

SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON INDIGENOUS PEOPLES ON THE IMPACT OF COVID-19 ON INDIGENOUS COMMUNITIES IN INDIA BY DHAATRI TRUST¹, SETU CENTRE FOR KNOWLEDGE AND ACTION², KEYSTONE FOUNDATION³, MINES, MINERALS AND PEOPLES⁴, JASHPUR JAN VIKAS SANSTHA⁵ AND ADIVASI EKTA PARISHAD⁶ . 18 JUNE 2020

THIS REPORT IS FURTHER ENDORSED BY DAMAYANTI KUMURA AND GEETA TOPPO, FROM ODISHA; ANITA SOLANKI AND JANAKA BAI MANISHA DHURVE, FROM ADIVASI EKTA PARISHAD- MADHYA PRADESH; KIRTI VARTA, ADIVASI SHRAMIK MAHILA MANDAL – MAHARASHTRA; SADHANA MEENA, ADIVASI EKTA PARISHAD, RAJASTHAN; INDU NETAM, ADIVASI SAMTA MANCH, CHATTISGARH; SAMPOORNA BAMBOO KENDRA, MAHARASHTRA; LEELABEN BHABOR, GUJARAT; NTFP EP (NON TIMBER FOREST PRODUCE EXCHANGE PROGRAMME) INDIA NETWORK COMPRISING OF NGOS - KOVEL FOUNDATION, GRAMIN SAMASYA MUKTI TRUST, RCDC, PRAKRUTI.

¹ Dhaatri Trust - Resource Centre for women and children's rights. It is a small platform to support the everyday struggles of rural and indigenous women. Registered in 2007 under the Indian Trusts Act, the Centre is an initiative to represent the voices, perspectives and campaigns of rural, adivasi and marginalized women in India and for the protection of the rights of their children. (<https://dhaatriwebsite.wixsite.com/dhaatri/women>).

² Setu, which means bridge in several Indian languages, aims to act as a link between social knowledge and social action. Since its inception in 1982, Setu's activities have been focused on deprived, oppressed and marginalized communities like Adivasis, Dalits, women and the rural and urban poor of western India. (<https://setuahmedabad.blogspot.com/2011/08/setu-centre-for-social-knowledge-and.html>).

³ Keystone Foundation is a not-for-profit registered Trust working with indigenous hill communities in Tamil Nadu since 1994. Keystone works across 3 states in the Nilgiri Biosphere Reserve (NBR) with tribal communities in 150 villages covering a population of 25,000 people. (<https://keystone-foundation.org/work-with-us/>)

⁴ Mines, minerals and People (mm&P) – “..a growing alliance of individuals, institutions and communities who are concerned and affected by mining. The isolated struggles of different groups have led us to form into broad a national alliance for combating the destructive nature of mining” (<http://mmpindia.in>).

⁵ Jashpur San Vikas Sanstha is a tribal women-led organization in Chattisgarh State of India focused on advancing tribal women in the different aspects of community life (<http://jashpurjanvikas.org>).

⁶ Adivasi Ekta Parishad - an indigenous peoples organization promoting freedom and dignity in its work to transform existing oppressive systems for the benefit of mankind and nature (<http://www.adivasiektaparishad.org>).

1. How does the State collect and analyse information on the impact of COVID-19 on indigenous peoples and individuals? Is disaggregated data on indigenous peoples, including health impacts, available?

There is no available source, at least in the public domain, that gives official data on ST/indigenous people, migrant workers from these groups or the health impacts of Covid. Indigenous people are the largest number of internally displaced migrant workers but there is no data on their numbers to assess whether there are any health impacts or other problems due to Covid.

2. Please provide information and specific examples showing the increased risks and/or disproportionate health impact of the pandemic on indigenous peoples. What measures have been taken to provide health care and other forms or urgent assistance for remote communities?

- Large population of STs have been pushed into migrant labour situation due to land alienation, infrastructure and conservation projects, mining, or traditional feudal situation where they have been displaced. During lockdown they were forced into government shelters where they were living in cramped accommodation, and therefore exposed to the potential risks of infection. Further, they have been travelling back to their villages in overcrowded trucks, walking unprotected for long distances on roads, forced into unprotected shelters mid-way and have reached back to their homes. In their village they do not have access to quarantine or medical facilities and have put their families at risk of getting infected if they arrived with the virus. There are no medical facilities in these remote areas and public health workers are ill-equipped to monitor or provide health care facilities. Social distancing in the villages is nearly impossible.
- Most affected are widows, single women headed households and landless poor and those who do not possess identity cards for ration or employment, within the indigenous communities.
- Many indigenous people are working in mines as unorganised labour. Majority of workers are affected by occupational illnesses like silicosis, malnutrition, tuberculosis. They are more susceptible to any emerging

infections and viruses and it is difficult for them to know if they contracted the virus as there are pre-existing health problems.

