



**The Navajo Nation Report on the Impact of State
COVID-19 Recovery Laws and Policies on
Indigenous Peoples
to
the United Nations Special Rapporteur on the
Rights of Indigenous Peoples**

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Introduction

The Navajo Nation (“Nation”) is the largest land-based Native American Tribe in the United States (“U.S.”), with a Reservation encompassing over 27,000 square miles across the states of Arizona, New Mexico, and Utah. The Nation has over 309,000 members, with over 154,000 people residing in multi-generational households on the Reservation.¹

Traditionally, Navajos believe the *Diné Bahane*, the Navajo Creation Story in which Changing Woman created the original clans of the Navajo and bore the Monster Slayer Twins who saved the Navajo from destruction by the *Naayéé*, or monsters. Currently, the Nation is facing a *Naayéé* in SARS-CoV-2, and the COVID-19 disease it causes, likened to a monster that harms and kills. The *Hatalii* (Chanters/Healers) advise that this *Naayéé* will invade the Nation and stay, building its strength so it can kill many. The Nation has named the disease *Dikos Nitsaaígíí Náhást’éits’áadah*, translating to “Big Cough 19.”²

In mid-May 2020, the Nation had the highest per capita COVID-19 infection rate in the U.S.,³ directly attributable to a breach of the U.S. federal government’s trust responsibility to the Nation, a legally recognized obligation of the U.S. to protect tribal treaty rights, lands, assets, and resources, including guarantees for healthcare and infrastructure development.⁴ While the Navajo government has made great strides in combating this *Naayéé*,⁵ as evidenced by the declining number of new cases reported⁶ and increasing number of vaccinated Navajo citizens⁷, systemic relief can only be achieved through full collaboration with the U.S., including the opportunity for free, prior and informed consent related to all relief matters affecting the Nation.⁸ In light of the United Nations Declaration on the Rights of Indigenous Peoples’ minimum standards for the survival, dignity, and well-being of indigenous peoples, the Nation offers the following update report shedding light on the recovery of Navajo people from *Dikos Nitsaaígíí Náhást’éits’áadah*

¹ See **Annex 1** for further information on the Navajo population.

² COVID-19 and *Dikos Nitsaaígíí Náhást’éits’áadah* will be used interchangeably throughout this Report.

³ Hollie Silverman, Konstantin Toropin, Sara Snider, Leslie Perrot, *Navajo Nation surpasses New York state for the highest Covid-19 infection rate in the US*, CNN (May 18, 2020), <https://www.cnn.com/2020/05/18/us/navajo-nation-infection-rate-trnd/index.html>.

⁴ Navajo Nation Treaty, 1868, **Annex 2**.

⁵ These include a Declaration of Emergency, issued March 11, 2020 by the Navajo Nation Commission on Emergency Management with concurrence by Navajo Nation President Jonathan Nez; and Executive Orders issued by President Nez, closing the government and schools, putting most government employees on paid administrative leave, and extending stay at home orders. See **Annex 4** for these documents.

⁶ Navajo Nation Office of the President and Vice President, *Press Release, 45 new cases, 16,054 recoveries, and nine more deaths related to COVID-19* (February 25, 2021), <https://www.opvp.navajo-nsn.gov/Portals/0/Files/PRESS%20RELEASES/2021/Feb/FOR%20IMMEDIATE%20RELEASE%20-%2045%20new%20cases.%2016,054%20recoveries.%20and%20nine%20more%20deaths%20related%20to%20COVID-19.pdf>.

⁷ 120,835 total COVID-19 doses administered, and 39,934 people fully immunized, per the Navajo Nation Department of Health, *Navajo Nation COVID-19 Vaccine Information* (accessed February 27, 2021), <https://www.ndoh.navajo-nsn.gov/COVID-19/COVID-19-Vaccine>.

⁸ See **Annex 3** for a comprehensive list of the Nation’s requests to the U.S. Department of Interior regarding COVID-19 relief.

and what measures are needed to further protect Navajo citizens and to preserve the Navajo way of life.

