

April 22, 2009

Mr. Per Eldar Sovik
Director
Compliance Review and Mediation Unit (CRMU)
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RE: Request for CRMU Compliance Review and Investigation of the Bank's Gibe III dam Project (Ethiopia)

Dear Mr. Sovik:

We are writing as international organizations concerned about the potential impact of the Gilgel Gibe III Dam, particularly on the environment and peoples of southwestern Ethiopia and northwestern Kenya.¹ We believe that this project, which the African Development Bank (AfDB) is considering funding, will have irreversible and highly negative effects on up to a half million people living downstream from the dam site, most of them members of indigenous communities, and who rely on the Omo River for their livelihoods and economic well-being. The natural flood cycle of the Omo River is central to the downstream region's economy and food security; the planned project would fundamentally disrupt the river's flow and community systems which now support hundreds of thousands of Ethiopians and Kenyans from several distinct indigenous peoples, increasing the likelihood of regional destabilization and resource conflict.

We furthermore believe that preparation of this project represents multiple violations of African Development Bank policy and guidelines. We request a compliance review and investigation of the Bank's engagement in the Gibe III dam project.

We are aware that, on March 26, 2009, your office registered a request by Friends of Lake Turkana, a Kenyan organization, concerned about the project's consequences to Lake Turkana and the people who rely on it. We support that request, and believe that the following evidence regarding impacts to Ethiopians will justify a comprehensive project compliance review and investigation by the CRMU. Like Friends of Lake Turkana, we believe that intervention and considerable consultation with project-affected peoples is imperative *before* the AfDB Board conducts any discussion of funding for the Gibe III project.

Our engagement with the AfDB began on September 22, 2008, with an email inquiry by Ms. Terri Hathaway of International Rivers to Mr. Emmanuel Nzabanita, Gibe III Task Manager.² On December 11, Ms. Hathaway submitted a summary of seven key concerns to Mr. Nzabanita with a request to arrange a phone conference which would include NGO representatives from Bank Information Center, Campagna per la Riforma della Banca

¹ See Annexe 1 for a summary of signatory organizations.

² See Annexe 2 for an archive of our email communication with AfDB staff.

Mondiale, Friends of Lake Turkana, and International Rivers. On January 20, 2009, we sent a more detailed discussion document for a phone conference and informed Bank staff of the interest of two additional groups, Anuak Justice Council and Indigenous Peoples of Africa Coordinating Committee, to also participate in the conference call.³

On January 22, Mr. Nzabanita informed us that the conference call was scheduled for February 4. However, on January 30, we received notice that the phone conference was canceled without reason, accompanied by a written response to a small selection of our concerns.⁴ We informed the Bank of our disappointment in the cancellation and asked how we could engage with Bank staff going forward. No additional opportunities to discuss project concerns have been presented by Bank staff. In addition, at no time during this communication did Bank staff inform us that a revised ESIA, released in early March 2009, was forthcoming. This experience has given rise to serious concerns on our part that the AfDB has no intention of seriously engaging with anyone expressing concerns about the Gibe III project.

During our engagement with the AfDB staff and the preparation of this letter, we have continued to share information with confidential intermediaries who are in touch with the downstream affected communities. Due to the region's physical and linguistic isolation, and the extremely poor consultation process (discussed below), affected peoples have virtually no awareness of this project or anticipated impacts. This has impaired the process of engaging local, affected peoples to understand project risks and to protect their rights.

We have also attempted during this time to gather documentation of support for our request by affected peoples. However, we have ceased all attempts to gather documented support due to fears of government retaliation, including physical harm, for any affected persons coming forward. We believe that retaliation could target families and entire indigenous peoples. Faced with long-term government neglect, racism and physical isolation, the confidentiality policy of the CRMU cannot provide adequate security for these vulnerable communities.

One intermediary warned that individuals or communities who are identified as supporters of our request could be exposed to "dangerous local processes, up to ethnic cleansing." Communities which have been previously identified for past actions to protect their rights and resources may be particularly at risk if they speak out on this project. After a major BBC report about the Gibe III Dam aired in March, at least one local who assisted in the production was identified, contacted and warned by government officials. Other individuals identified in the BBC program may now be targeted.

