

INFECTION RATES AND INDIGENOUS RIGHTS: THE  
EFFECTS OF THE COVID-19 OUTBREAK IN THE  
AMAZON

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I. INTRODUCTION

The global outbreak of COVID-19 threatens to exacerbate existing socioeconomic gaps for indigenous communities. Facing financial uncertainty, weakened welfare programs, and limited access to healthcare, many Latin American indigenous peoples remain haunted by the devastation that past infectious disease outbreaks have brought upon their communities. Across the Amazon, State governments have proven largely unhelpful in their aid responses to the COVID-19 pandemic, leaving indigenous populations particularly vulnerable.

Since the beginning of the COVID-19 pandemic, the Brazilian, Peruvian, and Colombian federal governments have been largely unresponsive to the pleas of indigenous communities. By violating indigenous communities’ efforts to self-isolate and by failing to allocate and distribute funds and other resources, these governments have placed indigenous communities in a uniquely perilous situation given their pre-existing socioeconomic disadvantages. Such a situation requires the immediate attention and intervention of regional and international organizations, namely the United Nations, to uphold the indigenous right to health.

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## II. THE DISPARATE IMPACT OF COVID ON LATIN AMERICA'S INDIGENOUS POPULATIONS

Latin America has over 500 indigenous groups, accounting for nearly 50 million people.<sup>1</sup> Indigenous peoples account for 8% of Latin America's total population yet make up 14% of the population living in poverty and 17% of those living in extreme poverty.<sup>2</sup> All told, 43% of the indigenous population in Latin America live in poverty and lack the sufficient resources for healthy living.<sup>3</sup> This statistic is roughly twice the rate of the rest of the Latin American population.<sup>4</sup>

Unjust fiscal policies both reflect and perpetuate systemic racism and discrimination. A study by the Inter-American Development Bank (IDB) found that peoples with the highest rates of poverty, including indigenous peoples, pay more than their share in taxes yet receive fewer benefits from social programs, and that current fiscal policy does little to minimize the preexisting gaps between races and ethnicities in Latin America.<sup>5</sup> The IDB also found that indigenous communities have lower human capital and lower incomes, contributing to their marginalization in society.<sup>6</sup>

The disparate economic situation of indigenous peoples translates into a disparate health situation. The life expectancy of indigenous peoples in Latin America is twenty years shorter than that of the larger population.<sup>7</sup> Indigenous peoples in

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1. Martín de Dios, *The Situation of Latin America's Indigenous Population and the Impact of COVID-19*, U.N.D.P. (May 14, 2020), <https://www.latinamerica.undp.org/content/rblac/en/home/blog/2020/impacto-y-situacion-de-la-poblacion-indigena-latinoamericana-ant.html>.

2. *Id.*

3. *Id.*

4. *Id.* To illustrate the severity of these numbers, the U.S. poverty rate in 2018 was 11.8%, while Canada's was 8.7%. *Income and Poverty in the United States: 2018*, U.S. Census Bureau (Sept. 10, 2019), <https://www.census.gov/library/publications/2019/demo/p60-266.html#:~:text=The%20official%20poverty%20rate%20in,14.8%20percent%20to%2011.8%20percent; Dimensions of Poverty Hub, Stat. Can., https://www.statcan.gc.ca/eng/topics-start/poverty>.

5. Nora Lustig, Judith Morrison & Adam Ratzlaff, *Splitting the Bill: Taxing and Spending to Close Ethnic and Racial Gaps in Latin America*, Inter-Am. Dev. Bank (Jan. 2019), <https://publications.iadb.org/en/splitting-bill-taxing-and-spending-close-ethnic-and-racial-gaps-latin-america>.

6. *Id.* at 2

7. de Dios, *supra* note 1.

Latin America suffer from comparatively higher rates of malnutrition and poor nutrition, endemic parasitosis, and diabetes, and the indigenous infant mortality rates in Venezuela and Brazil are three to five times greater than that of the rest of the population.<sup>8</sup>

These factors render Amazonian indigenous communities especially susceptible to the effects of COVID-19.<sup>9</sup> As of October 6, 2020, 1,989 indigenous people in the Amazon had reportedly died from COVID-19, and nearly 66,000 cases had been recorded among indigenous people across at least 238 separate indigenous communities.<sup>10</sup> Governments, regional and international NGOs, and indigenous leaders face a critical opportunity to mitigate the effects of COVID-19 on indigenous communities by enacting policies that protects indigenous rights and ensure adequate access to healthcare. Brazil, Peru, and Colombia offer evidence of the detrimental effects of austerity measures and the need for improved healthcare funding for marginalized communities, including indigenous peoples.