I. Historic Shortcomings - The United States Federal Government Response to Navajo Nation Needs

The Navajo Nation, along with many other tribes across the United States, has long faced challenges in getting the United States federal government to fully honor tribal self-determination and the pledges the federal government made to Tribes through treaties. For the Navajo people, the Treaty of 1868 created a trust responsibility in the federal government: a legally recognized obligation of the United States to protect tribal treaty rights, lands, assets, and resources, including guarantees for healthcare and infrastructural development.⁹ The legacy of the United States' breach of these trust responsibilities to the Navajo Nation is evident in the poor health indicators, anemic infrastructure, and bleak employment numbers found across the Navajo Nation. In 2019, prior to the onset of COVID-19, the United States Indian Health Service ("HIS"), the federal agency responsible for delivering comprehensive health service to tribal citizens, noted that the life expectancy for American Indian and Alaska Native people was five and a half (5.5) years less than that of all races in the United States.¹⁰ This gap can be attributed in part to the disproportionate rates of diseases such as asthma, hypertension, diabetes, and heart disease among American Indian and Alaska Native populations. This disparity is borne out in Navajo Nation-specific data, showing for example that the age-adjusted chronic liver disease and cirrhosis mortality rate is 43.05 for the Navajo Nation, as compared to 9.2 for the United States.¹¹ With fewer than twenty (20) medical facilities across the Navajo Nation, whose territory is comparable to the state of West Virginia, Navajo citizens were already at a disadvantage in accessing readily available and quality medical care before COVID-19 infections began to affect the Navajo Nation.

Turning to infrastructural deficiencies, seventy-five percent (75%) of U.S. homes without electrical connectivity are on the Navajo Nation¹²; sixty percent (60%) of the Nation's residents lack fixed internet access according to the Navajo Tribal Utility Authority; and about thirty percent (30%) of households on the Navajo Nation must haul water due to lack of running water in their homes.¹³ The lack of running water in homes across the Navajo Nation also has an economic impact, as families hauling water have to spend the equivalent of forty-three thousand dollars

⁹ Navajo Nation Treaty, 1868, **Annex 2**.

¹⁰ Indian Health Service, Department of Health and Human Services, *Indian Health Disparities* (October 2019), accessed February 27, 2021,

https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/factsheets/Disparities.pdf.

¹¹ Navajo Epidemiology Center, *Navajo Epidemiology Center Update, Vol. 1, May 2016*, (accessed February 27, 2021), <https://www.nec.navajo-nsn.gov/Portals/0/Announcements/Navajo%20Epidemiology%20Center%20Update%20May%202016.pdf>.

¹² American Public Power Association, *Light Up the Navajo Nation*, (accessed February 27, 2021), <https://www.publicpower.org/LightUpNavajo#:~:text=The%20Navajo%20Nation%20is%20the,households%20in%20the%20United%20States>.

¹³ U.S. EPA *Meeting the Access Goal Strategies for Increasing Access to Safe Drinking Water and Wastewater Treatment to American Indian and Alaska Native Homes Prepared by the Infrastructure Task Force Access Subgroup* <https://www.epa.gov/sites/production/files/2015-07/documents/meeting-the-access-goal-strategies-for-increasing-access-to-safe-drinking-water-and-wastewater-treatment-american-indian-alaska-native-villages.pdf>, Pg. 8. Pulled from *Sanitary Assessment of Drinking Water Used by Navajo Residents Not Connected to Public Water Systems, Ecosystem Management, Inc. p. 1 (Dec 2004)*.

