



Center for International Human Rights
Northwestern
PRITZKER SCHOOL OF LAW
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Ethiopia's Violations of Civil and Political Rights in connection with the Lega Dembi Gold Mine

**Submitted for consideration at the 130th Session
of the Human Rights Committee**

Submitted by:

Development by Unity and Brotherly Action for the Future (DUBAF)

Girja Integrated Rural Development Association (GIRDA)

**Center for International Human Rights (CIHR)
of Northwestern University's Pritzker School of Law**

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Girja Integrated Rural Development Association (GIRDA)²; and
Center for International Human Rights (CIHR) of Northwestern University Pritzker School of Law,³

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This report documents violations by Ethiopia of the civil and political rights of the indigenous Guji people who live in communities near the Lega Dembi gold mine. Serious deficiencies in mine management have left the soil and water contaminated with dangerous levels of cyanide, arsenic and mercury. This contamination has had its predictable effects: high rates of miscarriage, stillbirth and infant mortality; many children born with profound disabilities; local villagers afflicted with debilitating illnesses; and devastation of livestock, crops and wildlife. While the mining company is also at fault, Ethiopia bears responsibility for:

- * licensing the mine and allowing it to operate without adequate regulatory oversight;
- * excluding the affected communities from participation in licensing and regulatory decisions;
- * refusing to make public the impact assessment reports that document the mine's management failures and its grievous environmental, health and socio-economic impacts; and
- * failing to take steps to ensure that the toxic contamination is cleaned up, clean water is made available to the local people, and victims receive adequate compensation.

Through its actions and failures to act with respect to Lega Dembi, Ethiopia has violated numerous rights enshrined in the International Covenant on Civil and Political Rights. These include the right to life (art. 6), the right of children to special measures of protection (art. 24), the right to protection of family and home from arbitrary or unlawful interference (art. 17), the right to access to information (art. 19(2)), the right to self-determination (art. 1), the right to take part in the conduct of public affairs (art. 25), the right of the minority Guji people to the enjoyment of their culture (art. 27), and the right to reparations (art. 2(3)(a)).

We ask the Committee to include these matters in its List of Issues for Ethiopia.

¹ Development by Unity and Brotherly Action for the Future (DUBAF) is a licensed Ethiopian non-profit/non-governmental organization established with the aim of making a lasting, positive difference in the life and livelihoods of the marginalized communities through supporting self-help initiatives and promoting indigenous values.

² Girja Integrated Rural Development Association (GIRDA) is a licensed Ethiopian non-profit/non-governmental organization that works with poor women, girls and boys, youth and marginalized communities and community-based institutions to have a significant positive impact on the underlying causes of poverty.

³ The Center for International Human Rights (CIHR) of Northwestern University's Pritzker School of Law (Chicago, USA) is dedicated to human rights education and legal and policy-focused human rights advocacy within the United States and worldwide. CIHR is in special consultative status with the United Nations Economic and Social Council (ECOSOC).

Section I of this report provides background on the Lega Dembi mine. Section II documents the environmental and health impacts of the Lega Dembi mine. Section III sets forth Ethiopia's violations of the Covenant rights of the indigenous Guji communities in the Lega Dembi area. Section IV suggests questions to include in the List of Issues for Ethiopia.

I. Background information on the Lega Dembi mine

The Lega Dembi gold mine is a massive mine in the Shakiso District of the Oromia Regional State in southern Ethiopia. For centuries, indigenous Guji people have pursued an agro-pastoral way of life in this area, raising livestock and farming on their ancestral lands.

In 1997, the Ethiopia granted a 20-year mining license to Mohammed International Development Research and Organization Companies (MIDROC), whose owner, through his various businesses, is the largest private employer in Ethiopia.⁴ Prior to privatization, the State operated a smaller gold mine in the same area. MIDROC vastly expanded the size and scale of the mine, causing deforestation and the exclusion of the Guji people from portions of their ancestral land. In 2009, MIDROC obtained an additional license to build and operate the adjacent Sakaro Gold Mine, an underground mine connected by tunnel to the Lega Dembi mine. Despite the mine's impact on the indigenous Guji people and their way of life, the State failed to engage in any consultation process with the local people before issuing these licenses.

In early 2018, MIDROC applied for a ten-year renewal of its license for Lega Dembi. By then, local people had complained loudly and for many years about the mine's contamination of the environment and its devastating impact on their health, their livestock, and their crops. But despite widespread community opposition, in April 2018 Ethiopia renewed MIDROC's license for ten more years. Notably, it did so in the face of an environmental impact study, commissioned by MIDROC, which disclosed toxic contamination and very serious failures of mine management and government regulatory oversight.⁵ This report was not made public, and its criticisms of the mine were covered up. Following the license renewal, a government official reported to local people – contrary to the actual findings in the report – that the environmental study had found no significant environmental problems with the Lega Dembi mine.⁶

The decision to renew the mining license sparked massive protests, which in turn led the State to suspend MIDROC's license and mining operations in May 2018 – shortly after Abiy Ahmed had become Prime Minister – pending what was promised to be an independent assessment of the mine's impacts. At that time, the State represented that “operations would resume if and when ‘all stakeholders agree on the result of that investigation.’”⁷ Since the suspension of MIDROC's license, the State has facilitated an

⁴ Danny Hakim and Ben Hubbard, *He Owns Much of Ethiopia. The Saudis Won't Say Where They're Hiding Him.*, New York Times (Mar. 16, 2018), <https://www.nytimes.com/2018/03/16/business/saudi-arabia-purge.html>.

⁵ *Compliance audit in chemical management on MIDROC Gold Mine PLC's Legadembi and Sakaro Mining Operations*, Addis Ababa University Business Enterprise PLC (March 2018) [hereinafter March 2018 Audit].

⁶ Following the license renewal, Minister of Defense Motuma Makasa, who had previously been the Minister of Mines, spoke at a meeting in Adoolaa, a town located about 20 km from the Lega Dembi mine. According to the Minister, the March 2018 audit had found no significant environmental problems with the Lega Dembi mine.

⁷ *Midroc's gold mining permit suspended after protests*, ETHIOPIA OBSERVER (May 9, 2018), *quoting* a spokesman from Ethiopia's Ministry of Mines, Petroleum and Natural Gas, <https://www.ethiopiaobserver.com/2018/05/09/midrocs-gold-mining-permit-suspended/>; *Ethiopia Agrees to Suspend MIDROC Gold Mining After Protests*, VOA (9 May 2018), <https://www.voanews.com/africa/ethiopia-agrees-suspend-midroc-gold-mining-after-protests>.

assessment process that included a Canadian-financed environmental impact “desk audit” by Canadian consultants, a community health survey by the Ethiopian Public Health Institute with guidance from the Canadian consultants, and socio-economic impact assessment by researchers at Ethiopia’s Dilla and Bule Hora Universities.