- Many indigenous people especially in states like Madhya Pradesh, Chhattisgarh, Rajasthan and Gujarat have very high rates of malnutrition. Especially infant mortality and maternal mortality are very high. Their access to wild food and local food has shrunk considerably due to land grabs and forest encroachment for national parks, tourism industries, largescale and illegal mining, etc. In our Covid relief outreach work, we have observed that majority of migrant labour and distress calls for food assistance have come from adivasis in districts where they were displaced or have poor access to land and forests. In our field areas where adivasis are in control of their land and forests, they have not felt a serious impact as food security is not affected.
- Migrant Adivasi labour working in cities and urban areas did not have any information about the virus and they were abandoned by their employers without food and shelter. They did not have any labour registration cards, food ration cards which were valid in the places of their migration. So they could not get any of the government ration or financial aid. They were also in scattered places and not in the centre of the cities where government ration and shelter were being provided.
- Adivasi children's nutrition was affected in many areas where migrant parents left them in the village with grandparents or neighbours. This is a major problem in places like Madhya Pradesh, Gujarat, Odisha. Their migrant parents are stranded in far off places and children are stranded in their homes. They did not have proper food as their caregivers themselves did not have food or money. Those children who were with their parents had to walk long distances in the summer heat without food or water. There have been many reports of Adivasi women and children who died on their way back due to fatigue, dehydration, highway accidents and starvation. We also received many distress calls from migrant parents who did not have food or money to feed their infants. Most of the contact numbers of government agencies that were put up in the public domain for emergency assistance could not be contacted.

3. How are indigenous peoples supported in their own initiatives to fight the pandemic, protect health and provide assistance in their own communities? What lessons can be learnt from indigenous traditional practices and community-based programs in lock down and emergency?

Field reports from the ground show that indigenous communities were very strictly observing lock down rules. They maintained strict social distances. In many places they designed their own masks using leaves and natural material. In some communities, they are using their local craft skills to sew masks with their local cloth and motifs. Many villages blocked their roads and pathways to prevent outsiders from entering their villages. Those migrant labour who returned were put up in schools and community buildings for quarantine and the community provided food during the 14 day self-quarantine. They did not go for agricultural work, even when their crops were getting destroyed, in order to observe government orders. Some of our local WHRDS who are also health workers, educated children on washing hands and sanitation. They prepared local nutritious food from forest produce (example, mahua flowers collected in this season) as special nutrition for their own children. Adivasi youth volunteered to coordinate with the government for food distribution and medical assistance. But mostly, all these were done with their own initiative and with help of NGOs. The first lesson that we learnt was the difference between Adivasi areas that have been negatively affected by largescale projects and having limited natural resources and those communities which have abundant natural resources. The latter have survived well with little need for any external or government assistance as they have their traditional wild food and crops. This shows that indigenous people can best survive if there is least interference from outside world and if they are allowed to have ownership and control over their territories. The second is that, the pandemic free regions or regions with least infections reported in the country were Adivasi regions. Regions with high industrialisation were in red zones.

4. How are indigenous peoples given the possibility to shape the national COVID-19 response to ensure it does not have discriminatory effect on their communities? Is their input sought and respected in the programs that could affect them?

- Going by the policies and legal amendments that were advanced during the lockdown period in relation to environmental clearances for projects in indigenous peoples' regions, mineral laws and privatisation of mining, legally permitting mining operations under the Essential Commodities Act, and labour regulations being relaxed in favour of ease of doing business, it does not appear that indigenous people were given any chance to place their perspectives or decisions or consulted. Even during lockdown when farming and all other essential activities were shut down, deforestation for mining, encroachments on Adivasi forest lands for CAMPA (Compensatory Afforestation Fund Act) plantations which is a legal violation of the Forest Rights Act were some of the policy and administrative actions that continued

where people could not raise their objections. While these commercial activities were allowed, adivasis entering their forests for firewood, food or for collection of forest produce for sale were strictly prohibited and they were physically assaulted.

