

How is COVID-19 affecting Amazonia?

Violations to human rights and the environment

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COVID-19 has spread throughout the world as a health crisis with deep socio-economic consequences. While the focus of the effects of COVID-19 often lie in urban centers, Indigenous people have increasingly faced devastating and disproportionate consequences to the spread of the virus. In this context, this blog post asks: Are there legal remedies to ensure the protection of Indigenous peoples from COVID-19 and environmental degradation? Are these remedies adequate to address the higher threats brought by the pandemic? In addressing these overarching questions, this contribution notes how communities have sought precautionary measures at the national and regional levels, asking courts to address the vulnerability of Indigenous communities and the threats to their human rights, including the rights to health and to a healthy environment.

COVID#19 has [highlighted](#) the importance of having a safe, clean, and sustainable natural environment. The novel coronavirus that quickly spread around the world in 2020 is part of a popular class of viruses exchanged across species in a phenomenon known as [zoonosis](#). The current health pandemic is, therefore, at its core, an environmental crisis, and could arguably have been prevented if society had maintained the ecological health of wild forests, and consequently confined the viruses to their habitats. Scientists warn that the multiple [environmental crises](#) the world currently faces, such as deforestation, industrial agriculture, illegal wildlife trade, and climate change, [increase the risk of future pandemics](#). In turn, human health is more likely to be protected when the environment is also healthy, as evidenced by the significant threats to fundamental human rights brought by COVID-19. Even – and perhaps especially – amidst a pandemic, governments have a duty to protect human rights and the environment.

As guardians of forests, Indigenous groups have been disproportionately affected by the pandemic. Indigenous peoples face an [additional risk](#) to the widespread health crisis brought by the coronavirus. Many communities lack the means to reduce the risk of contagion, such as continually washing hands or using hand sanitizer. Indigenous groups in voluntary isolation are especially vulnerable. With reduced law enforcement prohibiting outsiders from contacting these tribes, there is a higher risk of exposure. Containing a contagion once it has entered a traditional Indigenous village is nearly impossible, as extended families live together, and there is a widespread share of objects and food. Indigenous communities also live in areas where there is limited access to healthcare, particularly intensive care beds.

Similarly to the [measles outbreak in the 1960s](#), a coronavirus contagion among Indigenous groups could prove devastating. Protective measures and [Indigenous reserves](#) were created as a result of that outbreak, but have continuously been

disrespected. Illegal miners, loggers, and land grabbers may be using the health crisis as [cover](#) to step up incursions into Indigenous territories. These illegal invaders are vectors for the introduction of COVID-19 and pose an additional risk to the Brazilian government's [recent policies](#) to reduce the protection of Indigenous peoples.

Human rights oversight bodies and international organizations have emphasized the particular risks posed by the pandemic to Indigenous peoples, especially in the [Americas](#). The World Health Organization published a [statement](#) indicating that Indigenous peoples are among the world's most vulnerable populations and are at higher risk of COVID-19. The United Nations Office of the High Commissioner for Human Rights has issued [guidance](#) to States on protecting the human rights of Indigenous peoples in the context of COVID-19. Human rights experts, including the UN Special Rapporteur on the rights of Indigenous peoples, have [noted](#) that the risks from COVID-19 go beyond health and include opportunistic land grabs or reduced governmental protection. In particular, their procedural rights are being denied, as some countries push forward megaprojects without consultation or environmental impact assessments. When governments adequately comply with international norms by recognizing Indigenous groups and their territories, the communities are better prepared to manage their lands and resources, ensuring their right to food and water, and limiting access to their territories, with better chances of avoiding the spread of the virus.

Indigenous communities in the middle of the rainforest are particularly vulnerable. At the national level, some groups have turned to courts to ensure protection against the novel coronavirus. For example, a provincial court in Ecuador [ruled](#) in favor of the Waorani in a lawsuit against the government, forcing several ministries to take urgent action to contain COVID-19 in their territory. The precautionary measures granted include not only health protection but access to food and essential supplies.

Indigenous groups also face additional threats given the illegal activities, especially mining and logging, that continue unmonitored in their territories, especially due to the reduced enforcement during the pandemic. In Brazil, the Federal Court (TRF-1) [ordered](#) the immediate adoption of an emergency plan to contain the spread of COVID-19 in the Yanomami territory and evict illegal miners in the region based on a request from the *Ministério Público Federal* (MPF-RR). The Supreme Court also [asked](#) the government to take precautionary measures to prevent the spread of COVID-19 in Indigenous territories. These include the creation of sanitary barriers to safeguard communities in isolation and an emergency response room. Despite a short deadline given by the courts, the government has only partially complied with the measures, and has yet to enact comprehensive and effective policies to safeguard the communities. The consultation with the Indigenous people is still ongoing.

Lacking proper protection at the national level, communities are looking to regional human rights bodies. The Inter-American Commission on Human Rights (IACHR) recently published [Resolution No. 35/2020](#), in which it pointed out severe flaws in the Brazilian government's actions against COVID-19 in the Yanomami Indigenous Land (TIY), and demanded that an effective strategy be presented. The IACHR saw

urgency and risk of irreversible damage to the Yanomami and Ye'kwana Indigenous groups due to the lack of appropriate actions taken by the government to tackle the pandemic. In the request for precautionary measures, the Commission understood that it was the government's obligation to adopt the necessary actions to protect their rights to health, life, and personal integrity. The resolution adopted by the IACHR appears to be the first international protective measure addressing the risks posed to Indigenous peoples by the pandemic.

The resolution follows the increasing jurisprudence within the Inter-American system expanding Indigenous and environmental rights. In *Indigenous Communities Members of the Lhaka Honhat Association vs. Argentina*, the Inter-American Court of Human Rights explicitly [recognized](#) a violation of an autonomous right to a healthy environment, in addition to the rights to Indigenous community property, cultural identity, food, and water. The Court analyzed the rights above autonomously based on Article 26 of the American Convention and ordered specific measures of reparation to their restitution. This was the [first contentious case](#) on the rights to a healthy environment, adequate food, water, and to participate in cultural life and their implications and particularities regarding Indigenous peoples. The Court relied heavily on its interpretation of the right to a healthy environment in its [Advisory Opinion 23/17](#) of 2018, in particular as it refers to the content and scope of the right to a healthy environment.

The decision highlights another potential avenue to bring a claim against the Brazilian government for its failure to protect Indigenous peoples and the environment of the Amazon rainforest during the COVID-19 pandemic. Nonetheless, the procedural requirements of bringing a case to the Court are multiple, which often leads to a slow response that fails to bring justice to the communities. For example, the *Lhaka Honhat* community waited over a decade for this groundbreaking decision. At a minimum, however, the decision ensures that Indigenous peoples have proper access to a healthy environment and clean water, which are essential to ensuring human health. This recognition is even more critical while the world faces a global pandemic and carries weight even beyond Latin American borders.

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