(\$43,000.00) per acre foot of water, an exorbitant sum compared to the six hundred (\$600) per acre foot of water spent for typical suburban water users in the region.¹⁴ When it comes to employment, the Navajo Nation’s civilian unemployment rate from 2013-2017 was over nineteen percent (19.1%), as compared to the roughly six and a half percent (6.55%) rate for the United States as a whole; for those employed on the Navajo Nation, the median household income was just under twenty-seven thousand dollars (\$26,862) versus the United States’ median of almost fifty-eight thousand dollars (\$57,652).¹⁵ These deficits evidence the United States’ sustained breach of its trust responsibilities and the resulting effect it has had on Navajo citizens over many years. Unfortunately, this long-standing neglect of the needs of Navajo citizens created a ripe environment for COVID-19 infections to take hold across the Navajo Nation, resulting in a per capita loss of life that was higher than that of any U.S. state in October 2020.¹⁶ Thus today, the Navajo Nation’s efforts to control the spread of, and heal those infected by, COVID-19 has been greatly hampered by the United States’ long-standing neglect of tribal self-determination and its trust responsibility to Navajo citizens.

II. State COVID-19 Responses – Addressing Navajo Nation Needs¹⁷

The Navajo Nation institutions and public health systems have worked together to some extent to address the effects of COVID-19 on Navajo citizens. The Health Command Operations Center (“HCOC”) follows an incident command structure set forth by the Federal Emergency Management Agency (“FEMA”). This incident command system has a unified command structure that was adopted in the summer of 2020, after months of a non-unified command structure. The Nation was able to work together with public health institutions to operate a response, however, a lack of available resources created barriers. Many of the required functions for COVID-19 relief outside clinical services were unfunded by the federal government, leaving the Navajo Nation to pick up the financial costs of these functions.

The HCOC COVID-19 Response team recommended a Vaccine Branch under its organizational chart. It was approved when Dr. Jill Jim, Executive Director, Navajo Nation Department of Health, transitioned into the Incident Commander role in September 2020. A discussion regarding a vaccine plan, covering the Navajo Nation areas (“Navajo Area”) served by the federal government, started November 5, 2020 between Navajo Nation Health officials and the Indian Health Service (“IHS”). Disappointingly, the IHS wrote the vaccine distribution plan for Navajo Nation without meaningful tribal input. The IHS ultimately informed Navajo leadership

¹⁴ DRAFT WATER RESOURCE DEVELOPMENT STRATEGY FOR THE NAVAJO NATION NAVAJO NATION DEPARTMENT OF WATER RESOURCES July 2011; http://www.frontiernet.net/~nndwr_wmb/PDF/Reports/DWRReports/DWR2011%20Water%20Resource%20Development%20Strategy%20for%20the%20Navajo%20Nation.pdf; Pg. 9

¹⁵ Center for Indian Country Development, Federal Reserve Bank of Minneapolis, *Navajo Nation Reservation, Reservation Profiles*, (accessed February 27, 2021), <https://www.minneapolisfed.org/indiancountry/resources/reservation-profiles/navajo-nation-reservation>.

¹⁶ Wyatt Grantham-Philips, *On the Navajo Nation, COVID-19 death toll is higher than any US state. Here’s how you can support community relief*, (October 24, 2021), <https://www.usatoday.com/story/news/nation/2020/10/24/covid-native-americans-how-to-help-navajo-nation/3652816001/>.

¹⁷ This section was guided by conversations with Dr. Jill Jim, Executive Director of the Navajo Nation Department of Health, February 2021.

that the Navajo Area would adopt the Navajo Nation plan, a plan created by federal officials without Navajo participation.

III. State Economic Recovery Measures – Consulting with the Navajo Nation and Ensuring Navajo Citizens Benefit from Recovery Plans

The United States enacted the Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act, a \$2.2 trillion economic stimulus bill on March 27, 2020,¹⁸ in response to the economic fallout of the COVID-19 pandemic in the United States. The CARES Act allocated seven hundred and fourteen million, one hundred and eighty-nine thousand, six hundred and thirty-one dollars and forty-seven cents (\$714,189,631.47) to the Navajo Nation as a part of funds granted to States and local governments for direct aid. During the development of this Act and the guidance for the expenditure of its funds, the Navajo Nation’s government was not consulted. Such failure to consult resulted in a shortened timeframe for the expenditure of the funds allocated, overly restrictive guidelines that did not appropriately take into account the needs of the Navajo people, and drawn-out litigation that impacted the expenditure of aid for the benefit of the Navajo people.