- Other policy decisions disadvantageous to indigenous peoples have been passed amidst the Covid 19 crisis i.e. : the judgement to scrap Government Order No 3 of the states of Andhra Pradesh and Telangana which gave 100% reservation for employment in Scheduled Areas (indigenous peoples' areas) to the Scheduled Tribes. Indigenous peoples' groups are struggling to make strong public protests during this lockdown or convene meetings to represent their opposition to this Supreme court directive, to the authorities concerned.
- A major policy decision without any consultation of indigenous people but which affects their regions directly, is the diversion of the District Mineral Fund (a fund intended for rehabilitation of mining affected areas which largely fall in indigenous peoples' regions) for Covid medical equipment and testing. The policy is not clear on whether the fund would be utilised specifically for indigenous people, and the fear is that it would be diverted for general and urban area demands as indigenous people have no knowledge of the fund and have little power to demand for it.
- Another immediate problem encountered by Adivasi migrant workers is the non-response from state authorities to their urgent pleas for assistance in returning home. Most of the responses we received from authorities when our teams contacted them for travel assistance is to prevent workers from returning home as that would affect the urban infrastructure projects. Hence, instead of providing travel facilities, we feel there was a deliberate attempt to prevent the indigenous peoples' right to mobility taking advantage of the lock down restrictions. Therefore, even their desperate voices of indigenous people stranded in very inhuman conditions were not paid attention to. Those who tried to resort to walking back hundreds of kilometres faced physical violence from police.
- Alcohol was one of the first items allowed for sale despite huge protests from indigenous and non-indigenous women in the country. There was no social distancing maintained or any protection, making the lockdown a useless exercise in many places. This drained the meagre resources that poor families had, directly affecting children's nutrition and leading to domestic

violence. Hence, it is ironic that, in order to find finances for public health, the government resorted to destroying health and safety.

5. How is information about COVID-19 and prevention measures disseminated in indigenous communities? Is such information available in indigenous languages?

There were some attempts at Covid information on precautions by government through pamphlets displayed online in vernacular languages, but very few in indigenous peoples' languages. However, as indigenous communities do not have access to internet, they have limited information. Those who have some access is limited to men in the communities as very few Adivasi women use mobile phones. We have mainly tried to disseminate information through social media and through network of youth volunteers who continuously shared information both ways and passed on news about relief schemes to the communities. Within our network, we set up an interstate youth network through which stranded migrant labour from indigenous communities were able to get in touch with us and we facilitated their ration, cash, registration for travel and shelter. The government has a wide network of community health workers (ASHA workers) through whom most of the information was disseminated to the communities. In some of our communities, public health mobile teams visited to conduct basic health check-up.

6. Please provide examples of good practices and targeted measures to redress the disproportionate impacts of the pandemic on indigenous peoples' health. If these are being carried out by State, provincial and local governments, please explain how these measures were designed in consultation and implementing free prior and informed consent with the indigenous peoples co concerned in order to ensure that such measures are adapted to the cultural and other specific needs of these indigenous communities.

- Some extra ration and cash transfers have been announced particularly for vulnerable tribal groups, widows and disabled persons by the government.
- Guidelines were passed for relaxation of lockdown for collection of forest produce as the summer is the main season for adivasis to get incomes from forest produce. A minimum support price was announced by some states for forest produce. Some local authorities organised collection centres and facilities for collection of forest produce so that the collected items would not be wasted or spoiled due to strict lockdown norms.

- 7. Please provide information on the economic, social and cultural impact of lockdowns, quarantines, travel and other restriction of freedom of movement on indigenous communities. Please provide information on measures taken to ensure indigenous communities do not experience discriminatory impacts on their access to livelihoods, food and education. How are indigenous peoples taken into account in the development of assistance and relief programmes? Where are the gaps if any?**

These have been largely covered in the responses above.

- 8. Please provide information on how indigenous women, older persons, children, persons with disabilities and LGBTI persons are or may be facing additional human rights challenges during the pandemic. Please provide information on targeted measures taken to prevent intersecting forms of discrimination, and ensure indigenous women, children, older persons, persons with disabilities and LGBTI persons' access, protection and services with due regards to their specific needs within indigenous communities.**

As indigenous people are displaced in many states and seasonally migrating for work, there are large numbers of indigenous children out of school and working as child labour. During lockdown, the cramped shelters were unsafe and there were reported sexual abuses of children and women and LGBTI persons, as there were no separate facilities for the latter. In some states where pensions and rations are not provided at the door-step/villages, older people could not collect their monthly pensions or purchase any provisions. Many reports of pregnant women facing difficulties in delivery and casualties from complications in delivery were reported as during lockdown, priority was only on Covid related health issues. There was no access to information or support for indigenous people to get emergency passes for travel to health centres. For women, another major problem was accessing firewood as they were accosted by police if they walked out of their village to collect wood or food from the forest. Children studying in residential schools were sent home but they had no food at home, and many of them were from migrant families, so did not have parents to take care of them during the lockdown. This problem is particularly serious for nomadic and denotified tribes.