Ethiopia purported to renew its commitment to properly address the Lega Dembi situation during its February 2019 review by the Committee for the Elimination of Discrimination Against Women (CEDAW). Responding to questions, a representative of the State acknowledged the strong community concerns over “the allegations that toxic emissions from the mine had caused the population different health side effects and ailments.” He pledged that “as soon as the findings of these assessments are completed, if indeed the mine is found to have been responsible for the toxic waste and the resultant health side effects on the communities around the mines,” the State would take appropriate action.⁸ He assured CEDAW that Ethiopia has an “adequate legal framework to hold the mine accountable and to also make sure that it pays due compensation and that it does not resume functions until the toxic waste has been resolved and no longer poses a threat.”⁹

CEDAW applauded the decision to close the mine and conduct impact assessments, but expressed concern “about the grave health, environmental and socioeconomic impact of the operations of the [Lega Dembi] mine on Guji rural women and their families.”¹⁰ CEDAW urged the State to “ensure full transparency and independence during the assessment process, including by publishing the results and sharing them with the Guji people, address the environmental and health damage caused and provide adequate reparations and compensation to the victims.”¹¹

Unfortunately, to date, Ethiopia has not complied with these recommendations, nor has it followed through on its own publicly stated commitments:

* There has been no independent environmental impact assessment. The Canadian consultants never visited the mine and never met with the local community. Instead, their report was based on a review of earlier documents and, reportedly, interviews with personnel from MIDROC and the Ministry of Mines & Petroleum.

* There has been no transparency. It has been more than a year since the health and environmental impact reports were presented to the Government, and 11 months since the Government received the socio-economic impact report.¹² To date, the Government has refused to make these reports

⁸ Committee on the Elimination of Discrimination against Women, 1665th meeting, 72nd session, unofficial transcription of recorded remarks of representative of Ethiopia related to Lega Dembi p. 2 (21 Feb. 2019). Video from which the transcription was made is available at <http://webtv.un.org/search/consideration-of-ethiopia-contd-1666th-meeting-72nd-session-committee-on-the-elimination-of-discrimination-against-women-6005667564001/?term=consideration%20of%20ethiopia&lan=english&cat=Meetings%2FEvents&sort=date&page=29>, at (hour:minute:second) 1:33:55 – 1:35:43.

⁹ *Id.* 1:35:23–1:35:43.

¹⁰ Committee on the Elimination of Discrimination against Women, 1665th and 1666th meetings, Concluding observations on the eighth periodic report of Ethiopia, U.N. Doc. No. CEDAW/C/ETH/8, ¶ 45 (14 March 2019), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fETH%2fCO%2f8&Lang=en [hereinafter CEDAW Concluding Observations].

¹¹ *Id.* ¶ 46.

¹² The health and environmental impact reports were presented to the Government before or at a June 2019 meeting, at which the results of those studies were discussed with government officials. The socio-economic impact

public, and it has barred the researchers who worked on the reports from doing so. Nor has it held consultations with the local community to share the results of these assessments.

* There has been no remediation of the toxic contamination that continues to endanger the local community. Nor has the State provided clean water for community members – despite evidence that the local water supply is badly contaminated.

* There have been no consultations with the local community about the future of the mine.

* There has been no accountability. Neither MIDROC nor the State has acknowledged responsibility and paid compensation to the victims.

Despite all this, since October 2019 there have been persistent reports that the reopening of the mine may be imminent. In October 2019, the State secretly established a small committee – with representatives from the federal and regional governments and MIDROC, but not from the local government or the community – to develop a plan for the imminent reopening of the mine. MIDROC notified mine employees to prepare to return to work. To date, however, the mine has not reopened, and earlier this year the State denied that any final decision had been made on the mine’s future.

But in recent days, it once again appears that reopening may be imminent. A notice dated August 11 was posted in the Lega Dembi area, telling mine employees to attend a meeting on August 12, 2020, with senior company management.¹³ Reportedly, employees were told that the mine would reopen within a month or two, and that they should prepare to return to work.

Because of the complete lack of transparency, local communities live with uncertainty and the constant fear that, any day now, the State may authorize MIDROC to reopen the mine.

II. The environmental and health impacts of the Lega Dembi mine

In spite of the State’s refusal to make public the assessment reports, much is known about the environmental and health impacts of the Lega Dembi mine. First, and foremost, the Guji people who are victims of the deadly contamination have borne witness to the mine’s terrible impact on their lives. Leaked information from the assessment reports provides additional grim details about the failures of mine management and government oversight, and the extent of toxic contamination. Most recently, independent researchers from two universities near the mine have conducted their own sampling and analysis of water, soil and sediment. Their work, which is currently being finalized, reveals additional evidence of toxic contamination. The information presented below draws from these sources.¹⁴

report was delivered to the Government in September 2019. Reportedly, the Government was displeased with the conclusions reached in this report, and when the researchers declined to revise it to the satisfaction of the Government, the Government refused to officially accept it.

¹³ A copy of this notice is on file with CIHR.

¹⁴ The Center for International Human Rights (CIHR) – one of the NGOs submitting this report – has obtained a copy of the report of the impact assessment commissioned by MIDROC to support its request for a ten-year renewal of its license. Although the independence of this study was compromised in certain important respects, it nevertheless documents very serious problems. See March 2018 Audit, *supra* note 5. Unfortunately, because this report has not been made public, distributing it widely in Ethiopia could put in grave danger the sources through which the report was obtained.