CARES Act/Treasury Guidance

The CARES Act funding legislation and requirements did not account for several important considerations for the Navajo Nation to effectively combat COVID-19, such as the need for long-term expenditures to fund critical infrastructure and capital projects, or the layers of bureaucracy involved in appropriating said funds. This delay in clear guidance from the U.S. Department of the Treasury over the shortened timeframe for use of the funds also contributed to the way Navajo Nation leadership legislated the allowable uses of the funds.

DED Business/Artisan Program; Hardship Assistance

The Navajo Nation’s legislative governing body, the Navajo Nation Council, allocated sixty million dollars (\$60,000,000) of CARES Act funds to its Division of Economic Development (“DED”).¹⁹ These funds were to provide direct relief for assistance to Navajo small businesses and artisans facing financial hardships due to the COVID-19 pandemic through two grant programs: the Navajo Business Economic Relief Grant and the Navajo Artisans Economic Relief Grant. Qualifying businesses could receive grants up to sixty thousand dollars (\$60,000) to cover expenses such as outstanding bills and paying employees. Qualifying artisans could receive grants up to five thousand dollars (\$5,000) for similar outstanding expenses. To qualify for a grant, a business or artisan was required to register with the Navajo Nation’s Business Regulatory Department, comply with the reporting requirements of the application process, and have not received any other grant or coverage for similar expenses. The DED awarded over three thousand (3,144) grants to artisans totaling over seventeen million dollars (\$17,541,621.34) and awarded over one thousand (1,192) grants to businesses totaling over eleven million dollars (\$11,178,919.10).²⁰ While the Navajo Nation was able to provide economic assistance to Navajo businesses and artisans, the impact of the condensed timeline for the Nation to develop and implement these programs prevented appropriate implementation, as it hindered clear and

¹⁸ Passed by the 116th U.S. Congress and signed into law by President Donald Trump in March 2020

¹⁹ Navajo Nation Council, *Resolution CJY-67-20*, available at <http://dibb.nnols.org/publicreporting.aspx>.

²⁰ Draft Report of Business and Artisan Grants Breakdown Graph. DED has compiled the data, but not yet completed the report.

complete coverage of all Navajo Nation people. As well, the reporting requirements of the CARES Act and guidance further did not take into account the practical realities and needs of the Navajo people and excluded many from being able to qualify for such grants.

ANC Litigation

The Navajo Nation joined litigation against the United States Department of the Treasury concerning the eligibility of Alaska Native Corporations (“ANCs”) for CARES Act funding set aside by the United States for “tribal governments.” The inclusion of ANCs as eligible recipients in the federal government’s calculation of how to distribute the funds meant for tribal governments, and the resulting litigation, resulted in a delay in Tribes receiving their full share of the CARES Act funds. In June 2020, the federal district court for the District of Columbia ruled that ANC’s were eligible to receive CARES Act funds. The plaintiffs, including the Navajo Nation, appealed this decision to the D.C. Circuit Court of Appeals. Subsequently, in September 2020, the D.C. Court of Appeals determined that the ANCs were not “tribal governments” under the CARES Act and thus not eligible for CARES Act funds. After pending before the U.S. Supreme Court on two certiorari petitions filed by the ANC intervenors and the Department of the Treasury, and with responses filed by the Navajo Nation and other tribal plaintiffs, the U.S. Supreme Court granted certiorari in January 2021. The matter will be briefed, argued and decided prior to the end of this Supreme Court session in June 2021. At stake is nearly five hundred million dollars (\$500,000,000) in CARES Act funds that remain to be distributed to tribal governments, including the Navajo Nation.

IV. State Distribution of the COVID-19 Vaccine – Consultative, Equitable, and Culturally Appropriate Distribution across the Navajo Nation

The Navajo Nation COVID-19 Vaccine plan was developed with the collaboration of all federal, tribal, and urban facilities that serve the Navajo Nation.²¹ Multiple meetings were held with all of the healthcare facilities reviewing the vaccines, distribution, administration, data management, public messaging, safety, and monitoring. Frequent distribution of current information is shared among partner facilities and weekly meetings are held to update and answer any questions or address any challenges. The Navajo Nation will note however, that the consultation process and actual implementation of the plan have been portrayed as inclusive and responsive to tribal needs, whereas the Nation, in reality, has had to fight for influence over the plan, which has largely not been implemented.