- 9. Please provide information on how States of emergency may contribute to threats or aggravate ongoing human rights violations against indigenous peoples, including with regards to the freedom of assembly and the protection of their traditional lands and resources. What measures have been taken to protect the lands, territories and resources of indigenous peoples against invasions and land-grabbing by external actors during the pandemic?**

Our recommendations and demands:

- 1) There is no data and assessment of extent and patterns of internal migration of indigenous people within India. Estimates are that they could be the largest number to be displaced from their homes, and therefore seasonally having distress migration. Many leave their little children behind with elderly or take them to places of work where there is no food, shelter, education or safety for the women and children. We strongly urge that the government do a proper assessment of migration and causes for migration among indigenous people with disaggregated data for women, interstate migration and children who are out of school and seasonally without the care of parents and families.

- 2) Policy measures taken during the pandemic lockdown were a serious dilution of the special laws related to indigenous people and to the environment protection. The mineral law amendments, the draft Environment Impact Assessment (EIA) notification, the dilution of labour laws, the clearances given to several infrastructure, mining, conservation projects through hasty online assessment despite public objections to such measures, the implementation of plantations like CAMPA in adivasi lands on the pretext of providing employment guarantee and livelihood to Adivasi communities are serious constitutional violations. These are not merely temporary actions during the pandemic, but have long term impacts on legal, environmental and human rights of indigenous people. We call for a strict adherence to the constitutional safeguards in the true spirit of these protective legislations that were meant to uphold the territorial, social, cultural and ecological rights of indigenous people in India. Amendments to these laws in order to pander to corporate interests using the economic downturn due to the pandemic, should be stopped immediately. On the contrary, the pandemic should be a lesson for more stringent legal accountability to protect indigenous people and forests.

- 3) Mining, tourism, infrastructure and other commercial projects that destroy forests and rich natural resources should be stopped immediately to safeguard adivasis and environment. The new policies of privatisation and expansion of coal mines, and other illegal mining be immediately stopped. The significance of the Fifth Schedule laws particularly PESA (Panchayats (Extension to Scheduled Areas) Act) and the Forest Rights Act have to be strictly implemented in the spirit with which they were enacted in view of the link between environmental destruction, human rights violations and climate change crisis that are leading to rise of pandemics.

- 4) Interstate migrant workers among indigenous people should be properly enumerated, given registration of employment, universal right of receiving ration, safe housing, access to potable drinking water, toilets, primary education and health by making stringent labour rules and standards applicable to their employees/companies. While the BoCW covers construction workers, many indigenous people are working as migrant labour in agricultural work. There are no social security protection schemes, registration cards or occupational health and safety codes under the Ministry of Labour for non-construction workers. The government should enact labour standards, rules and welfare funds for agricultural labourers also. Where such schemes are existing (as in Kerala), they are mostly for those working in commercial plantations.
- 5) The distress caused by being thrown out of work, migrant workers returning to their villages penniless and in very harsh conditions have a potential threat of pushing indigenous families into stark poverty, distress migration with no safety nets, and especially human trafficking of girls for labour and sex work. This distress situation has to be urgently addressed. Human trafficking is high in specific routes of indigenous peoples' districts like in Chattisgarh, Jharkhand and Madhya Pradesh. There should be tracking and vigilance as well as community monitoring systems for which village councils (Gram Sabhas) and representative civil society groups of indigenous people have to be empowered. Sex work is very high in the highways and industrial corridors of indigenous peoples' districts. Women had to work unprotected during lockdown due to distress conditions. Such industrialisation itself has to be reviewed if it is pushing indigenous women into vulnerable occupations.
- 6) Indigenous people have sustainable economic way of life linked to their land and forests. Government should ensure ownership of land and forests and urgent actions to be taken in decentralisation of governance to enable village councils (Gram Sabhas) to draw up locally available livelihood and employment opportunities so that adivasis are not forced into distress migration. The current focus of the government seems to be to push workers back into urban centres to get cheap labour for urban infrastructure. Instead, sustainable economics, rather than focussing on corporate economies of mining and infrastructure, should focus on enabling skill building, support to indigenous peoples' social enterprises and markets for forest-based products. The minimum support price alone is not sufficient to improve livelihoods. Other economic packages should be rolled out for Adivasi owned and managed enterprises and cooperatives to prevent unsafe migration.