A. Exposure to toxic contamination

Cyanide. MIDROC acknowledges using cyanide to separate gold from ore.¹⁵ Cyanide is highly toxic: it can cause respiratory failure, heart, brain, and nerve damage, and it can be lethal.¹⁶

The March 2018 environmental audit commissioned by MIDROC concluded: “[C]yanide is present in considerable amount both in water and soil samples . . . at this specific site. The fact that cyanide enters the areas outside the tailings dam from tailings dam discharge and the seepage . . . creates a health threat because the people and animals are using the water . . .”¹⁷

Arsenic. Arsenic is a heavy metal often found in goldmining areas, and lax mining practices can result in its release into the environment. Arsenic can harm pregnancies, impair brain development, and damage organs.¹⁸

The March 2018 audit found concentrations of arsenic substantially exceeding recommended limits in soil and water samples within and downstream from Lega Dembi. For example, water taken at the point of “[d]ischarge from the third dam to the Environment” showed a concentration of arsenic nearly **10 times** the World Health Organization (WHO) standard.¹⁹

Mercury. The presence of mercury is a cause for particularly grave concern. “Exposure to mercury – even small amounts – . . . is a threat to the development of the child in utero and early in life.”²⁰ Even low-level exposure can cause “spontaneous abortion, stillbirth, congenital anomalies, pre-term birth and low birth weight.”²¹ It can also cause other “serious health problems,” including “toxic effects on the nervous, digestive and immune systems, and on lungs, kidneys, skin and eyes.”²²

MIDROC denies using mercury at Lega Dembi, but it has never adequately accounted for a 100 kg vat of mercury stored at Lega Dembi when the mine was privatized, and it prevented the 2018 environmental

Another source of information is a May 2020 article in The New Humanitarian (TNH), whose author obtained access to information in the still-secret report of the community health assessment. The article also recounts the testimonies of local people interviewed by TNH earlier this year in the Lega Dembi area. *See* Tom Gardner, *Health woes, outrage, and toxins near Ethiopia gold mine*, THE NEW HUMANITARIAN (27 May 2020), <https://www.thenewhumanitarian.org/investigation/2020/05/27/Ethiopia-Oromia-Shakiso-gold-mine-health-problems> [hereinafter TNH, *Health woes, outrage, and toxins*].

¹⁵ March 2018 Audit, *supra* note 5, p. 59. Cyanide is commonly used in gold mines, but it is essential that its use be carefully managed with appropriate measures being taken to avoid environmental degradation and adverse health impacts. *See id.*, pp. 37, 52.

¹⁶ *Facts About Cyanide*, Centers for Disease Control and Prevention, (Apr. 4, 2018), <https://emergency.cdc.gov/agent/cyanide/basics/facts.asp>; March 2018 Audit, *supra* note 5, p. 49.

¹⁷ March 2018 Audit, *supra* note 5, p. 83.

¹⁸ World Health Organization, Arsenic Fact Sheet (15 Feb. 2018), <https://www.who.int/en/news-room/fact-sheets/detail/arsenic>; March 2018 Audit, *supra* note 5, p. 44.

¹⁹ *Id.*, p. 74, Table 11.

²⁰ World Health Organization, Fact Sheet on Mercury and health (31 Mar. 2017), <https://www.who.int/news-room/fact-sheets/detail/mercury-and-health> [hereinafter WHO Mercury Fact Sheet].

²¹ TNH, *Health woes, outrage, and toxins*, *supra* note 14 (citing the remarks of a public health expert at Canada’s University of Calgary who has studied the effects of mercury).

²² WHO Mercury Fact Sheet, *supra* note 20.

assessment team from entering the room where the mercury had been stored.²³ Moreover, even though MIDROC has denied using mercury to separate gold from ore, absent proper precautions, the cyanide used to do so can release mercury naturally present in the ore, and can mobilize mercury residue that may remain from the era of State-owned mining when mercury admittedly was used.²⁴

A 2019 analysis of soil, sediment and water samples by researchers from Bule Hora and Dilla Universities documented dangerous levels of mercury contamination in the area below the Lega Dembi mine. Concentrations of mercury in both water and soil exceed standards set by the World Health Organization (WHO). The concentrations of mercury observed in the water are 12-80 times higher than the WHO standard,²⁵ making the water undrinkable and unusable for any human contact.

B. Failures of mine management and government oversight

Very serious failures of mine management and government regulatory oversight have led to the toxic contamination described above.

1. Catastrophic failures of mine management

The March 2018 environmental audit documented extremely serious shortcomings in the mine's management and operations. Among these shortcomings are the following:

Failure to fence off highly toxic tailings ponds from public access. Lega Dembi channels toxic waste from the mining process into a series of three ponds, where it should be contained until purified. But these highly toxic ponds are **not fenced off**, allowing free access by livestock and wildlife, and – most concerning – by local people who fetch water from the second and third ponds for household use.²⁶

Failure to prevent seepage of toxic wastewater into groundwater. Although a well-regulated mine would have multiple impermeable liners at the base of the tailings ponds to prevent seepage,²⁷ at Lega Dembi, “no liners were installed to prevent passage of leachate to the groundwater system.”²⁸

Contamination of freshwater stream. Mine management has placed tailings ponds so that a freshwater stream used by the community for water flows directly through them, thus contaminating that water source.²⁹ A well-regulated mine would have kept the stream separate, preserving it as a source of clean water for the community.

Lax monitoring and record-keeping as to risks of toxic contamination. Although the mining company's internal environmental policy calls for annual internal audits and twice-yearly external audits, “the present team has seen no evidence that these tasks are performed systematically and as planned.”³⁰

²³ March 2018 Audit, *supra* note 5, pp. 66, 120.

²⁴ TNH, *Health woes, outrage, and toxins*, *supra* note 14; March 2018 Audit, *supra* note 5, pp. 48-49, 56.

²⁵ Research team from Dilla and Bule Hora Universities.

²⁶ March 2018 Audit, *supra* note 5, pp. 84, 103, 107, 117, 123.

²⁷ *Id.* p. 102.

²⁸ *Id.*

²⁹ *Id.* pp. 65, 118, 121.

³⁰ *Id.* p. 91.

Failure to comply with recommendations made in a prior environmental audit. At the time of the 2018 audit, the mining company still had not complied with corrective recommendations made as far back as 1998. These 20-year failures-to-correct raise serious doubt that the company will cure the deficiencies and follow the recommendations made in the 2018 audit.

2. Persistent failures of government regulatory oversight

The March 2018 audit report was equally critical of the State’s failure to monitor the mine and enforce compliance with environmental standards.

Ethiopian law purports to protect the environment: the Constitution provides all persons with the “right to a clean and healthy environment” and affirms that development projects “shall not damage or destroy the environment.”³¹ The 1997 Environmental Policy of Ethiopia outlines policy goals, including regular audits and environmental monitoring with results made available to the public, the conditioning of mine contracts on pre-development environmental impact assessments, sound management during operation, and the endorsement of both precautionary and “polluter pays” principles to control pollution.³² Ethiopian law requires environmental impact assessments prior to federal licensing of projects that are likely to have negative environmental impacts.³³

Unfortunately, Ethiopia has failed to implement this legal framework at Lega Dembi:

“The **overall audit findings** is that the MMPNG [Ministry of Mines, Petroleum and Natural Gas] and MoEFCC’s [Ministry of Environment, Forest and Climate Change] compliance and enforcement activities of the mine are **inadequate to protect the area from significant health and environmental risks**. We found neglect in compliance and enforcement program activities within the MMPNG, and significant deficiencies within the MoEFCC activities.”³⁴

“Although MoEFCC has adopted compliance and enforcement legislative frameworks, there are significant gaps in implementing the frameworks that were issued. MoEFCC has not yet provided any approved standards for environmental pollutants of mining. . . . Inspections by MMPNG and MoEFCC did not meet regulatory requirements. Neither

³¹ Constitution of the Federal Democratic Republic of Ethiopia, arts. 44(1), 92(1)–(4), 21 August 1995, available at <https://ethiopianembassy.be/wp-content/uploads/Constitution-of-the-FDRE.pdf>.