An example of the adverse effects of inequitable fiscal policy can be found in Brazil, where extreme austerity measures were enacted by way of a freeze on public spending, including funding social programs, for twenty years.<sup>11</sup> These funding cuts disproportionately affect indigenous peoples and other vulnerable communities by eliminating essential resources for health, education, and social protection.<sup>12</sup> As a result, the rights to food, education, and health have been compromised and economic inequalities have been further entrenched.<sup>13</sup>

In Brazil, more than 1,000 indigenous federal health

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8. *Id.*

9. Terri Hansen, *How Covid-19 Could Destroy Indigenous Communities*, BBC (July 29, 2020), <https://www.bbc.com/future/article/20200727-how-covid-19-could-destroy-indigenous-communities>.

10. *Impacto del COVID-19 en los Pueblos Indígenas de la Cuenca Amazónica*, Red Eclesial Panamazónica (Sep. 6, 2020), <https://redamazonica.org/wp-content/uploads/Mapa-22-COVID19-Pueblos-Indigenas-PANAMAZONIA-6.10.2020.pdf>.

11. *Brazil's Human Rights Advances Imperiled by Austerity Measures*, Ctr. for Econ. & Soc. Rts., <https://www.cesr.org/brazils-human-rights-advances-imperiled-austerity-measures> (last visited Feb. 20, 2021).

12. *Id.*

13. *Id.*

workers had tested positive for COVID-19 by early July.<sup>14</sup> Many cited working without adequate protective equipment or access to COVID tests to explain the extent of the outbreak.<sup>15</sup> Several healthcare workers raised concerns that their aid put the indigenous communities more at risk by increasing the risk of contamination.<sup>16</sup> In addition, Brazil's indigenous communities have petitioned extractive companies active in their territories to cease work out of fear that workers could introduce COVID-19 to indigenous communities.<sup>17</sup> But rather than address indigenous concerns, Brazil has failed to enforce indigenous land protections, creating new opportunities for illegal loggers and miners to encroach on indigenous lands and potentially expose those communities to COVID-19.<sup>18</sup> As of October 6, 2020, 122 indigenous communities in Brazil had reported cases of COVID-19 with 25,356 total confirmed cases and a mortality rate of 2.6%, compared with a 2.3% mortality rate in the general population.<sup>19</sup> This comparable mortality rate suggests that the indigenous communities' efforts to self-isolate and limit outbreaks within their populations have been largely unsuccessful in controlling the spread of the virus. Had the Brazilian government been respectful of these efforts, the mortality rate would likely have been significantly lower.

Inequitable fiscal policies also deprived indigenous peoples of their rights in Peru, where underfunded rural medical facilities resulted in high mortality rates.<sup>20</sup>

In responding to the COVID-19 pandemic, the Peruvian government waited 100 days after declaring a state of emergency to allocate financial and medical resources for indigenous communities, and these funds and supplies had

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14. Manuela Andreoni, Ernesto Londoño & Leticia Casado, *Brazil Health Workers May Have Spread Coronavirus to Indigenous People*, N.Y. Times (July 19, 2020), <https://www.nytimes.com/2020/07/19/world/americas/coronavirus-brazil-indigenous.html?searchResultPosition=2>.

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.*

19. *Impacto del COVID-19 en los Pueblos Indígenas de la Cuenca Amazónica*, *supra* note 10.

20. Joseph Zárate, *The Amazon Was Sick. Now It's Sicker*, N.Y. Times (Oct. 2, 2020), <https://www.nytimes.com/2020/10/02/opinion/amazon-pollution-oil.html>.

yet to be administered by mid-August.<sup>21</sup> The delayed transfer of resources to the Ministry of Health for Indigenous Communities and Rural Populated Centers put indigenous communities in substantial danger at the outset of the COVID-19 pandemic, given that public healthcare in indigenous communities is significantly underfunded.<sup>22</sup> This delay strikingly illustrates the priorities of the Peruvian government, as does the fact that the indigenous relief package amounts to less than 1% of funds allocated in support of the business sector,<sup>23</sup> which were made available for distribution by April.<sup>24</sup> On August 14, 2020, more than 100 national and international Peruvian NGOs demanded the immediate implementation of the allocated measures to contain the effects of COVID-19.<sup>25</sup> In addition, the groups requested an indefinite postponement of the Amazon's "economic reactivation," including extractive deforestation, to limit indigenous communities' exposure to the virus.<sup>26</sup> As of October 2, 2020, Peru had the largest number of deaths from COVID-19 in the world.<sup>27</sup> As of October 6, fifty-one indigenous communities in Peru had reported a cumulative 15,017 infections with a mortality rate of 2.6%, much higher than the 1.5% mortality rate of the general population.<sup>28</sup> Furthermore, many cases likely went unreported due to limited access to adequate healthcare.<sup>29</sup>

COVID-19 has affected at least eleven indigenous

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21. *A los 100 Días Destinan Recursos para Atender a Pueblos Indígenas*, SERVINDI (June 23, 2020), <https://www.servindi.org/actualidad-noticias/23/06/2020/covid-19-destina-recursos-para-plan-de-intervencion-de-pueblos>.