Additionally, the MGNREGA (Mahatma Gandhi National Rural Employment Guarantee Act) which provides 150 days of work for each family per year should be immediately implemented with increase to 300 days of work per individual (separate for husband and wife, and not as combined). This alone would prevent distress migration in a big way and improve indigenous peoples' lands and forests.

- 7) The present commitment of funds declared by government of India is grossly inadequate to meet the scale of immediate livelihood requirements. Yet, there are several funds which are applicable for indigenous communities, most of which are lying unutilised. They should be forthwith released and specifically used for the communities and purpose for which they were created. The Building and other Construction Workers' Welfare Fund, the District Mineral Fund, the Iron-ore Mines, Manganese Ore Mines, Chrome Ore Mines Labour Welfare Fund, Mica Mines Labour Welfare Fund, the Limestone and Dolomite Mines Labour Welfare Fund, are examples of some funds that are unspent on these workers. Most of these operations are in indigenous peoples' areas and employ indigenous people (even during the lockdown) who are directly affected. The tribal sub plan fund (TSP) should be immediately utilised, as recommended by the audit of the Comptroller and Auditor General with the involvement of local tribal communities who should formulate the plans and fund utilisation. The emergency brought about by the Covid 19 calls for urgent application of this recommendation in a decentralised manner.
- 8) There are several other funds and fees like the Education Cess, the Nirbhaya Fund for response to violence against women, the mid-day meal funds and tribal welfare hostel funds for school children which are currently unutilised as schools are closed, Swatch Bharat Cess, Bundelkhand Drought Mitigation and Bundelkhand region special package to give a few examples. All these funds should be immediately utilised for the most vulnerable indigenous communities under their specific categories for which these fees were collected, rather than diverting them into general purpose expenditures.
- 9) While there is a recognition that the public health system is weak and has to be improved, the fear is that all the above funds would be diverted for improving public health for the well-to do and urban areas. Indigenous peoples are the least priority. We urge that these funds be utilised urgently for setting up decentralised, accessible and culturally appropriate public health institutions for indigenous people, especially considering the geographical remoteness, high levels of malnutrition, occupational health problems concentrated among indigenous populations and language barriers. Community health systems for dealing with infectious diseases along with

primary and preventive health should be immediately set up. Health expenditures should also include providing accessible potable drinking water to prevent water borne diseases among the indigenous people which is one of the biggest causes of illnesses and low immunity among them. Community and public health funds should also be utilised for setting up health research on indigenous knowledge systems to promote traditional health practices, nutrition and cultivation and protection of traditional and wild food which are essential for the immunity of indigenous people. Climate and pandemic monitoring systems are of utmost urgency for disaster prevention and preparedness of these remote areas.

- 10) The Education Cess should be utilised for increasing the budget allocation for indigenous children's education and nutrition, increase in the number of schools, residential seasonal hostels for children of migrant workers, access to potable drinking water and sanitation. Residential schools are cramped with poor infrastructure and hygiene. Any occurrence of such pandemics in the future will put indigenous children at high risk. Education Cess funds should be utilised for improving infrastructure and nutrition of indigenous children in residential schools.
- 11) There is a lot of research and empirical evidence of the link between pandemics and emerging infectious diseases and ecological destruction due to mining, agri businesses, diversion of forests and traditional food cultivation areas to commercial plantations, tourism, energy and other economic activities. Governments should take cognizance of this rising threat of pandemics, especially as communities living close to wildlife and forests are most susceptible to new viruses mutating from animals to humans. Government should refrain from giving indigenous peoples' lands for such projects which are being done without people's free prior and informed consent, and mostly implemented through forceful means.
- 12) Positive policy and economic activities in indigenous peoples' areas would be to ensure formal entitlements to indigenous people to their lands and forests, promote forest based livelihoods and traditional economic activities so that indigenous people are not forced to migrate as distress labour. Of utmost urgency is the formal legal ownership of lands for indigenous women as none of the schemes for farmers are utilised by them directly as the landholders are all male. A major problem is for widows who may be cultivating but as they do not have titles to lands, they miss all the opportunities for small and marginal farmer support schemes and end up working as migrant labourers for lack of financial and land development support.

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Others :

- 1) Pradhan Mantri Kalyan Yojana (DMF, MNREGA and BOCW allocations)
- 2) Mineral Laws Amendment Act 2020
- 3) Draft EIA notification 2020
- 4) AP Telengana GO no. 3
- 5) Announcement regarding Coal supply during lockdown
- 6) Letter by Chief Secretary of Ministry of Mines to State Governments regarding utilisation of DMF funds
- 7) MHA Addendum declaring continuation of coal and mineral production