All of the healthcare facilities on the Navajo Nation, including federal, tribal, and urban facilities, chose to receive distribution of the vaccine through the Indian Health Service except the Utah Navajo Health system, which receives its vaccine through the State of Utah.²² The vaccine has been distributed using the established equitable distribution plan based on the user populations that each healthcare facility serves.²³ The process of distribution however, remains adaptive and

²¹ This section is based on consultation with Dr. Loretta Christensen, Chief Medical Officer, Navajo Area Indian Health Service and Dr. Jill Jim, Executive Director, Navajo Nation Department of Health, and Navajo Nation Health Command Operations Center

²² Navajo Nation Council Press Release, December 15, 2020, Navajo Nation: Covid-19 positive cases increase by 160 as Navajo Area IHS reports 3,900 Pfizer-BioNTech vaccine doses arrive.

²³ <https://www.ndoh.navajo-nsn.gov/COVID-19/COVID-19-Vaccine>

fluid. Re-distribution is provided by the Navajo Area Indian Health Service team as vaccines are needed at each facility.

The priorities for the administration of the vaccine to the Navajo population was based on the U.S. Centers for Disease Control guidance provided by the Advisory Committee of Immunization Practices.²⁴ Meetings were held with the Navajo Nation Department of Health and the Office of the President and Vice President to determine the priorities for the Navajo Nation, and thereafter priorities were adopted by the COVID-19 vaccine teams across the Navajo Nation, with the vaccine administration events based on the defined Navajo Nation priorities.²⁵

At this time, the COVID vaccination process has been very effective with over one hundred and twenty thousand (120,000) doses administered by the federal, tribal, and urban healthcare facilities.²⁶ The COVID-19 vaccine team meets weekly, along with a unified vaccine analytics team, to provide data of administration and coverage of all areas of the Navajo Nation. There is continued unified public messaging to provide current information to all the people of Navajo Nation.²⁷

V. Data Collection – Collecting and Analyzing Navajo Nation Data

Collection of data specific to Native populations across the United States has historically been problematic, echoed in the patchwork nature of data collection related to COVID-19. Generally described as American Indian or Alaska Natives in data collection reports, information on COVID-19 in Native American populations across the United States is often not disaggregated; as of September 2020, a news report indicated that states reported race and ethnicity for only seventy-four percent (74%) of coronavirus cases and eighty-nine percent (89%) of deaths.²⁸ Data on the numbers of COVID-19 cases and related deaths reported for the states in which the Navajo Nation is located also highlights this issue, as information on Native populations is listed under one broad category of “American Indian and Alaska Native,” and not categorized to reflect impact on each Tribe. Even without disaggregated data, the numbers are bleak: American Indian and Alaska Native people comprise one percent (1%) of Utah’s population and cases, but four percent (4%) of deaths; in Arizona, the numbers rise to five percent (5%) of Arizona’s population, but six percent (6%) of cases and nine percent (9%) of deaths; in New Mexico, American Indian and Alaska Native people are listed as ten percent (10%) of the population, but comprise twenty percent (20%) of cases and twenty-nine percent (29%) of deaths.²⁹ Some reasons for this data and information gap are explained by the barriers to data collection faced on the Navajo Nation. The various healthcare systems Navajos navigate – tribal, state, federal, and private, and across three states and eleven counties within those states – presents a data challenge for the Nation and others. Initially, the Nation reported COVID-19 cases by county, consistent with the states, but that data

²⁴ <https://www.cdc.gov/vaccines/hcp/acip-recs/vacc-specific/covid-19.html>.

²⁵ <https://www.ndoh.navajo-nsn.gov/COVID-19/COVID-19-Vaccine/Vaccine-Registration>;

²⁶ <https://www.aljazeera.com/news/2021/2/26/navajo-nation-sees-community-immunitycoming-120k-jabs-given>.