³² Environmental Policy of Ethiopia §§ 3.8(k), 2.3(m), 3.6(g), 3.8(b), 2 April 1997, available at <http://extwprlegs1.fao.org/docs/pdf/eth133155.pdf>. Many of these guiding principles have been adopted in proclamations. See, e.g., Mining Operation Proclamation No. 678/2010, available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/103974/126647/F1812617041/ETH103974%20Eng.pdf>; Environmental Pollution Control Proclamation No. 300/2002, available at <http://extwprlegs1.fao.org/docs/pdf/eth44282.pdf>; Environmental Impact Assessment Proclamation No. 299/2002, available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/85156/95183/F804075597/ETH85156.pdf>.

³³ Environmental Protection Organs Establishment Proclamation No. 295/2002 art. 6(5), available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/85158/95185/F193782397/ETH85158.pdf>; Environmental Impact Assessment Proclamation No. 299/2002 art. 3–5, available at <http://extwprlegs1.fao.org/docs/pdf/eth44281.pdf>.

³⁴ March 2018 Audit, *supra* note 5, p. 120 (emphasis added).

MMPNG nor MoEFCC are conducting adequate monitoring and regular site inspections and neither have assessed how this is impacting risks.”³⁵

One problem is that Ethiopia has assigned its mining ministry conflicting roles. Its “mandate to promote the mining industry conflicts with its role as a regulator, thus reducing its regulatory effectiveness, particularly with respect to safety, health and environmental issues.”³⁶ For example:

“The fact that the ministry signed the Sakaro Mining contract agreement before submission of Environmental and Social Impact Assessment report and mine rehabilitation plan and before obtaining Environmental Clearance Certificate is a clear reflection of the dual role of the ministry.”³⁷

C. Impact of toxic contamination on the local Guji people’s health, livelihood and way of life

Lega Dembi’s impact on the lives of local people has been cataclysmic. Women have suffered uncommonly high rates of miscarriage and stillbirth. Many infants have died shortly after birth or been born with severe physical and developmental abnormalities that shorten life expectancy and compromise quality of life, including deformed limbs, paralysis and mental incapacity. Local people have suffered debilitating health issues, including tumors, headaches, skin conditions, and vision problems. Traditional livelihoods have been upended: livestock have died or been sickened, crops have produced smaller yields, and people have become ill from eating the food grown in the affected area. Children’s right to education has also been impaired, as children with deformed legs are unable to walk the long distances to school, and the schools lack the resources to educate children with severe developmental and physical disabilities.

1. Testimonies of community members

The testimonies of community members paint a searing picture of the suffering of the local people.³⁸

Aida and her family live a five-minute walk from Lega Dembi. Three times, Aida miscarried at about four months into the pregnancy. She has headaches and sometimes has trouble eating. Her husband, Negasi, has joint pain and struggles to get up in the morning. Seven-year-old Kofi has severe vision problems that prevent him from attending school. Sometimes he cries because of the burning in his eyes, sometimes he has difficulty eating, and sometimes he cannot physically move. His two younger siblings have frequent skin problems. The family lost six cattle that had drunk contaminated water, and they have had to sell other cattle to pay for the children’s medical treatments. They now are often forced to buy food, because their crops no longer produce enough for the family’s needs. Negasi has complained to the government about his family’s situation many times, but nothing has been done.

Ife and her family, who live a 20-minute walk from the mine, also have suffered. Dust from mining explosions gave Ife headaches during her pregnancy with her son Abraham. Abraham was born with a

³⁵ *Id.* p. 119.

³⁶ *Id.*

³⁷ *Id.*

³⁸ The following four testimonies were given to CIHR in January 2019. The names used in this section have been changed to protect the identity of the victims. These accounts and the accompanying photos are used with the written consent of the adults and the children’s parents.

deformed leg and feet, which keep him from going to school as he cannot walk that far. His four older siblings struggle in school and do not play like other children. Ife's husband, Kaleb, suffers from joint pain and sometimes struggles to stand upright. The family has lost crops and ten cattle; some of these cows died instantly after drinking the contaminated water. The parents now sometimes have to do day labor to get money for food. Kaleb complained to the local government, to no avail.

Kiyya and Gadaa live a half-hour walk from the mine. They lost two children when Kiyya suffered two late-term miscarriages. Their five-year-old daughter Caaltuu was born with limb deformities that limit her ability to walk. This means she cannot go to school, because the school is a long walk away. Although she can talk, she has trouble with comprehension. Her older brother and parents suffer headaches and other ailments. Their crops have not done well, and their oxen now have such weak bones that they cannot plow the land. Previously self-sufficient, the parents have had to turn to day labor to buy food for the family.



Ayyantu's family lives a ten-minute walk downstream from the mine. When she was pregnant with her daughter Kedija, Ayyantu drank from the nearby water and ate from her family's crops. Kedija, now nine, was born with paralysis. She cannot use her hands, feed herself, or walk; one of her parents must constantly be with her. Her brother Hirko developed a tumor on his back before his second birthday. The parents, too, have health problems. Ayyantu wants more children, but she has not been able to conceive. The family has lost more than half of its livestock, its crops of maize, teff and wheat have become less productive, and eating what they grow gives Ayyantu stomach problems.



The New Humanitarian (TNH) reported similar testimonies, obtained in early 2020, from local people:

“ ‘We are the walking dead,’ Dembela Megersa told The New Humanitarian, describing the unaccountable pain in his back that has afflicted him for years. His 25-year-old wife, Jibo Buno, sitting beside him, recounted the misery of five miscarriages in as many years, followed by a stillbirth. The lifeless baby's body was mangled by deformity when she delivered it seven months into her sixth pregnancy, she said.”³⁹

³⁹ TNH, *Health woes, outrage, and toxins*, supra note 14.

“ ‘I didn’t know it was dangerous,’ said 38-year-old Dube Udisa, who used to bathe in the water and has been unable to walk for six years. He now lies crippled inside his mother’s cramped shop. He said his bones are weak, and his fingers have collapsed into the shape of a claw. ‘There was no sign at the time,’ he said of the water near the mine.”⁴⁰

Kifle Hirbaye explained that his “seven year-old daughter’s growth is so stunted, and her limbs so badly deformed, she cannot attend school. ‘All I need is her health,’ he told TNH outside his home. ‘If she’s healthy I don’t need anything else.’ ”⁴¹



Photograph by Tom Gardner, TNH.

