervention that affects Indigenous Peoples without obtaining their Free, Prior and Informed Consent**. It is of utmost importance to have consultations with indigenous communities and understand what and how their culture works especially in facing or dealing with crises like the COVID-19 pandemic. It is important that the Indigenous Peoples feel that they are part of the collective effort to battle the impacts of the pandemic, especially to their indigenous ways of life. Their meaningful participation should be ensured in all crucial matters affecting their health and survival.
- The government, through its agencies like the DOH should also **learn to understand the culture of the Indigenous Peoples and look into possibilities of harmonizing their traditional knowledge and practices in dealing with diseases** and the pandemic.
- The government should **impose protection measures to stop external farmers, settlers, private firms, extractive industries from entering Indigenous Peoples’ territories** and taking advantage of the present crisis. Government agencies especially the NCIP should be reminded of their mandate to protect the rights of the Indigenous Peoples as stressed by the IPRA law, and should be on guard to ensure that the ancestral lands of the Indigenous Peoples and their livelihood will remain and that they will not be subjected to harassments and persecution for defending their heritage. The said agency, together with the CHR should decisively act and ensure that the maligning and red tagging of Indigenous Peoples and their leaders who are vocal in fighting against development aggressions amid the ongoing pandemic stop. RA 8371 mandates the NCIP to be the primary agency to fulfill these rights of ICCs/Indigenous Peoples but its core mandate is limited to the titling of ancestral domains and lands to secure the economic well-being of indigenous communities
- The government should **stop any planned or ongoing evictions of Indigenous Peoples** and should respect their ongoing advocacies and struggle to protect their lands from the destructive projects. This should always be in the plan of the government given the context of the health emergency for COVID-19.
- There should be a **more serious effort from the government to conduct honest to goodness surveys and monitoring on the population, physical situation and location of the Indigenous Peoples and their communities**. Enough and accurate data on the Indigenous Peoples will make the recovery plans and efforts really effective and of service to all sectors of the society especially the vulnerable ones like the Indigenous Peoples. One of the factors why government programs fail to reach or serve the real interest of the Indigenous Peoples is the lack of data pertaining to the indigenous communities. It was only in the year 2010 that the national government included the ethnicity variable in the national census.

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