22. *Id.*

23. *Id.*

24. Peru: Government and Institution Measures in Response to COVID-19, KPMG, <https://home.kpmg/xx/en/home/insights/2020/04/peru-government-and-institution-measures-in-response-to-covid.html> (last updated Nov. 18, 2020).

25. *Exigen a Vizcarra Atender Crisis Sanitaria en Comunidades Indígenas*, SERVINDI (June 23, 2020), <https://www.servindi.org/actualidad-noticias/14/08/2020/exigen-vizcarra-atender-la-crisis-sanitaria-de-las-comunidades>.

26. *Id.*

27. Zárate, *supra* note 20.

28. *Impacto del COVID-19 en los Pueblos Indígenas de la Cuenca Amazónica*, *supra* note 10.

29. *Id.*

communities in Colombia, with confirmed cases totaling 18,131 and a mortality rate of 3.6%, higher than the general population's 2.7% mortality rate.<sup>30</sup> Colombian indigenous communities, such as the Wayuu people, claim heightened food insecurity in light of the COVID-19 outbreak, expressing "fear [] that if we don't die of the virus, we will die of hunger."<sup>31</sup> The "economic paralysis" resulting from the pandemic has left some indigenous families unable to provide consistent meals for their children.<sup>32</sup> This food scarcity was exacerbated by the arrival of the dry season at the beginning of the pandemic and was hardly, if at all alleviated by State-sponsored programs to assist with adequate nutrition.<sup>33</sup> Even before the COVID-19 pandemic, many Wayuu fled to Venezuela as a result of their economic situation.<sup>34</sup>

Colombia's President promised to send a singular payment of roughly \$40 to those families most in need,<sup>35</sup> and public schools were told to continue their meal programs by delivering food to students' homes—an ambitious goal made less realistic by Colombia's mountainous terrain and limited transportation infrastructure.<sup>36</sup> Inconsistent support from aid organizations has also created uncertainty for indigenous communities like the Wayuu. For example, the World Food Program closed nine of their thirteen kitchens out of public health concerns but rebounded to offer carry-out food packages.<sup>37</sup>

Indigenous leaders in Colombia have also been threatened by drug trafficking groups after prohibiting outsiders on their territory in an attempt to self-isolate after the COVID-19 outbreak.<sup>38</sup> This is only the latest development in a long history of conflict between the FARC, one of

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30. *Impacto del COVID-19 en los Pueblos Indígenas de la Cuenca Amazónica*, *supra* note 10.

31. Julie Turkewitz, *Indigenous Groups Isolated by Coronavirus Face Another Threat: Hunger*, N.Y. Times (Apr. 9, 2020), <https://www.nytimes.com/2020/04/09/world/americas/indigenous-coronavirus-hunger.html?auth=login-email&login=email>.

32. *Id.*

33. *Id.*

34. *Id.*

35. Turkewitz, *supra* note 30.

36. *Id.*

37. *Id.*

38. *Id.*

Colombia's trafficking groups, and Colombia's indigenous peoples. In fact, several indigenous people who have attempted to confront or interfere with the drug trafficking routes have been found dead in recent years.<sup>39</sup> Wayuu leaders assert that these problems, both hunger and the threat of physical danger by non-state groups, are not new, and claim that the Colombian government has neglected its duty to protect the Wayuu people in accordance with a 2017 Constitutional Court decision.<sup>40</sup>

Some predict that the economic fallout from COVID-19 could cause a second "lost decade" across Latin America, putting indigenous groups further at risk.<sup>41</sup> The threat that such fiscal hardship poses to indigenous communities is compounded by the suspension of certain political protections and procedures to maintain the "rule of law" since the outbreak of COVID-19.<sup>42</sup> While these "exceptions" could pose direct threats to indigenous peoples, they also further threaten human rights defenders, many of whom work tirelessly to advocate on behalf of indigenous peoples.<sup>43</sup> Not only do these measures restrict the already limited tools available to indigenous peoples to ensure their rights are fulfilled, they also open the doors for further infringements on the well-being of indigenous communities across Latin America.<sup>44</sup>

### III. THE INTERNATIONAL INDIGENOUS RIGHTS REGIME FAILED IN THE PANDEMIC

The cases of Brazil, Peru, and Colombia illustrate the current failings of the indigenous rights regime under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), specifically with regard to the rights to

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39. 'Staggering Number' of Human Rights Activists Killed in Colombia, *UN Reports*, GUARDIAN (Jan. 14, 2020), <https://www.theguardian.com/world/2020/jan/14/un-staggering-number-activists-killed-colombia>.