Wakjira Meko (pictured above) was only two months old when TNH visited the village near the mine where his family lives. Born with severe birth defects, he died shortly after TNH visited the area.⁴²

These are not isolated examples. Area residents for years have complained of the very high number of health problems, miscarriages, and children born with disabilities. “Mothers are having miscarriages every single day,” a health care worker from the Shakiso area reported.⁴³ “I am not seeing this in other places, only around the mining site.”⁴⁴

2. Information from reports the State refuses to make public

These testimonies, we believe, have been corroborated by the community health assessment that the State refuses to make public. The Ethiopian Public Health Institute, with guidance from Canadian consultants, surveyed nearly 3000 households in the Lega Dembi area. Using a long and detailed questionnaire, survey workers interviewed households and recorded the villagers’ responses. To

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ Cecilia Jamasmie, *Ethiopians Protest MIDROC Gold Mining License Renewal*, TESFANEWS (May 7, 2018), <https://www.tesfanews.net/ethiopians-protest-midroc-mining-license-renewal/>.

⁴⁴ *Id.*

persuade the community people to cooperate, researchers promised that the study results would be shared with the community; with this assurance, nearly all households agreed to participate, sharing a great deal of highly personal information.

The results of this study are damning. The communities near the mine were found to have “the highest rate of birth defects measured in Ethiopia.”⁴⁵ Within the Lega Dembi area, the “highest incidence of defects was closest to the mine.”⁴⁶ The study “showed that the ages of children born with defects aligned with the years in which Midroc was operating.”⁴⁷

The study also documented the high level of health problems of community members:

“Of the nearly 3,000 households surveyed between September and November 2018, 384 individuals were living with chronic illnesses and disabilities, the survey noted, meaning an incidence rate of roughly 10 percent. Actual numbers, however, may be higher. The survey figures did not account for miscarriages, stillbirths, or children who died shortly after birth.”⁴⁸

Almost without exception, according to the study, community members said they had never been warned not to use the water in the Lega Dembi tailings ponds. “[The study] showed that nearly all respondents said they had never received warning of the dangers of accessing the tailings ponds – reservoirs used to collect waste material like cyanide left over from mining operations.”⁴⁹

This community health survey corroborates findings reported earlier in the MIDROC-commissioned March 2018 environmental audit:

“Field visit and informal discussion with the local communities during the field visit at Legadembi mine areas indicated that there are physical and mental abnormalities on children including impaired neurobehavioral development, deformation of legs and feet, [and] frequent stillbirth. [There are also] joint weakening and bone hardening, and easily breaking of bones in livestock.”⁵⁰

It also, of course, corroborates what local people have been saying for many years, through their repeated complaints and protests over Lega Dembi’s impact on their children, their own health, their livelihoods and their way of life.

⁴⁵ TNH, *Health woes, outrage, and toxins*, *supra* note 13.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ March 2018 Audit, *supra* note 5, p. 113.

III. Violations of Covenant rights

A. Right to life (art. 6)

The right to life “is the supreme right” of all people; its effective protection “is the prerequisite for the enjoyment of all other human rights.”⁵¹ Intentional killing is not its only concern: “the right to life concerns **the entitlement of individuals to be free from acts and omissions that . . . may be expected to cause their unnatural or premature death**, as well as **to enjoy a life with dignity**.”⁵²

States parties must take affirmative measures to protect the full scope of this right against violations by non-State as well as State actors.⁵³ This obligation “extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life.”⁵⁴ A State “may be in violation of article 6 even if such threats and situations do not,” in a particular situation, “result in loss of life.”⁵⁵

Children’s right to life requires particular protection. Read in conjunction with art. 24, art. 6 requires States parties to “adopt[] special measures designed to protect the life of every child.”⁵⁶ These measures “should be guided by the best interests of the child, and by the need to ensure all children’s survival, developmentⁱ and well-being.”⁵⁷

States parties are also obliged “to provide effective remedies and reparation to all victims of violations of the right to life.”

These principles apply with full force in situations of environmental contamination. As this Committee has recognized, “environmental degradation . . . constitute[s] [one] of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.”⁵⁸ Thus:

“Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm [and] pollution . . . caused by public and private actors. States parties should therefore ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments[,] . . . [and] provide appropriate access to information on environmental hazards and pay due regard to the precautionary approach.”⁵⁹

The Committee has applied these principles to find Paraguay in violation of art. 6 for its failure to oversee and regulate private plantations’ large-scale fumigation using toxic agrochemicals. This fumigation caused contamination of water, crops, and livestock, and thus posed a reasonably foreseeable threat to life. Based on the seriousness of the threat posed by the contamination and the fact that many community

⁵¹ Human Rights Committee, General Comment No. 36, *Article 6: right to life*, ¶ 2, U.N. Doc. No. CCPR/C/GC/36 (2 Nov. 2018) [hereinafter General Comment 36].

⁵² *Id.*, ¶ 3 (emphasis added).

⁵³ *Id.*, ¶¶ 7, 18, 21.

⁵⁴ *Id.*, ¶ 7.

⁵⁵ *Id.*

⁵⁶ *Id.*, ¶ 60.

⁵⁷ *Id.* (footnotes omitted).

⁵⁸ *Id.*, ¶ 62.

⁵⁹ *Id.*

members had become ill, the Committee concluded that the State violated its duty to protect.⁶⁰ In reaching this conclusion, the Committee took note of “other international tribunals that have recognized the existence of an undeniable link between the protection of the environment and the realization of human rights and that have established that environmental degradation can adversely affect the effective enjoyment of the right to life.”⁶¹

Under these principles, Ethiopia’s actions and inactions with respect to Lega Dembi constitute violations of the right to life.

Failure to monitor and regulate

As described in the facts set out above, for many years Ethiopia has failed to monitor and regulate MIDROC’s mining operations, allowing deadly toxic contamination to continue unchecked. In so doing, it has violated both its own domestic law and its Covenant obligations. Even a basic, simple measure like fencing in the toxic tailings (waste) ponds has never been required, which has allowed people, livestock and wildlife to continue to access the dangerous water. Other persistent failings of mine management (described above) have also been allowed to continue unabated during the operation of the mine.