²⁷ COVID-19 Distribution Plan Graphic

²⁸ Deidre McPhillips, *COVID-19’s Tragic Effect on American Indians: A State-by-State Analysis*, (October 7, 2020), <https://www.usnews.com/news/healthiest-communities/articles/2020-10-07/a-state-by-state-analysis-of-the-impact-of-covid-19-on-native-americans>.

²⁹ Johns Hopkins University of Medicine, Coronavirus Resource Center, *Tracking by Region*, (accessed February 27, 2021), <https://coronavirus.jhu.edu/region/us/utah>, <https://coronavirus.jhu.edu/region/us/arizona>, <https://coronavirus.jhu.edu/region/us/new-mexico>.

was not meaningful to Navajo people until it was reported by agency due to the relatively low numbers of cases. Determining whether to report Navajo data by residence (on or off reservation) presents another challenge, as the same people may be reported twice for the same county. The federal government also includes border town (non-reservation) data and other Tribes' data, while the Nation's data does not, and health corporations authorized by the Nation also report data in their own unique ways.

The Navajo Epidemiology Center has agreements with Arizona, New Mexico, and Utah to receive COVID-19 positive cases and deaths data directly through a secure system. The Navajo Epidemiology Center also has an agreement with the Navajo Area IHS to share data and verify cases and deaths. Federal and tribal health organization facilities report daily data for cases and other COVID-19 data using EpiInfo and SurveyMonkey; data is then managed by the Navajo Epidemiology Center and the Navajo IHS to develop reports of analyses regarding gating measures and surveillance. These measures are stopgap and fulfill the current need, though more efficient and long-term responses are needed to effectively gather and record data across the Navajo Nation. Indeed, data collection procedures need to include more variables which requires more funding, staffing, and informatics support. Disaggregating information requires a database platform and software that can handle large amounts of data that includes patient information. Greater investment in tribal data capacities will assist tribal nations in their efforts to respond to public health emergencies such as COVID-19.

As discussed above, infrastructural inequities abound across the Navajo Nation, which also impact data collection. Accessing individuals, from whom information can be gathered, is made difficult by the fact that fewer than twenty-five percent (25%) of roads on the Navajo Nation are paved,³⁰ limiting the means to reach and communicate to people, and first-hand data collection is difficult. Moreover, another avenue of data collection – interaction with community health workers – is heavily dependent on adequate staffing, often a problem across the Navajo Nation.

Recovery solutions are still unknown as the pandemic is not yet over. Much of the data to understand the extent of the impact to the Navajo Nation will need to be researched through retrospective goals and objectives. Much of the infrastructure to analyze and begin to understand recovery solutions will require skilled professionals currently not available on or to the Navajo Nation.

To more comprehensively understand the impact of COVID-19 on Navajo citizens, the United States should commit to data collection that captures the experiences of each Tribe, rather than grouping the country's five hundred and seventy-four (574) federally recognized tribes under the over-broad category of "American Indian and Alaska Native." Detailed data will help not only in this current effort to contain the spread of and heal those infected by COVID-19, but will also help create targeted responses to issues facing Tribal communities across the country. The U.S. and states must acknowledge the unique experience of individual Tribes and work to provide data that truly represents them and their circumstances.

³⁰ Navajo Division of Transportation 2016 Long Range Transportation Plan, https://www.navajodot.org/uploads/files/LRTP_04022016.pdf, Table 5.1

VI. State-Navajo Nation Collaboration – Working Together to Address the Health Crisis³¹

As stated above, the Navajo Nation has had to be persistent to have any influence over the COVID-19 vaccination efforts implemented through the IHS. The consultations and federal vaccination plan have been demonstrative in nature, more than a sincere consultative engagement of tribal leaders and health officials. To this day, a majority of positions designated by the vaccination plan remain unfilled. When the Nation requests information on how this will be addressed, it is met with excuses and vague projections of future resolution. The Nation further has to fight to gain any data from the IHS.

