

Ethiopia’s Violations of the Rights of Indigenous Guji Children in Communities Near the Lega Dembi Gold Mine

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Toxic contamination from the Lega Dembi gold mine – including contamination of water and soil with dangerous levels of mercury, arsenic and cyanide – has had devastating impacts on indigenous Guji children. Rates of miscarriage, stillbirth and infant mortality are uncommonly high. Many infants have 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, including children, have suffered debilitating health issues, including tumors, headaches, skin conditions, and vision problems. Traditional livelihoods have been upended and access to food has been compromised: livestock have died or been sickened, crops have produced smaller yields, and people have become ill from eating the food they grow. 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.

Through its actions and omissions with respect to Lega Dembi, Ethiopia has violated numerous rights and obligations enshrined in the Convention on the Rights of the Child. These include the child’s right to life (art. 6.1), the obligation to “ensure to the maximum extent possible the survival and development of the child” (art. 6.2), the rights of disabled children (art. 23), the child’s right to enjoy the highest attainable standard of health (art. 24.1), the obligation to take appropriate measures to “diminish infant and child mortality,” to “ensure the provision of necessary medical assistance and health care,” and to provide “adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution (art. 24.2), the child’s right to education (art. 28), and the indigenous child’s right to enjoy her own culture (art. 30).

In its recent General Comment on children’s rights and the environment, this Committee has recognized that “[c]hildren have a right to a clean, healthy and sustainable environment,” that

¹ Kontomaa Darimu Alliance is a licensed Ethiopian NGO founded and led by members of the indigenous Guji people, with the aim of empowering the community to better address environmental, economic, health and education challenges.

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exposing children to toxic contamination can jeopardize their rights to survival, health, development, and a life with dignity, and that “[i]ndigenous children are disproportionately affected by . . . pollution.” States have a positive obligation to “protect children against environmental damage from . . . third parties, including by regulating business enterprises.” Business activities should be assessed for environmental impact, including their impact on child rights, and children and their parents must be given access to full information on environmental harm. States must provide for “timely and effective remedies” to redress harm. Overall, “States have a due diligence obligation to take appropriate preventive measures to protect children against reasonably foreseeable environmental harm and violations of their rights, paying due regard to the precautionary principle.”³

I. Background information on the Lega Dembi mine

The Lega Dembi gold mine is a massive mine in the Shakiso district of Ethiopia’s Oromia Regional State. 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 1998, the Ethiopia granted a 20-year mining license to MIDROC, whose owner, through his various businesses, is Ethiopia’s largest private employer.⁴ MIDROC vastly expanded the size of a small prior state-owned mine, causing deforestation and the exclusion of the Guji people from portions of their ancestral land. Despite the mine’s impact on the Guji people, the State failed to engage in consultations with the community before issuing these licenses.

In early 2018, Ethiopia renewed MIDROC’s license for an additional ten years, despite widespread community opposition due to the environmental and health impacts of the mine. It did so in the face of an environmental impact study, commissioned by MIDROC – but not made public – which disclosed toxic contamination and very serious failures of mine management and government regulatory oversight.⁵

The license renewal sparked massive protests, which led the State to temporarily suspend MIDROC’s license in May 2018, pending an independent assessment of the mine’s environmental and health impacts. At that time, the State represented that “operations would resume if and when ‘all stakeholders agree on the result of that investigation.’”⁶ In February 2019, Ethiopia represented to CEDAW 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 “hold the mine accountable and . . . make sure that it pays due compensation and that it does not resume functions until the

³ Committee on the Rights of the Child, *General comment No. 26 (2023) on children’s rights and the environment, with a special focus on climate change*, UN Doc. No. CRC/C/GC/26 (2023), at ¶¶ 18, 20-21, 32, 58, 63, and 68-69.

⁴ See <https://www.midrocinvestmentgroup.com/about-us/> for a description of MIDROC and its owner.