Instead of taking action in response to community health and environmental complaints, Ethiopia granted MIDROC an additional license for the adjacent Sakaro mine in 2009, and in April 2018 it renewed MIDROC’s Lega Dembi license for an additional ten years. The Sakaro license was issued in violation of domestic environmental law requirements: MIDROC had not submitted the required Environmental and Social Impact Assessment and mine rehabilitation plan, and an Environmental Clearance Certificate had not been obtained.⁶² In April 2018, despite the highly critical March 2018 environmental audit, Ethiopia renewed MIDROC’s Lega Dembi license, suppressed the audit report, and sent a representative to the community who falsely stated that the audit had found no environmental problems with the mine.

Failure to ensure remediation of existing toxic contamination

It is commendable that, in response to massive protests over the ten-year renewal of MIDROC’s license, Ethiopia suspended MIDROC’s license in May 2018. The suspension of mining operation has given the local communities temporary relief from the dust produced by active mining operations, due to periodic explosions and the use heavy equipment such as a large crusher machine that breaks up the ore for processing. Cyanide and any other toxic substances used in the processing of the ore are not currently being released into the tailings ponds, from which there is seepage into the groundwater and overflow, in the rainy season, into the surrounding environment.

But unfortunately, in the ensuing two years, nothing at all has been done to clean up the toxic contamination. Ethiopia should either have required MIDROC to remediate its toxic contamination, or the State should have done so itself. As it is, the people living in the communities near the mine continue to suffer the effects of the past toxic contamination.

⁶⁰ Human Rights Committee, *Norma Portillo Cáceres v. Paraguay*, ¶¶ 7.2–7.5, U.N. Doc. No. CCPR/C/126/D/2751/2016 (2019).

⁶¹ *Id.*, ¶7.4.

⁶² March 2018 Audit, *supra* note 5, p. 119.

Failure to provide clean water and other reparations to victims

Reparations must be provided to all victims of violations of the right to life.⁶³

As an urgent matter, Ethiopia's art. 6 obligations require it to provide clean water, on an urgent basis, to the communities whose water supply has been poisoned by Lega Dembi. The provision of water must be sufficient for the needs of the community for drinking water, water for household use, and water for livestock and agriculture. It must be continued until the contamination of the local water supply has been fully remediated and the water is once again safe for use.

Provision of water is required as a form of reparations, but it is also required as a basic part of Ethiopia's art. 6 obligations. "The duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity."⁶⁴ Where needed, provision of clean water is one of these: "The measures called for to address adequate conditions for protecting the right to life include, where necessary, measures designed to ensure access without delay by individuals to essential goods and services such as . . . water."⁶⁵

In addition to providing clean water, Ethiopia has an obligation to provide compensation to victims, to enable them, so far as possible, to enjoy life with dignity.

Impact on life, life expectancy, and the ability to enjoy a life with dignity

The testimonies of the community members and the conclusions of the suppressed community health study provide ample proof of Ethiopia's violations of the right to life. Infants have died. Women have suffered miscarriages and stillbirths. Children have been born with severe congenital deformities that shorten life expectancy and inflict the most profound damage on quality of life. Children and adults have suffered debilitating illnesses. An agro-pastoral people, their traditional livelihoods and way of life have been destroyed as livestock have died or been weakened and crops have withered or produced foodstuffs that are unsafe to eat.

Reports that the mine soon may be allowed to reopen

Recent reports indicate that Ethiopia may very soon allow MIDROC to reopen Lega Dembi. A notice dated August 11, 2020, was posted in the Lega Dembi area, calling upon "All Employees of MIDROC Gold Mine" to attend a 12 August 2020 meeting with the senior management of the company. Reportedly, employees were told that they should prepare to return to work, because the mine would be reopening within a month or two.

To protect the right to life of people living near the mine, Lega Dembi cannot be allowed to reopen until effective measures are taken to remediate existing toxic contamination and to ensure that the resumption of mining will not lead to further contamination.

⁶³ General Comment 36, *supra* note 51, ¶ 4.

⁶⁴ *Id.*, ¶ 26.

⁶⁵ *Id.*

Other measures must also precede any possible reopening of the mine, in recognition of other Covenant rights. First, Ethiopia must make public the assessments of the mine’s environmental, health and socio-economic impacts, and share the results of these assessments with the local communities impacted by the mine. Second, in accordance with the principle of free, prior and informed consent (FPIC), Ethiopia must involve local communities impacted by the mine in the decision-making process as to whether, and under what conditions, the mine should reopen.

Allowing the mine to reopen, without these measures, would constitute an additional violation of the right to life.

B. Right of children to special measures of protection (art. 24)

Children are entitled under art. 24 to special measures of protection as required by their status as minors. Children are particularly vulnerable to the impacts of toxic contamination from the mine, and hence warrant special protection from the State.

Ethiopia has failed to provide this protection. General Comment 17 instructs States to take “every possible economic and social measure . . . to reduce infant mortality and eradicate malnutrition among children,”⁶⁶ yet communities near the Lega Dembi have experienced high rates of stillbirths and infant mortality, and their access to food has been reduced by the contamination of crops and the poisoning of livestock. Many children have been born with profound developmental disabilities, paralysis or limb deformities, or other severe disabilities that impair their quality of life and their ability to enjoy other rights. For example, although “every possible measure should be taken . . . to provide [children] with a level of education that will enable them to enjoy the rights recognized in the Covenant,”⁶⁷ such disabilities impair access to education, as children with deformed legs are unable to walk the long distances to school, and schools lack the resources to educate children with severe developmental disabilities.

Local people have complained for many years about the mine’s impact on their children’s health. The State’s failure to protect children against the environmental harm caused by the mine violates Article 24 of the Covenant.

C. Right to protection of family and home from arbitrary or unlawful interference (art. 17)

Article 17 imposes an affirmative obligation on States parties to take appropriate measures to protect people’s families and homes from arbitrary or unlawful interference, whether by the State or non-State actors.⁶⁸ The term “home” can encompass elements of a person’s way of life. For groups with dependency on and special attachment to the land, crops, livestock, and water resources can constitute components of the way of life, such that these elements fall under the scope of protection of Article 17.⁶⁹ Accordingly, in *Norma Portillo Caceres v. Paraguay*, the Committee found Paraguay in violation of Article 17 for failing to control illegal activities that created pollution:

“When pollution has direct repercussions on the right to one’s private and family life and home, and the adverse consequences of that pollution are serious because of its intensity

⁶⁶ Human Rights Committee, General Comment No. 17: *Article 24 (Rights of the child)*, ¶ 3 (1989).

⁶⁷ *Id.*

⁶⁸ Human Rights Comcyanidemittee, General Comment No. 16: *Article 17 (Right to privacy)*, ¶ 1 (1988).