40. Corte Constitucional [C.C.] [Constitutional Court], mayo 8, 2017, Sentencia T-302/17 (Colom.) (holding that the Wayuu people's persistent lack of access to food, clean water, and healthcare were unconstitutional violations of fundamental rights).

41. PEDER ØSTEBØ & VEGARD BYE, NORWEGIAN INST. INT'L AFF., COVID-19 IN LATIN AMERICA 3 (May 26, 2020).

42. *Id.* at 4.

43. *Id.*

44. *Id.*

health, territory, and sovereignty.<sup>45</sup> Although UNDRIP has received overwhelming support in the international sphere,<sup>46</sup> domestic implementation of indigenous rights through legislation remains scarce.<sup>47</sup> As such, the United Nations and other regional and international organizations must give specific attention to indigenous peoples to avoid exacerbated suffering and encroachment on indigenous rights in recovery from the COVID-19 pandemic.

Regional and international actors and indigenous rights activists should continue to urge domestic disavowal of fiscal austerity policies, which have grown popular in Latin America in recent years.<sup>48</sup> The COVID-19 outbreak has highlighted how underfunded social programs, such as healthcare, effect society's most vulnerable and further entrench existing inequality. In implementing aid packages for COVID-19 recovery, governments should consider the obligations of UNDRIP and the international human rights regime at large to ensure that the economic and social rights of indigenous peoples are met.<sup>49</sup> Hopefully, going forward, governments will consider the human damage and fiscal costs that can be avoided by keeping social programs adequately funded outside of global emergencies.

Given that domestic social programs are subject to significant uncertainty, some scholars have proposed the creation of a "Right to Health Fund" in the international sphere.<sup>50</sup> Such a fund would not only enable further advocacy

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45. G.A. Res. 61/295, annex, United Nations Declaration on the Rights of Indigenous Peoples, arts. 4, 10, 24 (Sept. 13, 2007).

46. 144 states voted in favor of the Declaration, and all four states who voted against it reversed their opinions. *United Nations Declaration on the Rights of Indigenous Peoples*, U.N. DEP'T ECON. & SOC. AFF., <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html> (last visited Feb. 20, 2021).

47. Sheryl Lightfoot, *Using Legislation to Implement the UN Declaration on the Rights of Indigenous Peoples*, in CTR. FOR INT'L GOVERNANCE INNOVATION, UNDRIP Implementation: More Reflections on the Braiding of International, Domestic, and Indigenous Laws 18 (2018), <https://www.cigionline.org/sites/default/files/documents/UNDRIP%20II%20Special%20Report%20lowres.pdf>.

48. *Assessing Austerity: Monitoring the Human Rights Impacts of Fiscal Consolidation*, Ctr. for Econ. & Soc. Rts. 5 (2018), [https://www.cesr.org/sites/default/files/Austerity-Report-Online2018.FINAL\\_.pdf](https://www.cesr.org/sites/default/files/Austerity-Report-Online2018.FINAL_.pdf).

49. *Id.*

50. Eric A. Friedman et al., *Global Health in the Age of COVID-19*, in



for the right to health at the domestic level, but would also ensure that healthcare and disease research remain adequately resourced and thereby theoretically limit the human cost of future outbreaks.<sup>51</sup> This remedy would require significant collaboration at the international level, but allocation of funds to states in need could prevent vulnerable populations, including indigenous peoples, from being “left behind” in future outbreak responses.<sup>52</sup>

#### IV. CONCLUSION

Indigenous peoples have been and will remain especially vulnerable to the effects of the COVID-19 pandemic. Crises, such as outbreaks of highly contagious diseases, highlight the entrenched socioeconomic inequalities and unique political vulnerabilities that face indigenous communities daily. Regional and international organizations, including the United Nations, must hold state governments accountable for upholding indigenous rights. Instilling domestic policy reforms that protect indigenous rights to healthcare and other resources and creating specialized relief programs to aid state governments in responding to emergency situations would better protect the indigenous right to health and would mitigate similar hardship in the future.

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22 *Health & Hum. Rts.* 199–207 (June 2020), <https://www.jstor.org/stable/10.2307/26923486>.

51. *Id.* at 200.

52. *Id.* at 205.