⁵ See *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 *Midroc’s gold mining permit suspended after protests*, ETHIOPIA OBSERVER (May 9, 2018).

toxic waste has been resolved and no longer poses a threat.”⁷ In October 2022, Ethiopia told the Human Rights Committee that the mine “would not resume functions until issues related to the toxic waste has been resolved and no longer poses a threat.”⁸

But by October 2022, the mine had already been open for six months. In March 2021, the State had allowed Lega Dembi to resume operation, without an independent environmental impact assessment, without remediation of existing contamination, without adequate measures to prevent further contamination, and without adequate compensation to the victims.

II. Toxic contamination and failures of mine management and government oversight

Although an independent environmental impact assessment has never been conducted, evidence of toxic contamination can be found in three sources:

- The March 2018 environmental audit commissioned, and in important ways controlled, by MIDROC. Although not made public, a leaked copy has been obtained.
- A late 2018 report by the Ethiopian Public Health Institute and the Ministry of Mines, Petroleum and Natural Gas, entitled *Legadembi Mining and Community Health Study: Technical Report 2018*, which contained a “desk audit” review of prior environmental reports, and the report of a community health survey of nearly 3000 households in the Lega Dembi area. Although not made public, a leaked copy has been obtained.
- A 2019 analysis of soil, sediment and water samples by researchers from Bule Hora and Dilla Universities, both located in the general region of the mine.

A. Toxic contamination

Cyanide. To separate gold from ore, MIDROC uses cyanide, which is highly toxic. It can cause respiratory failure, heart, brain, and nerve damage and can be lethal.⁹

The March 2018 audit found, at one site, that “cyanide is present in considerable amount both in water and soil samples,” and it warned, “The fact that cyanide enters the areas outside the

⁷ Committee on the Elimination of Discrimination against Women, 1665th meeting, 72nd session, unofficial transcription of recorded remarks of representative of Ethiopia, p. 2 (21 Feb. 2019).

See <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.

⁸ Replies of Ethiopia to the Human Rights Committee’s List of Issues (26 July 2021), UN Doc. No. CCPR/C/ETH/RQ/2, ¶ 150, read aloud by Ethiopia at the State Review session (17-18 Oct. 2022).

⁹ CDC, *Facts About Cyanide* (Apr. 4, 2018), <https://emergency.cdc.gov/agent/cyanide/basics/facts.asp>; March 2018 Audit, *supra* note 5, p. 49.

tailings dam from tailings dam discharge and the seepage . . . creates a health threat because the people and animals are using the water . . .”¹⁰

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.¹¹

The March 2018 audit found concentrations of arsenic substantially exceeding recommended limits in soil and water samples within and downstream from Lega Dembi. Water taken at the point of “[d]ischarge from the third dam to the Environment” showed a concentration of arsenic nearly 10 times the WHO standard.¹²

Mercury. “Exposure to mercury – even small amounts – . . . is a threat to the development of the child in utero and early in life.”¹³ Even low-level exposure can cause “spontaneous abortion, stillbirth, congenital anomalies, pre-term birth and low birth weight.”¹⁴

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 soil exceeded WHO standards, and concentrations in the water were 12-80 times higher than the WHO standard.¹⁵

MIDROC denies using mercury at Lega Dembi. But absent proper precautions, the cyanide used to separate gold from ore 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 was used.¹⁶

B. Failures of mine management and government oversight

The March 2018 audit documented serious shortcomings in the mine’s management and operations, which to this day have not been corrected:

Failure to fence off highly toxic tailings dams from public access. Lega Dembi channels toxic waste from the mining process into a series of three tailings dams, where it should be contained until purified. These tailings dams (ponds) were not fenced off, allowing free access by livestock

¹⁰ March 2018 Audit, *supra* note 5, p. 83.

¹¹ 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.

¹² *Id.* p. 74, Table 11.

¹³ World Health Organization, Fact Sheet on Mercury and health (31 Mar. 2017), <https://www.who.int/news-room/fact-sheets/detail/mercury-and-health>.

¹⁴ 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-problem> [hereinafter NEW HUMANITARIAN].

¹⁵ Research team from Dilla and Bule Hora Universities.