⁶⁹ *Portillo Caceres v. Paraguay*, *supra* note 60, ¶ 7.8.

or duration and the physical or mental harm that it does, then the degradation of the environment may adversely affect the well-being of individuals and constitute violations of private and family life and the home.”⁷⁰

The Guji people living near Lega Dembi have pursued an agro-pastoral way of life for centuries, raising livestock and farming on their traditional lands. Their dependence on the land and its integral role in their livelihoods and culture make it an important part of their home. Therefore, the crops, livestock, and water sources on which they rely are entitled to protection under Article 17.

Ethiopia has failed to provide this protection. Rather, by failing to enforce its environmental regulations, the State has allowed MIDROC to arbitrarily and unlawfully interfere with the families and homes of the local people. Families have experienced great suffering from the miscarriages, stillbirths, infant mortality and congenital disabilities resulting from the toxic contamination. Livestock have died or become ill and too weak to work. Crops have produced smaller yields, forcing some individuals to sell off livestock or take up day labor to get money for food. Through seepage into groundwater and runoff into streams, the water supplies on which the people rely have been contaminated by the toxic tailings effluent. The pollution directly and severely harms the families, homes and well-being of the local people, thereby constituting a violation of Article 17.

D. Right to access to information (art. 19(2))

The “right of access to information held by public bodies” is a core component of the broader right of freedom of expression.⁷¹ Important for its own sake, access to information is also essential for the enjoyment of other Covenant rights, including the art. 25 right to take part in public affairs and the art. 27 right of a minority to enjoy its own culture. Regarding the latter, this Committee has noted that “a State party’s decision-making that may substantively compromise the way of life and culture of a minority group should be undertaken in a process of information-sharing and consultation with affected communities.”⁷²

States parties, therefore, have a positive obligation to ensure the effective realization of this right:

“To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information.”⁷³

Ethiopia’s own domestic law also obliges the government to provide access to information. As was noted by the Special Rapporteur on freedom of expression following his recent visit to Ethiopia:

“Under article 29 of the Constitution of Ethiopia, the State must provide individuals with the opportunity to have access to information of public interest. Similarly, the Proclamation on Freedom of the Mass Media and Access to Information ensures the establishment of ‘mechanisms and procedures to give effect to that right in a manner

⁷⁰ *Id.*

⁷¹ Human Rights Committee, General Comment No. 34, *Article 19: Freedoms of opinion and expression*, ¶ 18, U.N. Doc. No. CCPR/C/GC/34 (2011) [hereinafter General Comment 34]; Covenant, art. 19(2).

⁷² *Id.*

⁷³ *Id.*, ¶ 19.

which enables persons to obtain information as quickly, inexpensively and effortlessly as is reasonably possible'.⁷⁴

Unfortunately, the Special Rapporteur also noted that during his visit he “heard repeated criticisms of a systematic lack of access to general information throughout the government offices. Information is simply not made available through any official, open or accessible channel.”⁷⁵

This right of access to information is of particular urgency for communities affected by environmental hazards. “Public access to environmental information enables individuals to understand how environmental harm may undermine their rights, including the rights to life and health, and supports their exercise of other rights, including the rights to expression, association, participation and remedy.”⁷⁶

Accordingly, in the specific context of Lega Dembi, CEDAW has called upon Ethiopia to “ensure full transparency and independence during the assessment process, including by publishing the results and sharing them with the Guji people.”⁷⁷

Ignoring these international and domestic legal obligations, Ethiopia has refused to make public any of the assessment reports on the Lega Dembi gold mine.

* Ethiopia has never made public the **March 2018 report of the environmental audit commissioned by MIDROC in support of its request for a 10-year license renewal**. Instead, a government representative falsely told the community that the report found no environmental problems with the mine. In reality, the report sharply criticized failures of mine management and government regulatory oversight, and it documented dangerous levels of toxic contamination. (Although a leaked copy of this report has been obtained, sharing it widely in Ethiopia could put in danger the source of the document.)

* Ethiopia has never made public the **environmental impact report** by Canadian consultants that was presented to the government in the first half of 2019.

* Ethiopia has never made public the **report of the community health survey** by the Ethiopian Public Health Institute, which was presented to the government during or before June 2019. This failure is particularly egregious because to obtain their cooperation with the survey, community people were promised that the results would be shared with them.

* Ethiopia has never made public the **socio-economic impact report** by researchers at Dilla and Bule Hora Universities.

⁷⁴ Visit to Ethiopia, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, ¶ 43, U.N. Doc. No. A/HRC/44/49/Add.1 (29 April 2020). Unfortunately, the Special Rapporteur noted that during his visit he “heard repeated criticisms of a systematic lack of access to general information throughout the government offices. Information is simply not made available through any official, open or accessible channel.”

⁷⁵ *Id.*, ¶ 42.

⁷⁶ John H. Knox, Special Rapporteur on human rights and the environment, *Framework principles on human rights and the environment, Annex to the Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, Annex ¶ 17, U.N. Doc. A/HRC/37/59 (24 Jan. 2018) [hereinafter *Framework principles*].

⁷⁷ CEDAW Concluding Observations, *supra* note 10, ¶ 46.

Researchers associated with the recent assessments were instructed not to release information to the public without the consent of the government, and that consent has not been given.

The refusal to make this information public violates Ethiopia's obligations under art. 19(2).

E. Rights of an indigenous minority to self-determination, participation in the conduct of public affairs, and the enjoyment of its own culture (arts. 1, 25 and 27)

Art. 1 assures to every people the right to self-determination. Discussing this right in its second periodic report, Ethiopia noted that its Constitution "requires the Government to consult and participate the people at all times in the formulation of national development policies and programmes. Their prior informed consent is sought before the commencement of any development initiatives affecting their rights and interests under the Covenant."⁷⁸

Ethiopia has not kept this commitment. Despite its enormous impact on their land, resources, health and way of life, the indigenous Guji people living near Lega Dembi mine have never been allowed to participate in decisions about the mine. They were never consulted when MIDROC was granted its initial license in 1997, nor were they consulted in 2009 when MIDROC was granted an additional license for the adjacent Sakaro mine. Despite the community's well-known concerns about the environmental, health and socio-economic impacts of MIDROC's mining operations, the government never consulted them in advance of its April 2018 decision to renew the mine's license for another ten years. And now – although the State appears to be on the verge of allowing the resumption of mining – the local Guji people have been given no role in deciding whether, and, if so, under what conditions, MIDROC should be allowed to reopen Lega Dembi. This violates Ethiopia's obligations under art. 1.