The Navajo Area and tribal health facilities operating under the IHS first created the federal vaccination plan and prioritizations without including the Navajo Nation, until the Nation demanded to become a part of the planning group. Indeed, with regard to prioritizations for vaccinations, Navajo Health officials had to begin facilitating meetings to discuss prioritizations rather than follow the IHS recommendations. The IHS officials attempted to dictate to the Navajo Nation who to vaccinate and when, and tribal consultation did not occur until the first shipment of vaccines arrived on the Navajo Nation. Today, facilities do not report which priority groups are being vaccinated, and the Nation can only access the overall numbers. With such limited information, the Nation cannot plan ahead, for example by adjusting a vaccine plan based on the number of elders who have already received a vaccine.

The United States has not systematically integrated or developed policies/strategies nor consulted tribal nations about incorporating traditional medicine into the national healthcare system through the COVID-19 pandemic. States within the Navajo Nation boundaries are discussing ongoing efforts to support traditional medicine, however. Arizona, through a waiver program,³² has supported reimbursement for traditional medicine services. Dissimilarly, Utah and New Mexico have offered limited support for reimbursement for such services. Since health services for Navajos are primarily accessed in tribal health organizations and Indian Health Service facilities, these facilities have incorporated traditional medicine in their individual capacities.

VII. Recovery Efforts – Navajo Nation Initiatives

In response to the outsized impact of COVID-19 on the Navajo Nation, the Navajo government has implemented a multi-pronged approach to recovery, rooted in the particular needs and barriers found across the Nation. Most immediately, the Navajo Nation used funds allocated by the federal government³³ to address dire infrastructure needs, resulting in over seven hundred (700) homes being connected to the electricity grid, over one hundred (100) home water cistern system installations, over one hundred and thirty (130) broadband installations and capacity upgrades, four new broadband/cellular towers installed, and forty-three (43) temporary Wi-Fi

³¹ This section guided by conversations with Dr. Jill Jim, Executive Director of the Navajo Nation Department of Health, February 2021.

³² See generally Arizona Health Care Cost Containment System, *Arizona Section 1115 Demonstration Waiver*, at <https://www.azahcccs.gov/Resources/Federal/waiver.html>.

³³ Coronavirus, Aid, Relief, and Economic Security Act (“CARES Act”), Pub. L. No. 116-136, Title V, §5001, 134 Stat. 281 (2020).

hotspots set up for student access to online education.³⁴ In addition, the Navajo Nation used some of its CARES Act dollars to implement a *CARES Act Hardship Assistance Program*, for which two hundred and ninety thousand (290,000) Navajo citizens applied,³⁵ to receive support payments aimed at alleviating some of the economic impacts wrought by COVID-19. Though there were some overall impediments, one advantage to the allocation from the federal government was the opportunity for self-determination over funding uses, so that Navajo leaders could target areas of immediate concern and provide multiple forms of relief to Navajo citizens. To address the immediate health impact of COVID-19, the Navajo Nation has aggressively planned and implemented testing and vaccine programs, resulting in over two hundred and forty-three thousand (243,000) COVID-19 tests administered,³⁶ and over one hundred and twenty thousand (120,000) total COVID-19 vaccine doses administered.³⁷

Recognizing that addressing Navajo needs extends beyond action by the Navajo government, Navajo leaders continue to advocate for COVID-19 mitigation resources including vaccines specifically, but also for increased infrastructural development to address the underlying factors that exacerbated COVID-19's impact on Navajo people. Most recently, the Navajo Nation, President, Speaker of the Navajo Nation Council, and a Navajo Nation Council Delegate pressed these points at a meeting with Utah state government officials, calling for collaborative efforts to address broadband, electricity, water, and road needs for Navajos residing in Utah.³⁸ Additionally, and as part of a long-standing commitment to addressing systemic infrastructural shortcomings, the Navajo Nation celebrated the adjudication of the water rights of Navajo communities in the state of Utah, with the federal approval of the Navajo-Utah Water Rights Settlement Act. This Act is the culmination of a long negotiation process with the state of Utah, which now ensures that the Navajo Nation has the right to eighty-one thousand five hundred acre feet (81,500 af) of water