¹⁶ NEW HUMANITARIAN, *supra* note 14; March 2018 Audit, *supra* note 5, pp. 48-49, 56.

and wildlife, and – most concerning – by local people who fetch water from the second and third dams for household use.¹⁷

Failure to prevent seepage of toxic wastewater into groundwater. A well-regulated mine would have multiple impermeable liners at the base of the tailings ponds to prevent seepage. But at Lega Dembi, “no liners were installed to prevent passage of leachate to the groundwater system.”¹⁸

Contamination of freshwater stream. Mine management placed tailings dams so that a freshwater stream used by the community for water flows directly through them, contaminating that water source.¹⁹

Persistent failures of government oversight. The March 2018 audit was equally critical of the State’s failure to monitor and enforce compliance with environmental standards:

“The **overall audit findings** [are] 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.”²⁰ “Neither MMPNG nor MoEFCC are conducting adequate monitoring and regular site inspections.”²¹

The *Legadembi Mining and Community Health Study* was also highly critical, finding:

- “Potential exposure to heavy metals from current mine-site water runoff and discharge, as well as historical mining activities”
- “Poor chemical and waste management resulting in an increased risk of exposure to metals and other hazardous contaminants”
- “Dust generation”
- “Poor community engagement strategies, lack of appropriate grievance mechanisms, and no social performance systems in place by MIDROC”
- “Historical use of mercury in the Legadembi Mining area”²²

¹⁷ *Id.* pp. 84, 103, 107, 117, 123.

¹⁸ *Id.*

¹⁹ *Id.* pp. 65, 118, 121.

²⁰ March 2018 Audit, *supra* note 5, p. 120 (emphasis added).

²¹ *Id.* p. 119.

²² Ethiopian Public Health Institute and the Ministry of Mines, Petroleum and Natural Gas, *Legadembi Mining and Community Health Study: Technical Report 2018*, p. 1 [hereinafter *Legadembi Mining and Community Health Study*].

III. Impact on indigenous Guji children

A. Testimonies of community members²³

Aida and her family live a five-minute walk from Lega Dembi. Three times, Aida suffered miscarriage at about four months. Seven-year-old Kofi has severe vision problems that prevent him from attending school. Sometimes he cries because his eyes burn, 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 drank contaminated water, and they have had to sell other cattle to pay for the children’s medical treatments. Their crops no longer produce enough for the family’s needs.

Kiyya and Gadaa live a half-hour walk from the mine. Kiyya suffered two late-term miscarriages. Their five-year-old daughter Caaltuu was born with limb deformities that limit her ability to walk, preventing her from walking the long distance to school. She can talk but has trouble with comprehension. Her older brother and parents suffer headaches and other ailments. Their crops have not done well, and their oxen are now too weak to plow. Previously self-sufficient, the parents do 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 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.

B. Findings of the community health study

These testimonies have been fully corroborated by the State’s 2018 community health study.

- “The proportion of **congenital malformation** in the five Gotts (villages), when compared to national figures **is exceedingly higher.**” Elsewhere in Ethiopia, the rate (per 1000 live births) was less than 2%; in the Lega Dembi area, the rate was found to be slightly **over 17%.**

²³ Testimonies provided to CIHR (Jan. 2019). Pseudonyms are used here to protect identity.

- “Birth complications such as **miscarriage and stillbirth are also exceptionally high** when compared to national figures.” The study showed 169 households reporting one or more stillbirths over the past five years and 383 reporting one or more miscarriages.
- “Communities [in the mining area] are affected by different kinds of **chronic illnesses and disabilities.**” More than half of the households “reported **persistent coughs, wheezing, and phlegm,**” and 49% “experienced **shortness of breath.**” “[D]iseases of the skin and **subcutaneous tissue . . . are abnormally higher** when compared to studies from different parts of the country.” Roughly one third (32.6%) of respondents “experienced **headaches at least once a week.**”
- Among households with **livestock,** “40% . . . reported the occurrence of the **unusual or new disease,**” and 91% of the diseased animals drank from the tailing dam ponds.
- **19.9%** of households “were **accessing retention dams to collect water for HH [household] use,**” including drinking. More than 80% said that the “main reason . . . to use water from retention dams for domestic purposes was the absence of a community water supply.”
- “[A]bout **61.4%** of the HHs **rely on river water** for domestic use such as drinking and cooking,” **even though** “[p]revious reports have shown that **rivers adjoining [Lega Dembi] . . . are contaminated with pollutants** released from the mining plants.”
- “Community members are also **frequently exposed to high dust levels,**” as there are “high levels of dust **emanating from the [tailing] dam.**”²⁴

IV. Continuation of problems since the reopening of the mine

Despite the State’s promise to the Human Rights Committee that the mine “would not resume functions until issues related to the toxic waste has been resolved and no longer poses a threat,”²⁵ and despite MIDROC’s claims that the problems have been remedied, based on information from local people, the problems reported above continue to this day.

According to local people, at present the first tailings dam is only partially fenced off. The latter two dams are not fenced at all, allowing people and livestock to access the water. For lack of better options, people continue to use water from those dams for household use and watering livestock.

Particularly in the rainy season, the first dam overflows, flooding the lower dams and the river downstream with its highly toxic water.

²⁴ *Legadembi Mining and Community Health Study*, *supra* note 22, pp. ii-iii, 34-35, 47, 54-55, 60, 62-63, and 69 (emphasis added).

²⁵ See note 8, *supra*.

The other problems noted in the March 2018 audit likewise have not been corrected. There is still no impermeable liner under the tailings dams to prevent seepage into ground water, and the river above the mine continues to be routed through the tailings dams, spoiling what should be a source of clean water. No evidence has been shown to suggest that State ministries are now properly monitoring and regulating MIDROC.

Aside from modest steps to reduce some of the dust generation, there has been no evidence to date that the deficiencies noted in the *Mining and Community Health Study* have been cured.

Despite claims that MIDROC has provided clean water to the villagers, local people still have no choice but to use water from contaminated streams or the second and third tailings dams for drinking, household use, and watering livestock. For example, local people report that in the village of Dibabate, MIDROC sends water tankers only once a week, and people sometimes must wait the entire day to get their one or two jerrycans of water.

Most importantly, community people report that the devastating impacts on children and their families have continued.

There continue to be high numbers of miscarriages, stillbirths, and children born with severe congenital malformations. For example, in 2022, a child died not long after being born with no limbs. Local people, as well as a local health center, report many instances of stillbirths and births of severely disabled children in both 2023 and 2024. One informant reported knowing of three stillbirths in his village just in August 2024.

According to local people, some ailments, such as persistent coughs and skin rashes, were temporarily alleviated while the mine was shut down, but since the reopening, people again complain of continuous coughs, asthma, and skin problems from exposure to mining dust, particularly during the dry season.

Food insecurity is again a problem. Livestock continue to die after drinking water from tailing dams. When the mine was temporarily closed, farmers reported better-than-normal harvests; but now, since the mine's reopening, harvest yields reportedly have again dropped.

V. Recommendations

We respectfully urge the Committee to recommend the following to the State:

1. Require a complete and fully independent environmental impact assessment (EIA) of the Lega Dembi mine, funded by MIDROC but conducted by outside experts in accordance with best practices, with community involvement in line with the principle of free, prior and informed consent.

This is the only way to fully prove or disprove MIDROC's claims to have remedied all the mine's many failings, and to determine what must be done going forward to remediate past contamination and prevent further contamination.

2. Include as a key component of this EIA a child rights impact assessment.
3. Institute regular government monitoring of Lega Dembi, including regular testing of water and soil within and downstream from the mine.
4. Make impact assessments and ongoing monitoring data available to the public, in a manner accessible to the Guji community.
5. Ensure implementation of effective measures to remediate existing contamination and prevent further contamination.
6. Provide clean water to people in the communities near the mine, at accessible times and places and in a quantity sufficient to meet their needs.
7. Require MIDROC to pay reasonable compensation to victims, in an amount sufficient to allow them to enjoy their right to a life with dignity. Ensure that the compensation program is carried out in a transparent manner, and that recipients, and the amounts they are to receive, are determined without favoritism of any kind.