This denial of the Guji people's right to give or withhold their free, prior and informed consent (FPIC) also violates their rights, and Ethiopia's obligations, under art. 25. Article 25 recognizes the right of every citizen to take part in the conduct of public affairs.⁷⁹ This right "includes participation in decision-making related to the environment."⁸⁰ To be effective, opportunities for public participation by affected communities "must . . . occur early in the decision-making process" and "all relevant information" – including "assessments of the impacts of proposals" – must be "made available to the affected public in an objective, understandable, timely and effective manner."⁸¹ States have a particular responsibility to "ensure the full and effective participation of indigenous peoples and traditional communities in decision-making on . . . matters that affect their lives."⁸² Ethiopia has ignored these obligations.

Ethiopia has also violated the art. 27 right of the minority Guji people to enjoy their own culture. Culture – particularly in the case of indigenous people⁸³ like the Guji, – "may consist in a way of life which is closely associated with territory and use of its resources."⁸⁴ In *Poma Poma v. Peru*, the Committee found the State's water diversion policies impermissibly interfered with the traditional economic activities of a

⁷⁸ Second periodic report submitted by Ethiopia to the Human Rights Committee, ¶ 7, U.N. Doc. No. CCPR/C/ETH/2 (22 Oct. 2019).

⁷⁹ Covenant, art. 25(a).

⁸⁰ *Framework Principles*, supra note 76, Annex ¶ 23.

⁸¹ *Id.*, Annex ¶ 24.

⁸² *Id.*, Annex ¶ 50.

⁸³ Human Rights Committee, General Comment No. 23, *The rights of minorities (art. 27)*, ¶¶ 3.2, 7, U.N. Doc. No. CCPR/C/21/Rev.1/Add.5 (8 Apr. 1994).

⁸⁴ *Id.*; Human Rights Committee, *Poma Poma v. Peru*, ¶ 7.2, UN Doc. No. CCPR/C/95/D/1457/2006 (27 Mar 2009).

complainant and her community.⁸⁵ Particular importance was placed on the State's failure to obtain the free, prior and informed consent of the affected community:

“[T]he admissibility of measures which substantially compromise or interfere with the culturally significant economic activities of a minority or indigenous community depends on whether the members of the community in question have had the opportunity to participate in the decision-making process in relation to these measures and whether they will continue to benefit from their traditional economy. The Committee considers that **participation in the decision-making process must be effective, which requires not mere consultation but the free, prior and informed consent of the members of the community. . . .**

In the present case, the Committee observes that neither the author nor the community to which she belongs was consulted at any time by the State party concerning the construction of the wells. Moreover, the State did not require studies to be undertaken by a competent independent body in order to determine the impact that the construction of the wells would have on traditional economic activity, nor did it take measures to minimize the negative consequences and repair the harm done.”⁸⁶

The victims' testimonies recounted above show how severely the toxic contamination from Lega Dembi has interfered with the Guji people's traditional agro-pastoral way of life. The loss of livestock and the decimation of crops have forced formerly self-sufficient people to turn to day labor to feed their families. One family recounted having to sell off some of their surviving livestock to pay for medical care of their children. One man in his thirties has been unable to walk for the past six years. The Guji community has been excluded from decisions about the mine, and the principle of free, prior and informed consent has been ignored. Ethiopia has failed to protect the minority Guji people's right to enjoy their culture.

F. Right to reparations (art. 2(3)(a))

States parties have the obligation to “make reparation to individuals whose Covenant rights have been violated.”⁸⁷ “Cessation of an ongoing violation is an essential element.”⁸⁸ The required reparation “generally entails appropriate compensation . . . [and] can involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.”⁸⁹

To date, Ethiopia has failed to provide, or require MIDROC to provide, reparations for the rights violations documented in this report.

The Guji people living near Lega Dembi are entitled to both collective and individual reparations. Existing toxic contamination must be remedied, and the mine must remain closed until effective measures are taken to ensure non-repetition of the contamination. No decision on the future of the mine should be

⁸⁵ *Id.*, ¶ 7.7.

⁸⁶ *Id.*, ¶¶ 7.6, 7.7.

⁸⁷ Human Rights Committee, General Comment No. 31, *The nature of the general legal obligation imposed on States parties to the Covenant*, ¶ 16, U.N. Doc. No. CCPR/C/21/Rev.1/Add. 13 (29 Mar. 2004).

⁸⁸ *Id.*, ¶ 15.

⁸⁹ *Id.*, ¶ 16.

made without the participation of the local community, in full compliance with the principle of free, prior and informed consent. Clean water should be provided to community members so long as the local water supply remains unsafe. Individuals should receive the compensation and medical care necessary to allow them to enjoy their right to a life with dignity. The needs of children should receive particular attention; for example, the educational needs of children born with disabilities.

IV. Suggested questions to include in the List of Issues for Ethiopia

1. Will Ethiopia agree to make public all reports and studies of the environmental, health, and socio-economic impacts of the Lega Dembi gold mine, including in particular:

a. The *Compliance audit in chemical management on MIDROC Gold Mine PLC's Legadembi and Sakaro Mining Operations*, dated March 2018, by Addis Ababa University Business Enterprise PLC;

b. Any reports on the environmental impact of the Lega Dembi gold mine prepared between May 2018 and the present by, or with the assistance of, consultants associated with Arrowsmith Gold Inc.;

c. The 2018 or 2019 report of the Lega Dembi-area community health study by the Ethiopian Public Health Institute; and

d. The 2019 report on the socio-economic impact of the Lega Dembi gold mine by researchers at Dilla and Bule Hora Universities?

When these reports are made public, what measures will the State take to ensure that the information is shared with the local Guji people in a manner that is accessible to them, including in their own language?

2. Please provide information on the measures the State is taking to ensure that the local Guji people are able to participate fully in all decisions about the future of the Lega Dembi mine, including decisions on whether, and if so under what conditions, the mine should be allowed to reopen. In particular, explain what measures the State is taking to ensure that all decisions regarding Lega Dembi are made in accordance with the principle of free, prior and informed consent (FPIC).

3. Please provide information on the measures the State has taken, or will take, to remediate existing contamination (including mercury, arsenic and other heavy metal contamination) in the Lega Dembi area, and to ensure that the mine, if allowed to reopen, will not cause further contamination. Will the State comply with, and will it require MIDROC or any other mine operator to comply with, the recommendations made in the environmental, health and socio-economic impact assessments? Until the water supply in the Lega Dembi area is safe for drinking and other household and agro-pastoral use, will the State provide water at no cost to the people in the affected area?

4. Please provide information on the measures the State taking to ensure that people living near Lega Dembi – and particularly the children – receive reparations for the violations of their Covenant rights, including adequate compensation, medical care, and education.