³⁴ Navajo Nation Office of the President and Vice President, *Press Release, Navajo Nation leaders and NTUA highlight CARES Act infrastructure accomplishments with U.S. Senator Ben Ray Lujan* (February 24, 2021), <https://www.opvp.navajo-nsn.gov/Portals/0/Files/PRESS%20RELEASES/2021/Feb/FOR%20IMMEDIATE%20RELEASE%20-%20Navajo%20Nation%20leaders%20and%20NTUA%20highlight%20CARES%20Act%20infrastructure%20accomplishments%20with%20U.S.%20Senator%20Ben%20Ray%20Luj%C3%A1n.pdf>.

³⁵ Navajo Nation Office of the Controller, *Navajo Nation CARES Act Expenditures Dashboard, CARES Act Hardship Assistance Program*, (accessed February 27, 2021), <http://nnooc.org/>.

³⁶ Navajo Nation Office of the President and Vice President, *Press Release, 45 new cases, 16,054 recoveries, and nine more deaths related to COVID-19*, (February 25, 2021), <https://www.opvp.navajo-nsn.gov/Portals/0/Files/PRESS%20RELEASES/2021/Feb/FOR%20IMMEDIATE%20RELEASE%20-%2045%20new%20cases,%2016,054%20recoveries,%20and%20nine%20more%20deaths%20related%20to%20COVID-19.pdf>.

³⁷ Navajo Nation Department of Health, *Navajo Nation COVID-19 Vaccine Information*, (accessed February 27, 2021), <https://www.ndoh.navajo-nsn.gov/COVID-19/COVID-19-Vaccine>.

³⁸ Navajo Nation Office of the President and Vice President, *Press Release, President Nez advocates for infrastructure projects, COVID-19 vaccines, and road improvements in tribal leaders meeting with Utah Governor* (February 26, 2021), <https://www.opvp.navajo-nsn.gov/Portals/0/Files/PRESS%20RELEASES/2021/Feb/FOR%20IMMEDIATE%20RELEASE%20-%20President%20Nez%20advocates%20for%20infrastructure%20projects,%20COVID-19%20vaccines,%20and%20road%20improvements%20in%20tribal%20leaders%20meeting%20with%20Utah%20Governor.pdf>.

from the Utah Colorado River Basin apportionment, specifically dedicated for use by Navajo communities in Utah.³⁹

Conclusion

Dikos Nitsaaígíí Náhást'éíts'áadah exposes the roots of inequality affecting the Navajo Nation's social, political, and economic self-determination. The rate of infection among Navajo citizens implicates the United States' breach of its legally recognized obligation to protect tribal treaty rights, lands, assets, and resources, including guarantees for healthcare and infrastructure. Indeed, the massive inequities in tribal communities in the United States is a major factor in the overall impact of the COVID-19 health crisis on indigenous peoples' rights. The threat to Navajo people's rights to health, self-determination, economic security, data access, and free prior and informed consent, among others, provides a glimpse into the foundational changes required in the federal government's approach to tribal relations. The Navajo Nation recognizes the *Naayéé, Dikos Nitsaaígíí Náhást'éíts'áadah*, as an opportunity for the United States to acknowledge and address its long-standing neglect of tribal self-determination and its trust responsibility to Navajo citizens so that it may begin to more effectively remedy past and ongoing injustices against indigenous peoples in the United States.

³⁹ Navajo Nation Office of the President and Vice President, *Press Release, Navajo Nation celebrates historic moment as the Navajo Utah Water Rights Settlement Act is signed into law* (December 27, 2021), <https://www.opvp.navajo-nsn.gov/Portals/0/FILES/PRESS%20RELEASES/2020/Dec/FOR%20IMMEDIATE%20RELEASE%20-%20Navajo%20Nation%20celebrates%20historic%20moment%20as%20the%20Navajo%20Utah%20Water%20Rights%20Settlement%20Act%20is%20signed%20into%20law.pdf>.