These concerns are further validated by recent experiences in Ethiopia. A Human Rights Watch report released in 2005 documents the military-led atrocities against the Anuak, an indigenous people in the nearby Gambella region of Ethiopia.⁵ We believe that similar, state-sanctioned actions could take place amongst Gibe III affected communities. In 2007, the UN Committee on the Elimination of Racial Discrimination observed:

³ See Annexe 3 for our detailed discussion document.

⁴ See Annexe 4 for the response document prepared by Mr. Emmanuel Nzabanita, Gibe III project Task Manager.

⁵ Human Rights Watch. March, 2005. Targeting the Anuak: Human Rights Violations and Crimes against Humanity in Ethiopia's Gambella Region. Available at: <http://www.hrw.org/en/reports/2005/03/23/targeting-anuak>.

According to information before the Committee, both from within the UN system and Ethiopian civil society, as well as from international non-governmental organizations, very serious violations of human rights along ethnic and racial lines have recently occurred in the State party. [...] In the above context, the Committee is alarmed by well-documented reports of grave incidents of racial discrimination and is deeply concerned that inter-ethnic conflicts could escalate to a much larger scale in the near future, fuelled by political tensions and violations of basic economic, social and cultural rights, and exacerbated by competition over natural resources, provision of food, access to clean water and agricultural land, thereby putting many ethnic groups at serious risk in the State party.⁶

Prioritization of the Gibe III Dam is supported at the highest levels of Ethiopian government, which has long intimidated any groups that might offer critical views of government development projects, making what space is available to civil society very constricted and perilous. The new ‘Charities and Societies Law’, Proclamation No. 621/2009, 13/2/09, criminalizes human rights advocacy work of local NGOs receiving more than 10% of their budget from foreign sources.⁷ Such work, including on land rights and gender equality, could result in up to five years imprisonment. This serves as an additional signal of the limited space for civil society engagement in the development debate. This diminishing space comes after the mass violence and arrests in the wake of Ethiopia’s 2005 parliamentary elections in which opposition leaders, perceived supporters, journalists and NGO staff were all targeted.

A recent USAID field investigation report on the Gibe III Dam found:

“The current political landscape for civil society/NGOs remains difficult in the aftermath of the May 2005 parliamentary elections. This political environment discourages public discourse on development issues, including both energy policy and projects to implement the policy. An NGO law passed in early January 2009 is the most recent attempt to weaken civil society’s voice and disengage civil society from the policy-making process. The new law heavily restricts the thematic areas where civil society organizations can operate and places funding restrictions on local NGOs by international NGOs. The areas that are compromised include governance, civil society, and human rights issues. Some stakeholders see the new law as an additional element of political control and targeted towards a small number of NGOs (about 100) that were politically active during the earlier elections, with the GoE trying to head off any disagreements.

“The absence of a free debate in the media also compounds concerns associated with the lack of public discourse. There appears to be tight government control of the media with no questions openly asked concerning national development issues and policies. This further restricts the limited amount of political space civil society has to engage in with the government.”⁸

⁶ Concluding observations of the Committee on the Elimination of Racial Discrimination: Ethiopia. 20/06/2007. CERD/C/ETH/CO/15. Available at:

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/0b3f737a40b0deaac125730700522121?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/0b3f737a40b0deaac125730700522121?Opendocument)

⁷ For more information, see Amnesty International’s press release at <http://www.amnesty.org/en/news-and-updates/news/ethiopian-parliament-adopts-repressive-new-ngo-law-20090108>.

⁸ Johnston, L. April 2009. Ethiopia – Gibe III Hydropower Project, Trip Report - January 12 – 30, 2009. USAID/Washington, EGAT/ESP.

We believe that that Gibe III affected communities have been grossly uninformed of the project's impacts, the project's impacts to these communities have been poorly analyzed and underestimated, and these communities risk physical harm should they speak out. Given the extreme risks for state-sanctioned retaliation against vulnerable communities and civil society, we urge the CRMU to register our request *without* documented support from affected communities.

Our concerns with the Gilgel Gibe III Dam are:

1. Lack of consultation with project affected peoples and civil society in Ethiopia;
2. Unaddressed violations of domestic law in project preparation;
3. Belated and inadequate environmental and social impact assessment and related documents;
4. Grave risks for indigenous communities in southwestern Ethiopia, due to major environmental changes the dam will cause and grossly inadequate mitigation; and
5. Fiscal risks for Ethiopia.

1. Lack of Consultation

To date, the political atmosphere in Ethiopia has prevented affected peoples and civil society from raising concerns about the Gibe III Dam, due to the following factors:

- Most affected peoples do not understand how the project may affect them because the project consultation process has been untimely and grossly inadequate;
- Most downstream affected communities are part of indigenous groups which are physically and linguistically isolated, and politically and economically marginalized;
- Project developers have made virtually no project information publicly available in Ethiopia to date, including via media coverage, leaving Ethiopian civil society uninformed about the project's potential risks and impacts; and
- The Ethiopian government has taken actions in recent years to restrain public debate over controversial government priorities, such as hydropower development, and civil society activities on human rights advocacy.

The majority of Ethiopian project-affected peoples are located downstream of the dam site in the Lower Omo Valley. The Environmental and Social Impact Assessment (ESIA) identifies at least 100,000 Ethiopians who are members of indigenous households engaged in flood recession cultivation, and the region's total population is approximately 500,000 people. The dam will impact not only recessionary farmers, but pastoralists and fishers who also rely on the annual flood patterns. The dam's impacts on these food sources and livelihoods could ultimately devastate the food security and local economy which engages most of the region's 500,000 people. Most of these individuals are members of indigenous peoples who are geographically remote and politically vulnerable. The region includes virtually no modern infrastructure, such as roads, electricity, and phones. Few members of these communities speak Amharic, Ethiopia's national language, and even fewer can speak English, the language in which the ESIA project documents have been produced.

Project documents state that only 93 community members from four of the eight or more downstream indigenous peoples were consulted: Mursi, Nyangatom, Dassanech and Karo.

Other affected indigenous peoples in Ethiopia, namely the Hamar, Bodi, Kwagu, Muguji, and Bashada, have never been consulted.⁹ All downstream consultations occurred in 2007, after construction commenced, so those few who were invited to share their perspectives would likely have seen the project as a *fait accompli* in which their views were unlikely to affect outcomes. The process outlined by the project's ESIA suggests that they were selected by the Ethiopian government rather than by the communities they were ostensibly representing. According to one confidential source close to one of the communities, consultative surveys that were designed to be completed by members of indigenous peoples in the Lower Omo Valley were reportedly filled out by local officials without the knowledge or input of the communities.¹⁰ The impact of these or any future consultations are undermined by the fact that the project is already well underway.

A recent, major BBC report found strong evidence of the lack of consultation of downstream affected communities.¹¹ USAID's January 2009 investigation also found significant lack of consultation with affected communities.

The inadequacy of the consultation process is a violation of affected people's right to consultation protected under the Ethiopian Constitution, which states: "the design and implementation of programmes and projects of development shall not damage or destroy the environment; [...] people have the right to full consultation and to the expression of their views in the planning and implementation of environmental policies and projects that affect them directly."

Multiple contributions to our analysis of project impacts have been received only on condition of our agreement to maintain confidentiality. One contributor commented, "In all my years of [...] I've not come across anything quite so devastating -- both ecologically and culturally -- as this [dam]."

According to the Bank's 2001 Environmental and Social Assessment Procedures for African Development Bank's Public Sector Operations:

5.1 During the ESA process for Category 1 projects, the Borrower is required to conduct *meaningful consultations with relevant stakeholders*, including potential beneficiaries, affected groups, Civil Society Organisations (CSOs) and local authorities, about the project's environmental and social aspects and take their views into account. These consultations shall take place according to the country's legal requirements, if they exist, but should at least meet the minimal requirements described hereafter.

5.2 The Borrower initiates consultations *as early as possible* during the project preparation phase. For meaningful consultations, the Borrower provides relevant information *in a timely manner* and *in a form and language accessible to the groups being consulted*.

⁹ See Gibe III Public Consultation and Disclosure Plan (January 2009), p. 38.

¹⁰ For more detailed critique of the downstream consultation process, see the January 2009 report Facing Gibe 3 Dam: Indigenous Communities of Ethiopia's Lower Omo Valley, by Terri Hathaway, International Rivers. <http://www.internationalrivers.org/en/node/2794>

¹¹ BBC. March 26, 2009. "Ethiopia: Troubles Downstream," Crossing Continents (radio). Available at: http://www.bbc.co.uk/iplayer/episode/b00j7txw/Crossing_Continents_Ethiopia_Troubles_Downstream/. Additional BBC multi-media reports (March 2009) available at: <http://news.bbc.co.uk/2/hi/africa/7959814.stm>.

Section 4.24 of AfDB's Policy on Information Disclosure states that "local populations shall be informed of the results of the ESIA and their opinions about proposed recommendations solicited." Section 4.25 states, "before the Bank Group proceeds to an appraisal mission for Category 1 projects, available ESIA studies shall be released in the borrowing country project area at some public place *accessible to potential beneficiaries, affected group and local CSOs*." Reports from the area suggest that the ESIA documents have not been made available to affected communities and that consultations did not occur in a manner consistent with Bank policy.

The project consultation process has been grossly inadequate and violates Bank consultation requirements noted above.

2. Unaddressed violations of domestic law in project preparation

Construction began on Gibe III dam in 2006, nearly two years *before* approval of an ESIA – a gross violation of international best-practice, and more relevantly, of Ethiopia's Environmental Impact Assessment Proclamation, which states, "Projects will be subject to ESIA and execution is subject to an environmental clearance from the EPA [...] All other licensing agencies shall, prior to issuing of a license, ensure that either EPA or the regional Environmental Agency has authorised implementation of project."

The Bank's Environmental and Social Assessment Procedure policy states:

2.5 The projects financed by the Bank shall comply with *the RMC's environmental and social legislation, policies and guidelines, with local and national requirements on public consultations and disclosure, as well as with international agreements ratified by the borrowing country*.

3.16 OPs shall undertake a Pre-approval Audit with SDPRU assistance if the scoping exercise indicated *a need for evaluating past and present environmental and social liabilities* associated with the project.

Project preparation did not adhere to multiple domestic laws and international agreements ratified by the government of Ethiopia. There is no indication that the Bank has addressed this violation of both its own policy and those of Ethiopian law. Nor is it clear that the Bank has undertaken a pre-approval audit to address the two year legacy of project impacts prior to an ESIA.

3. Belated and Inadequate Environmental and Social Impact Assessment (ESIA)

The Ethiopian Environmental Protection Authority approved a package of documents related to Gibe III in July 2008. Final versions of the documents dated January 2009 were received by Bank staff February 23, 2009 and made available on EEPCo's website in March 2009. (As of April 6, 2009, several of these documents remained inaccessible due to a technical problem which EEPCo has yet to fix.).¹²

- Gibe III Dam Environmental and Social Impact Assessment (ESIA)
- Additional Study of Downstream Impacts

¹² We have not reviewed additional studies: Chida-Sodo Road Realignment; Gibe III-Sodo Transmission Lines Project; and Gibe III – Sodo Transmission Lines Resettlement Action Plan.

- Environmental & Social Management Plan
- Public Consultation and Disclosure Plan
- Dam and Reservoir Site Resettlement Action Plan (vols 1 and 2)

There was no public information available regarding any process to receive and incorporate public comment on the July 2008 version prior to the publication of the January 2009 final documents. While electronic copies of the 2008 documents were reportedly available from the project office in Addis Ababa, local civil society groups would risk being targeted should they request a copy from the project office.

Collectively, the ESIA documents reflect wholly inadequate analysis and scientific study, especially given the physical and financial size of this project, its risks, and impacts. The ESIA's positive assessment of the project's effects relies on a simplistic analysis based almost entirely on assertions unsupported by facts. The document's objectivity was overwhelmingly compromised by the need to provide a positive assessment for a project far along in its construction phase. Key examples of sub-standard analysis include:¹³

1. Misrepresentation of project benefits:
 - Restoration of Turkana basin, based on simplistic statements, is stated as a benefit, yet the dam poses a grave ecological risk to Lake Turkana;
 - Displacement of firewood use by electricity is identified as a benefit, but this is unlikely. Firewood is used for cooking and heating, energy-intensive household uses. Most households, including those connected to the grid will continue to use firewood or charcoal for these purposes; and
 - Reservoir fishing was also considered a benefit of the Gilgel Gibe Dam project, but a ban on fishing has reportedly been established in the Gilgel Gibe reservoir.
2. Poor and inaccurate baseline information:
 - Baseline health studies are inadequate;
 - Upstream and downstream areas were studied separately, and at different times. The analysis of the two areas was not standardized, making it difficult to understand the thematic impact (ie, fishery resources) across the entire project impact area. By geographically separating project impacts, the assessments seem to minimize the project impacts;
 - Current use of food aid is overstated in the Lower Omo Valley and the independence and self-sufficiency of the valley's resource economy is not adequately identified;
 - Complete neglect of identifying the social context of the Turkana region; and
 - Lack of comprehensive geological studies including slope stability, particularly given current geological complications of Tekeze and Gilgel Gibe II hydro projects.
3. Inadequate consideration of project alternatives:
 - The 2008 ESIA documents limit project alternatives to two alternative *layouts* of the Gibe III Dam, but neglect any discussion of project alternatives which could meet the identified needs;
 - The January 2009 ESIA documents gives a vague, one page analysis of project alternatives, added long after the choice to build Gibe III Dam was made;

¹³ Please see Annexe 3 (our AfDB discussion document), Annexe 5 (our ESIA critique) and two critiques prepared by the African Resources Working Group (May 2008 and January 2009). ARWG reports are available at www.arwg-gibe.org.

- Energy supply alternatives which should have been discussed include: geothermal potential, a planned 120 MW wind farm at Mekele, and other small, medium and large hydro dam options; and
 - Gibe III is also an export revenue scheme. There is no discussion of why hydropower exports are the preferred investment for possible export revenue schemes. Nor is there any discussion of supply alternatives for the East African Power Pool, to which Ethiopia intends to sell power.
4. Many project impacts are poorly analyzed and/or quickly dismissed:
- Downstream, regional impacts of lost livelihood resources (annual flood), and subsequent negative effects on food productivity, the local resource economy, and potential resource conflicts in the downstream area is poorly understood and addressed;
 - The Resettlement Action Plan excludes downstream communities losing livelihood resource assets and some 275 Hadiya nomadic households (about 1,400 people) losing grazing land access in the reservoir region (as identified in a 2006 version of the EIA);
 - Erosion and other impacts of the daily flood pulse on immediate downstream areas is not adequately considered;
 - Biodiversity loss and impacts to nationally and internationally protected areas are quickly dismissed as negligible;
 - Lack of hydrological modeling of the Omo Basin to determine risks in a changing climate; and
 - Cumulative impacts of existing and planned dams, along with extensive irrigation plans along the Omo, are analyzed in 1 page, giving a simplistic analysis of cumulative basin level impacts.
5. Unsuitable mitigation measures leave hundreds of thousands at risk of diminished quality of life and livelihoods:
- The artificial flood is based on inadequate assumptions, insufficient methodology and analysis, lacks scientific modeling of predicted results for required food productivity, and lacks identification of areas the planned flood would no longer reach;
 - The determination of the environmental flow is based on unsound methodology which does not reflect current best practice of the discipline and could further harm the downstream ecosystem rather than protect it. Observers say the environmental flow at Gilgel Gibe Dam has not been consistently respected;
 - Buffer zone around the reservoir is planned, but ineffective enforcement of the buffer zone surrounding the Gilgel Gibe dam reservoir has resulted in riverbank erosion; and
 - Mitigation of health impacts around the reservoir region rely on prevention and monitoring, and lack expanded treatment for infections, particularly for malaria and sexually transmitted diseases. Health infrastructure for communities surrounding the reservoir may not be reinforced as suggested.

The ESIA's discussion of gender impacts and benefits is simplistic and does not demonstrate compliance with the Bank's 2001 Gender Policy. The Resettlement Action Plan fails to include downstream communities losing livelihood resource assets, some 275 Hadiya nomadic households (about 1,400 people) losing grazing land access in the reservoir region (as identified in a 2006 version of the EIA), and the 192 households affected by the transmission line. The compensation for lost resources identified for those affected by the

transmission line uses a different methodology. This represents a major violation of the Bank's 2003 Involuntary Resettlement policy, which applies when assets are lost or livelihoods are affected, and which identifies disadvantaged groups, including minority ethnic and linguistic groups, at the center of its approach. The policy states:

1.1.7 The policy applies to all Banks' funded operations, in public and private sector, whether Bank financing is directly channeled as investment loans or administered by a financial intermediary. *The policy also applies when project results in assets being lost and/or livelihoods being affected, without actual displacement or resettlement of affected people. .*

4.1.1 Resettlement planning should be based on a development approach which would involve offering the displaced persons and host communities *several development options* consisting of activities to reconstruct the production foundation of the resettled and making them self-sustaining producers and wage earners. [...] The development activities should be *gender sensitive* and *be appropriate for the special needs of disadvantaged groups, ethnic, religious and linguistic minorities, elderly, female headed households, indigenous groups, etc.*

The project ESIA violates multiple Bank safeguard policies and demonstrates gross neglect of the Bank staff's due diligence in project preparation.

4. Grave Risks for Indigenous Communities in Southwestern Ethiopia

Since the early 1970s, a large body of detailed information about the peoples of the Lower Omo has been provided by scholars from various countries. It is clear from this work that, unless effective mitigating measures are taken, the regulation of the Omo River flow and elimination of the annual flood caused by the Gibe III dam will destroy the livelihoods of at least 200,000 people, belonging to six different ethnic groups -- Bodi, Mursi, Kwegu/Muguji, Nyangatom, Kara and Dassanech. This could further devastate the economic well-being of nearby indigenous and non-indigenous communities alike.

Flood recession cultivation is a vital contribution to the long term sustainability of the economy of each of these groups, in combination with cattle herding and, for those living in the north of the lower basin, shifting cultivation. For some, such as the Kara and Dassanech, flood cultivation provides all their grain requirements. For the Dassanech, who occupy the Omo delta, the flood is also vital for their pastoral activities since, during the driest months of the year (from November to March), the recently flooded 'flats' provide excellent grazing when no alternative pasture is available.

It is highly doubtful that a controlled flood, as described in the project documentation, would support the existing level of flood recession cultivation. First, the details given are extraordinarily brief and superficial, considering that this is a highly complex (technically and institutionally) method of sustaining a flood-plain ecosystem.¹⁴ The natural flood lasts from March/April, when the river begins to rise, until September when it begins to fall, having reached its peak level in August. It is hard to imagine that the short, intense duration of the proposed, ten-day artificial flood could replicate the conditions required for cultivation. Second, the combination of the sediment-trapping reservoir and the intense flood will cause

¹⁴ See for example, M. Acreman, 'Managed Flood Releases from Reservoirs: Issues and Guidance. World Commission on Dams, 2000. Available at: www.dams.org.

the downstream river to erode the river banks rather than depositing the nutrient rich soil done by natural, extended flood cycle. Third, an artificial flood regime requires compliance from the dam operators, and no clear measures for compliance are identified. The likelihood of non-compliance with an artificial flood regime increases when it may interfere with profitable water uses, such as hydropower generation (much of it for export) and commercial irrigation schemes.

Project documents show only a superficial understanding of the role of the annual flood in the area's local economy and food security, and virtually no acknowledgement of customary land and resources rights of the affected communities. Without adequate mitigation, project impacts will be devastating for the quality of life of local people, creating chronic hunger, poor health, and food aid dependence. It could also result in resource conflicts and a general unraveling of the region's social stability and economy. Confidential sources say that the communities have a high level of independent food security and most receive very little food aid (and only during extreme years), contrary to the ESIA's statements that these communities are chronically food insecure and regularly depend on food aid. The extent of these risks is severely underestimated in the ESIA, and, we fear, by the AfDB.

The recent USAID report found:

“The project will transform these groups’ subsistence lifestyle into the more formal market-based economy, which will require them to change their livelihood strategies and cultures at an accelerated pace. Currently, these groups do not have the capacity to move effectively into the mainstream of society without extensive support. They are ill-equipped to compete in the labor market due to their lack of formal education and inability to speak the national language. The project will enable the GoE to have more control over these groups by distributing or not distributing food aid, providing or not providing agricultural inputs, and requiring payment of taxes. The project has the potential to exacerbate existing pressures on groups by increasing competition over decreasing resources. For example, although rainfall is variable and unpredictable, pastoralists depend upon it for agriculture or pasture. If the rains fail, the groups can lose large areas of land rapidly. With population growth reducing the amount of available highland land, agricultural activity is expanding into pastoralists’ land, which also has the potential for igniting conflict.” (p. 8)

Article 2(2) of the UN Convention on Civil and Political Rights (ratified by Ethiopia) states that, “in no case may a people be deprived of its own means of subsistence.” If indigenous peoples along the Omo River are deprived of their flood retreat cultivation practices, their survival will be in great jeopardy.

We are also aware that the Ethiopian government is proposing to build two additional large, hydropower dams on the Omo River downstream of the Gibe III dam site. There is further information that the government is awarding numerous mineral and oil exploration concessions in the broader region. Reports suggest that around 160,000 hectares of grassland in the lower basin have already been allocated to foreign and Ethiopian investors for biofuel feedstock production. The African Resources Working Group noted:

"Additional dispossession and disruption of the ethnic groups of the lowermost Omo basin, from the planned irrigation agricultural schemes and industrial projects described in the downstream EIA and planned by the Ethiopian government... will

precipitate waves of new conflicts among groups already competing with one another over the shrinking natural resource base available to all of them."

In 1997, the United Nations Committee on the Elimination of All Forms of Racial Discrimination confirmed that the failure of states to recognize and respect indigenous customary land tenure is a form of racial discrimination. The Committee issued a call upon states: "to recognize and protect the rights of indigenous peoples to own, develop, control and use communal lands, territories and resources and where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return these lands and territories."¹⁵

Gibe III dam's risks to livelihoods and the violation of communities' rights are exacerbated by the government's future regional plans. The AfDB must ensure the utmost due diligence in its project engagement and take every possible step to safeguard the interests of these indigenous peoples. At this time, the Bank has failed to conduct due diligence, putting the survival and well-being of these peoples at grave risk.

5. Fiscal Risks for Ethiopia

Gilgel Gibe III Dam represents the single largest infrastructure investment in Ethiopia to date. The project is supposed to provide supply for domestic and regional electricity demands, in part to generate export revenue. However, risks of project underperformance and risks to the country's debt sustainability have not been adequately assessed. An independent, desk study report entitled Gilgel Gibe III Economic, Technical and Engineering Feasibility was submitted to Bank staff on April 15, 2009, which identifies several critical concerns previously unknown to us.¹⁶ Concerns regarding the project's engineering design, limited technical oversight, and affordability of electricity suggest strong potential for physical and economic failure of the Gibe III Dam. Further investigation of the concerns raised in this report should be conducted before construction of the dam wall takes place, and before the Bank considers project funding.

These risks are exacerbated by the project's contract procurement which violates both Ethiopia's and the Bank's procurement policies. The Ethiopian government directly awarded the primary contract for Gibe III (worth \$1.7 billion) to Salini Costruttori without a bidding process. We must ask why procurement guidelines exist if the Bank is only going to find ways to evade them.

While the CRMU may not have the mandate to consider procurement violations, we hope that it does have the power to investigate some of the resulting financial risks which could lead to an unsustainable debt for Ethiopia. We believe that the government and people of Ethiopia are exposed to fiscal risk and problems of rapid debt accumulation because project costs and cost-effectiveness were not adequately reviewed. The contract should be subjected to close scrutiny, given the irregular circumstances under which it was agreed to, and investigators should explore whether the project contractor is set to realize disproportional benefits and/or the government exposed to undue liability in the event of project under-performance or failure, including due to risks from low hydrology and climate change.

¹⁵ UN CERD General Recommendation No. 23: Indigenous Peoples: 18/08/97.

<http://www.unhcr.ch/tbs/doc.nsf/0/73984290dfea022b802565160056fe1c?Opendocument>.

¹⁶ Mitchell, A. April 2009. Gilgel Gibe III Economic, Technical and Engineering Feasibility (desk study report).

Conclusion

We request, therefore, that the CRMU undertake an urgent investigation into the Gilgel Gibe III Dam project. We will make every effort to provide further reliable data, and, where possible, connections to community members and informed experts, on a confidential basis, who can assist with your investigations. We hope that our request will complement that of Friends of Lake Turkana, and that CRMU will be able to undertake an effort that can respond to the issues raised by both of these requests.

Sincerely,



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