

**IN THE COURT OF JUSTICE OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES  
HOLDEN IN ABUJA, NIGERIA**

**BETWEEN**

1. **Sia Momoh**, as the next-of-kin of decedent Aiah Momoh
2. **Ahmed Ibrahim Saa Bockarie**
3. **Safea Gbanie**
4. **Maker Jagetay**
5. **Ibrahim Tamba Lamin**, in his own capacity and as the next-of-kin of decedent Almamy Lamin
6. **Finda Kamanda**
7. **Alie Kabia**,
8. **Marginalized Affected Property Owners**, a Company Limited by Guarantee organized under the Laws of Sierra Leone, on behalf of its entire membership

**APPLICANTS**

**AND**

**Republic of Sierra Leone**

**DEFENDANT**

**APPLICATION BROUGHT PURSUANT TO**

1. Article 11 of Protocol A/P.I/7/91 on the Community Court of Justice
2. Articles 9(4) and 10(d) of Supplementary Protocol A/SP1/01/05.

**NAME AND ADDRESS OF THE APPLICANTS AND COUNSEL, AND MEANS OF SERVICE**

1. All Applicants are domiciled in Koidu City, Kono District, Republic of Sierra Leone.
2. Applicants are represented by a consortium of attorneys from the Public Interest Lawyering Initiative for West Africa. Service on all Applicants may be effected on their chief counsel, **Chernor Mamoud Benedict Jalloh** (domiciled at C&J Partners, 1 Jalloh Terrace Estate, Makeni-Kabala Highway, Panlap, Makeni, Republic of Sierra Leone, Tel : (00232) 76 901637), by e-mail at [benedictcmj@gmail.com](mailto:benedictcmj@gmail.com), and **Jonathan Kaufman** of Advocates for Community Alternatives (domiciled at 341 W24th St., Apt 21C, New York, NY 10011, United States, Tel : (00233) 555550377), by e-mail at [jonathan@advocatesforalternatives.org](mailto:jonathan@advocatesforalternatives.org).
3. Applicants are also represented by **Daniel Fofanah, Esq.**, of the Network Movement for Justice and Development, Sierra Leone; **Prince Chima Williams, Esq.**, of Chima Williams & Associates, Benin City Nigeria; **Gloria Eguono Aigbadon, Esq.**, Nigeria; **Ifeyinwa Nwabueze, Esq.**, of Justice & Empowerment Initiatives, Lagos, Nigeria; **Maître Idrissa Tchernaka** of the Réseau pour la Promotion des Droits Humains et la Bonne Gouvernance, Niamey, Niger; **Maître Pépé Antoine Lama** of Les Même Droits pour Tous, Guinea; **Cllr. Alfred Lahai Gbabei Brownell Sr.** of Green Advocates International, Liberia; **Maître Geneviève Aïssata Diallo** of the Association des Femmes Juristes de Côte d'Ivoire, Abidjan, Côte d'Ivoire; **Maître Rashidi Ibitowa** of Associé SCPA les Oscars, Abidjan, Côte d'Ivoire; and **Maître Djibril Welle** of Cabinet Welle, Dakar, Senegal.

**DESIGNATION OF THE DEFENDANT**

1. Defendant is **The Republic of Sierra Leone**, a member State of ECOWAS and party to the revised treaty of the Economic Community of West African States, to the Protocol of the ECOWAS Court of Justice and the Supplementary Protocol, represented by the **Judiciary of Sierra Leone**.

**SUBJECT MATTER OF THE PROCEEDINGS**

1. The Plaintiffs allege that Defendant the Republic of Sierra Leone is liable for committing human rights abuses against the Plaintiffs and for failing to protect its citizens from human rights abuses committed by

third parties in connection with the operations of Koidu Limited (KL) – formerly known as Koidu Holdings Ltd. (KHL), a diamond mining enterprise located in Koidu, Sierra Leone. These abuses occurred in relation to two violent incidents, and to environmental damage caused over the span of KL’s operations.

## **NARRATION OF FACTS BY THE PLAINTIFFS**

### *2007 Incident Plaintiffs*

- 1) Plaintiffs Sia Momoh, Ahmed Ibrahim Saa Bockarie, Maker Jagetay, and Safea Gbanie (collectively “2007 Plaintiffs”) were victims of violence during and related to a protest against KHL in December 2007.
- 2) In 2007, KHL wished to begin mining using an explosive technique that was acknowledged in the company’s own Environmental Impact Assessment to be dangerous and extremely disruptive to near-by inhabitants.<sup>1</sup> KHL promised to relocate those whose land would be gravely affected by its operations, but only with the households’ consent. When some families refused to move, in December 2007 state agents acting for KHL forcibly removed inhabitants from their homes, destroying property. This sparked a mass protest, to which police – with company support – responded with violence, resulting in injuries and death.<sup>2</sup>
- 3) Plaintiff Sia Yandemoh was a young girl on December 13, 2007. That day, there were people protesting near her home, holding placards and chanting “No blasting today.” The same afternoon, she saw police officers arrive on the orders of KHL to clear the area, threatening residents, destroying property, and releasing tear gas to get people to leave. Her uncle, Aiah Momoh, was with her and urged her to leave with other family members to a safe place. Yandemoh did as she was told but snuck back to the area where she left her uncle and hid in an abandoned house. From there, she saw Aiah Momoh shot from behind, and heard him shout that a police officer nicknamed “Twin” had shot him. Mr. Momoh was eventually taken to the hospital, where he died the same day from the gunshot wound. Aiah Momoh had been the head of his family. When Yandemoh returned home the next week, many of her family’s possessions were stolen or destroyed.<sup>3</sup>
- 4) Plaintiff Ahmed Ibrahim Saa Bockarie, a Koidu resident, did not participate in the protests, but he went to the site of the intensifying protests to observe what was happening. Security officers began firing sporadic gunfire sometime between 3:45 and 4:00 p.m., and people began running. Bockarie saw a white vehicle that he had previously seen carrying KHL’s private security forces. He recognized the two individuals in the vehicle as Dakolo Naguaema (an agent in KHL’s private security forces) and “Bolo,” a police officer. Suddenly, gunshots were fired at the crowds where he was standing. He tried to run, but Bolo shot him in the left foot. He was unable to get the bullet removed at the government hospital for three days. As a result, Bockarie remained hospitalized for four months.<sup>4</sup> KHL paid a “good will donation” to Ministry of Mines director Jonathan Shaka that was later disbursed to victims of the 2007 violence, but it continued to deny responsibility.<sup>5</sup> Bockarie received Le 3,000,000, but it was insufficient to cover his 4,500,000 Le hospital bill.<sup>6</sup>
- 5) Plaintiff Maker Jagetay was working in his tailor’s shop on December 13, 2007, when sporadic shooting and people running nearby alarmed him enough to close for the day. Just as he completed the 150-meter run to his home, he was shot from behind and wounded on his right side. While the bullet was removed in the hospital, no action has been taken against the shooters, and the company refused to accept responsibility.<sup>7</sup>
- 6) Plaintiff Safea Gbanie is a bike rider. As he made his way through the crowd of protesters on December 13, 2007, police started firing weapons. A bullet struck the back of his head and created a gash on the surface. Protestors rushed him to the government hospital, but he was kept waiting and nobody treated him. Instead, a relative took Gbanie to a pharmacy, where he had to seek treatment for himself. The company gave him a “good will donation,” which amounted to only 1,500,000 Le (approximately 195 USD).<sup>8</sup>
- 7) Following this incident, the Sierra Leonean government formed a judicial commission – the Jenkins-Johnston Commission – which reviewed the extent of police involvement and wrote a report with recommendations in 2008. In a publicly available White Paper, Defendant revealed the identities of “Twin” and “Bolo” and accepted all the report’s recommendations.<sup>9</sup> Key recommendations included: prosecution and disciplining of officers involved in the violence, amending police rules of engagement, reforming mining laws and practices, and suspending most blasting at KHL pending resettlement.

- 8) The Commission Report was intended to prevent future unjustified police violence,<sup>10</sup> but Defendant never implemented any of the recommendations.<sup>11</sup> Predictably, then, the people of Koidu continued to be exposed to the company's blasting and inadequate resettlement practices. And almost exactly five years after the 2007 incident, they once again suffered from police violence against protesters.

#### *2012 Incident Plaintiffs*

- 9) Plaintiffs Ibrahim Tamba Lamin, Alie Kabia, and Finda Kamanda (collectively "2012 Plaintiffs") were victims of police violence during a 2012 protest against KHL.
- 10) In December 2012, a dispute between workers and KHL management led to a general strike and peaceful protests.<sup>12</sup> Prominent government officials tried to get the protesters to end the strike.
- 11) On December 17, 2012, the protest moved from inside the mine perimeter to the streets of Koidu, and police officers used tear gas and live ammunition to disperse protesters and uninvolved civilians alike.<sup>13</sup>
- 12) Plaintiff Ibrahim Tamba Lamin was a mine worker who decided not to join the protest. On December 17, 2012, he was standing outside his home within walking distance of the old Tankoro police station, listening to news of the protest on his radio. A police officer approached him and told him to vacate the scene. A verbal argument began between them, as Lamin was in front of his home and had nowhere to go. Other police officers arrived who beat him severely and dragged him to the police station. Lamin's mother, Sia, and his 12 year-old cousin, Almamy, followed to plead for his release.<sup>14</sup> Sia tried to cross the barrier that police had erected in front of the station, but an officer pushed her in response, causing her to fall to the ground.<sup>15</sup> The officer ordered Almamy and Sia to move back and told the onlookers disperse. The onlookers moved back at his orders but remained watching at a distance. When Almamy saw Sia on the ground, he ran to her aid, ignoring orders from policemen. An officer fired two shots, one of which hit Almamy. The bullet pierced his neck, killing him instantly.<sup>16</sup> The other shot hit a passing motorbike rider, killing him as well.<sup>17</sup> To this day, Sia, Ibrahim Lamin, and their family are overcome with grief any time they recall Almamy's death. They have been emotionally suffering as they wait for the perpetrators to be held accountable.
- 13) Plaintiff Alie Kabia, a journalist by trade, lived near the police station and witnessed the killing of Almamy and the motorbike rider. Upon seeing Almamy shot, the onlookers started to flee and police advanced on the crowd to disperse them with tear gas, but civilians returned shortly thereafter to see Almamy's body, including Kabia's wife. