**Input on the impact of toxics on Indigenous peoples:**

**The impact of toxic contamination from the Lega Dembi gold mine**

**on the Indigenous Guji people in Ethiopia**

Submitted by:

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Toxic contamination from the Lega Dembi gold mine has had a devastating impact on the health and well-being of the Guji people, an agro-pastoral Indigenous people who have lived for centuries in Ethiopia’s Oromia region. Failures of mine management and government regulatory oversight have left their environment contaminated with dangerous levels of cyanide and heavy metals, including mercury and arsenic. The Guji have been denied their right to free, prior and informed consent, and their protests have been met with violence and repression.

This submission is by DUBAF, an Ethiopian NGO whose members and leaders are Indigenous Guji people, and CIHR, an academic and advocacy organization in special consultative status with ECOSOC that, since 2018, has worked with DUBAF in advocating for communities impacted by the Lega Dembi mine. It will address the first five questions in the Questionnaire to Indigenous peoples and civil society.[[1]](#endnote-1)

**1. Description of the case and circumstances of toxic contamination**

In 1998, the Ethiopian government granted a 20-year mining license for Lega Dembi to MIDROC, a private company owned by the largest private employer in Ethiopia. Despite widespread community opposition, in April 2018 Ethiopia renewed MIDROC’s license for an additional ten years. It did so although a March 2018 environmental audit, commissioned by MIDROC[[2]](#endnote-2) – and withheld from the public – had disclosed toxic contamination and serious failures of mine management and government oversight. In May 2018, following widespread protests over the license renewal, MIDROC’s license was suspended. At the time, the Government promised there would be independent environmental and health impact studies and involvement of all stakeholders before any resumption of mining. But in early 2021, the mine was allowed to reopen without an independent environmental impact study, without remedying the mine’s failings or the existing contamination, and without the free, prior and informed consent of the Guji people.

***Source of toxic exposure***

The toxic waste produced at Lega Dembi when gold is extracted from ore is channelled into a large pond restrained by the first of three tailing dams. This highly toxic water is supposed to be purified before it is released back into the environment below the third dam. However, due to management and oversight failures, contaminated water has been allowed to enter the water supply near and below the mine. Soil has also been contaminated, due to windborne dust and run-off and seepage of contaminated water.

The March 2018 environmental audit disclosed many failures, including the following:

Instead of leaving the Dembi River as a source of clean water for community use, MIDROC diverted the river through its tailing dams, contaminating the water.[[3]](#endnote-3) MIDROC failed to install impermeable liners at the base of the tailing ponds, allowing seepage into the groundwater.[[4]](#endnote-4) The highly toxic tailing ponds were left unfenced and accessible to the community as a water source.[[5]](#endnote-5)

Lax monitoring and record-keeping were also faulted. All boreholes for groundwater monitoring were dysfunctional,[[6]](#endnote-6) and there was no evidence that twice-yearly audits called for by MIDROC’s written policy had been performed.[[7]](#endnote-7) The audit found “neglect” and “significant deficiencies” in Government oversight,[[8]](#endnote-8) concluding: “The overall audit findings is that the [relevant ministries’] compliance and enforcement activities of the mine are inadequate to protect the area from significant health and environmental risks.”[[9]](#endnote-9)

A late-2018 desk audit of prior reports on the mine’s environmental impact was also very critical. Instead of commissioning an independent environmental impact assessment, as promised when the mine’s license was suspended, the Government – without any consultation with the community – brought in Canadian consultants who merely conducted a desk review of prior assessment reports. They never visited the mine, and they never met with members of the Guji community. Still, their report[[10]](#endnote-10) – which the Government has refused to make public – was very 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” [[11]](#endnote-11)

***Types of hazardous substances***

Studies have documented dangerous levels of cyanide and heavy metals, including arsenic and mercury, in the water and soil near and downstream from Lega Dembi.

**Cyanide.** The March 2018 environmental audit 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** . . . **creates a health threat because the people and animals are using the water** . . ..”[[12]](#endnote-12)

**Arsenic.** The same 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.**[[13]](#endnote-13)

**Mercury.** Extremely dangerous levels of mercury contamination were found byresearchers from Dilla and Bula Hore Universities, who in 2019 conducted sampling and analysis of water and soil in the Lega Dembi area. Samples taken at control sites above the mine showed no observable mercury at a site with no mining, and a very low level of mercury – within WHO guidelines – at a site with artisanal mining. But just below Lega Dembi, the researchers found mercury levels in water and soil exceeding WHO standards. Concentrations of **mercury** observed in the water at sampling points below Lega Dembi were **12-80 times higher than the WHO standard**.[[14]](#endnote-14)

***Absence of consultations, consent and remedies***

See below.

**2. Impact of the toxic contamination on the Guji people**

The Guji community has suffered the predictable consequences of exposure to mercury, arsenic and cynide, denying them their rights to life, health, clean water, food, livelihood, education, and culture, among other interconnected rights. Women have suffered uncommonly high rates of miscarriage, stillbirth and infant mortality. Many babies are born with severe disabilities, including deformed limbs, paralysis and mental incapacity. Those who survive have sharply compromised quality of life, including loss of education, as some cannot walk the long distance to school and schools lack resources to educate severely disabled children. Debilitating health problems, including tumors, headaches, skin conditions, and vision problems, are widespread among the local people. Livestock have died, crops have produced smaller yields, and people have become ill from eating the food they grow. Deforestation has destroyed trees of high cultural value to the Guji.

The Guji have complained and protested these impacts for years, to no avail. But their complaints have now been corroborated by the damning report of a community health survey of nearly 3000 households in the Lega Dembi area, conducted in late 2018 by the Ethiopian Public Health Institute in consultation with Canadian consultants. The Government has refused to make this report public, but a leaked copy reveals the following:

\* “The proportion of **congenital malformation** in the five Gotts (villages), when compared to national figures **is exceedingly higher**.”[[15]](#endnote-15) 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%**.[[16]](#endnote-16)

\* “Birth complications such as **miscarriage and stillbirth are also exceptionally high** when compared to national figures.”[[17]](#endnote-17) The study showed 169 households reporting one or more stillbirths over the past five years and 383 reporting one or more miscarriages.[[18]](#endnote-18)

\* “Communities [in the mining area] are affected by different kinds of **chronic illnesses and disabilities**.”[[19]](#endnote-19) Thirteen percent “were observed with chronic illness and disability.”[[20]](#endnote-20) More than half of the households “reported **persistent coughs, wheezing, and phleghm**,”[[21]](#endnote-21) and 49% “experienced **shortness of breath**.”[[22]](#endnote-22) **“[D]iseases of the skin and subcutaneous tissue . . . are abnormally higher** when compared to studies from different parts of the country.”[[23]](#endnote-23) Roughly one third (32.6%) of respondents “experienced **headaches at least once a week**.”[[24]](#endnote-24)

\* Among households with **livestock**, “40% . . . reported the occurrence of the **unusual or new disease**,”[[25]](#endnote-25) and 91% of the diseased animals drank from the tailing dam ponds.[[26]](#endnote-26)

\* **19.9%** of households “were **accessing retention dams to collect water for HH [household] use,” including drinking**.[[27]](#endnote-27) 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.”[[28]](#endnote-28)

\* **94%** of respondents said they had “**never received notification warning of the danger** of accessing any of the TDF [Tailing Dam Facility] ponds.”[[29]](#endnote-29)

\* “[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.”[[30]](#endnote-30) River water was used due to “limited access to improved water utilities” and “lack of official notification that river water may be contaminated with pollutants from Legadembi.”[[31]](#endnote-31)

\* “Community members are also **frequently exposed to high dust levels**,” as there are “high levels of dust **emanating from the [tailing] dam**.”[[32]](#endnote-32)

\* “According to interviews and [focus group] discussion, the local communities have experienced the following effects as the **direct results of MIDROC’s operations**:

* **deformities (especially children);**
* **infertility, birth complication, and stillbirths;**
* **deformities, stillbirths, miscarriage, and death of animals/livestock**;
* **land degradation** (road and mining purpose result in loss of productivity);
* **deforestation;**
* **Loss of biodiversity** (animals like lion, elephant, etc.);
* **death** as a result of **conflict with security forces** employed to protect the mine site;
* **impact on livelihoods** and **low employment opportunity** . . . ; and
* **Loss of culture**.”[[33]](#endnote-33)

**3. Government failure to respect the right to free, prior and informed consent**

The Government has ignored its obligation to implement the Guji people’s right to free, prior and informed consent. The Guji people have had no voice in the original decision to license the mine, the 2018 decision to renew the license, or the decision to allow the mine to reopen in 2021. They have been excluded from decision-making on mine oversight, impact assessments, identification of remedial measures necessary to restore the environment and prevent further contamination, and determination of just reparations and compensation.

***Denial of access to information***

For free, prior and informed consent and effective consultation to take place, Indigenous peoples must be provided with all the information required to make informed decisions. The Government, however, has refused to make public the reports of Lega Dembi’s environmental and health impacts, including:

\* Environmental audit commissioned by MIDROC;

\* Report of the Canadian consultants’ environmental desk audit;

\* Community health survey report.

Households were persuaded to participate in the health survey by promises that the results would be shared with the community. But those who conducted the study were prohibited from sharing the results until the Government made the report public, and to this day, the Government has refused to do so. At a meeting to announce the reopening of the mine, a government official dismissed the idea of making the report public, disdainfully claiming it was too complex to be understood by the Guji. This ignores the State’s obligation to provide full access to impact assessments,[[34]](#endnote-34) “in a manner and form understandable to indigenous peoples.”[[35]](#endnote-35)

CIHR has acquired leaked copies of these reports, allowing them to be referenced here. But in the climate of extreme repression and intimidation prevailing in Ethiopia (see below), possession of a leaked copy is very different from public access to information. Given the Government’s determination to withhold these reports from the public, the reports cannot be safely shared with or discussed within the Guji community.

***Failure to engage in free, prior and informed consultations***

The Ethiopian Government has never engaged the Guji community in consultations consistent with the right to free, prior and informed consent.

In 2020, the Government began to hold meetings about the reopening with certain local people, and thus claims to have held community consultations. But these were not true consultations within the meaning of free, prior and informed consent.

\* Only persons selected by the Government were allowed to attend. Reportedly, most were members of the governing party, and some were promised rewards for supporting the mine.

\* These meetings were held in a context of extreme repression and intimidation against opponents of the mine. See below.

\* These were not meetings to discuss whether, and on what terms, the mine should be allowed to reopen. The Government simply announced the reopening and the remedial measures it said would be taken. While some of these measures, if implemented, would be positive (though insufficient), local people strongly doubted that the promises would be kept – and to date, more than a year later, the measures have not been implemented in any significant respect.

\* The environmental and health impact reports were withheld from the public.

**4. MIDROC’s failure to engage in dialogue with the Guji community**

MIDROC has not engaged in consultations or dialogue with the Guji community regarding the operation of the mine. The Government’s own report found that there were “no social performance systems in place by MIDROC.”[[36]](#endnote-36) Similarly, a 2019 socio-economic impact study by researchers at Dilla and Bule Hora Universities found, on the basis of extensive interviews and focus group discussions with local people, that “neither local government authorities nor MIDROC sought any consent and they also never involved local communities” in decisions about MIDROC’s operations and its impacts on local people.[[37]](#endnote-37) A local Guji elder lamented that “government and MIDROC authorities never listen to complaints from the people let alone involve them in decisions.”[[38]](#endnote-38)

**5. Efforts to protest the mine and demand compensation have been unsuccessful**

The Guji have repeatedly tried to obtain redress, all to no avail. Demands to stop the contamination and provide fair compensation to victims have been ignored, and community protests have repeatedly been met with violence and intimidation. Shortly after Prime Minister Abiy Ahmed came to power, protests against the license renewal led to a temporary suspension, but MIDROC ultimately was allowed to resume mining as before – without implementing measures to mitigate existing environmental contamination or prevent further contamination, and without paying just compensation to the victims.

This flies in the face of recommendations made by CEDAW in 2019:

**The Committee recommends that the State party 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.**[[39]](#endnote-39)

None of these recommendations have been complied with. Assessment results have not been published and shared, environmental and health damage has not been addressed, and the victims have not received adequate reparations and compensation. Although the Government promised compensation when the mine was allowed to reopen, most victims have received nothing. The only payments have been to a few of the people who lost family members, and they have received at most only 20,000 birr – an amount less than $400 USD. Other victims – including the children born with profound disabilities and the families that care for them – have received nothing.

Over the years, the Government has responded to protests with brutality. A 2016 HRW report on protests in Oromia, including protests against Lega Dembi, found: “Security forces committed numerous human rights violations in response to the protests, including arbitrary arrest and detention, killings and other uses of excessive force, torture and ill-treatment in detention, and enforced disappearances.”[[40]](#endnote-40)

These tactics have been used repeatedly against activists and community members protesting Lega Dembi. Anti-mine protests in 2009 led to beatings and mass arrests, including the arrests of some fifteen protest leaders.[[41]](#endnote-41) Protests in 2014 and 2016 were likewise suppressed by security forces. For example, in April 2016, security forces came to the home of a protest participant, accused him of having organized the protests, and killed him.[[42]](#endnote-42) During protests in 2018 against the renewal of MIDROC’s license, at least five protesters were killed and others were injured when security forces opened fire on the demonstrators with live ammunition.[[43]](#endnote-43)

MIDROC’s private security force has also brutalized local people, shooting those viewed as coming too close to the mining site. In one incident, a local man was forced at gunpoint into the most toxic tailing pond, where he immediately perished. It has been reported, including by a former MIDROC worker, that MIDROC has maintained its own private jail within the mining complex.

The resulting climate of fear and intimidation has been intensified by the militarization of the area near the mine. Since at least autumn 2019, the Government has imposed a “command post” regime in the area, under which the military takes lead responsibility for security. Under this regime, no meetings of any kind can be held without prior government approval. This has effectively prevented the Guji from coming together – before or since the reopening of the mine – to discuss their grievances or express their opposition to the mine.

Under these circumstances, it is not surprising that there have been no public protests in response to the resumption of mining. Local people who have voiced opposition have suffered consequences. Some have been detained, and others have been threatened and forced to flee the area. In the eyes of the Government, opposition to Lega Dembi is synonymous with support for the armed combatants of the Oromo Liberation Army (OLA, or “Shene”). Thus, at least for now, the Government has largely succeeded in suppressing any public expression of opposition to the mine.

1. Due to the requested word limit, it is not possible to address the remaining questions. DUBAF and CIHR would be happy to provide further information, upon request. [↑](#endnote-ref-1)
2. *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*]. [↑](#endnote-ref-2)
3. *Id.* pp. 65, 118, 121. [↑](#endnote-ref-3)
4. *Id.* p. 102. [↑](#endnote-ref-4)
5. *Id.* pp. 84, 103, 107, 117, 123. [↑](#endnote-ref-5)
6. *Id.* p. 3. [↑](#endnote-ref-6)
7. *Id.* p. 91. [↑](#endnote-ref-7)
8. *Id.* p. 120. [↑](#endnote-ref-8)
9. *Id.*  [↑](#endnote-ref-9)
10. Ethiopian Public Health Institute (EPHI) & Ministry of Mines, Petroleum and Natural Gas (MMPNG), *Legadembi Mining and Community Health Study: Technical Report 2018* [hereinafter *Mining and Community Health Study*]. This report contains the findings of both the environmental desk audit, which we believe was done by the Canadian consultants, and the community health study, discussed below, which was conducted by the Ethiopian Public Health Institute (EPHI) with guidance from the Canadians consultants. We do not know whether EPHI and MMPNG exercised any editorial control over what was written by the Canadian consultants and the researchers. [↑](#endnote-ref-10)
11. *Id.* p. 1. [↑](#endnote-ref-11)
12. *March 2018 Audit, supra* note 2, p. 83 (emphasis added). [↑](#endnote-ref-12)
13. *Id.* p. 74, Table 11. [↑](#endnote-ref-13)
14. Research team from Dilla and Bule Hora Universities. [↑](#endnote-ref-14)
15. *Mining and Community Health Study*, *supra* note 10, p. 69 (emphasis added). [↑](#endnote-ref-15)
16. *Id*. p. 60 (emphasis added). [↑](#endnote-ref-16)
17. *Id*. p. 69 (emphasis added). [↑](#endnote-ref-17)
18. *Id*. pp. 62-63. [↑](#endnote-ref-18)
19. *Id*. p. 69 (emphasis added). [↑](#endnote-ref-19)
20. *Id*. p. ii. [↑](#endnote-ref-20)
21. *Id*. p. ii (emphasis added). [↑](#endnote-ref-21)
22. *Id*. p. 35 (emphasis added). [↑](#endnote-ref-22)
23. *Id*. p. iii (emphasis added). [↑](#endnote-ref-23)
24. *Id*. p. 34 (emphasis added). [↑](#endnote-ref-24)
25. *Id*. p. iii (emphasis added). [↑](#endnote-ref-25)
26. *Id*. [↑](#endnote-ref-26)
27. *Id*. pp. 47, 54 (emphasis added). [↑](#endnote-ref-27)
28. *Id*. p. 47. [↑](#endnote-ref-28)
29. *Id*. p. ii (emphasis added). [↑](#endnote-ref-29)
30. *Id*. p. 54 (emphasis added). [↑](#endnote-ref-30)
31. *Id*. [↑](#endnote-ref-31)
32. *Id*. p. 55 (emphasis added). [↑](#endnote-ref-32)
33. *Id*. p. 53 (emphasis added). [↑](#endnote-ref-33)
34. James Anaya, *Report of the Special Rapporteur on the rights of indigenous peoples: Extractive industries and indigenous peoples*, U.N. Doc. A/HRC/24/41 ¶ 65 (1 July 2013), https://undocs.org/en/A/HRC/24/41. [↑](#endnote-ref-34)
35. Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), *Free, prior and informed consent: a human rights-based approach*, U.N. Doc. A/HRC/39/62 ¶ 22(b) (10 Aug. 2018), https://undocs.org/A/HRC/39/62. [↑](#endnote-ref-35)
36. *Mining and Community Health Study*, *supra* note 10, p. 1. [↑](#endnote-ref-36)
37. Research Team from Dilla and Bule Hora Universities, *A Study on socio economic impacts of MIDROC Gold mining industry* (2019), p. 42. [↑](#endnote-ref-37)
38. *Id*. [↑](#endnote-ref-38)
39. Committee on the Elimination of Discrimination Against Women (CEDAW), 1665th and 1666th meetings, Concluding observations on the eighth periodic report of Ethiopia, U.N. Doc. No. CEDAW/C/ETH/8, ¶ 46 (14 March 2019), https://tbinternet.ohchr.org/\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fETH%2fCO%2f8&Lang=en. [↑](#endnote-ref-39)
40. Human Rights Watch, *“Such a Brutal Crackdown,” Killings and Arrests in Response to Ethiopia’s Oromo Protests*, p. 21; *see also* pp. 13-14 (June 2016), https://www.hrw.org/sites/default/files/report\_pdf/ethiopia0616web.pdf. [↑](#endnote-ref-40)
41. Asebe Regassa, *Frontiers of Extraction and Contestation: dispossession, exclusion and local resistance against MIDROC Laga-Dambi Gold Mine, southern Ethiopia*, The Extractive Industries and Society, p. 7 (Aug. 2021), https://www.sciencedirect.com/science/article/pii/S2214790X21001519. [↑](#endnote-ref-41)
42. VOA News, *Mining Firm's License Renewal Fuels Protests in Ethiopia* (5 May 2018), https://www.voanews.com/a/mining-firm-license-renewal-fuels-protests-ethiopia/4378439.html. [↑](#endnote-ref-42)
43. Ethiopia Observer, *Five people killed in Legadembi gold mine protest* (9 May 2018), https://www.ethiopiaobserver.com/2018/05/09/five-people-killed-in-legadembi-gold-mine-protest/. [↑](#endnote-ref-43)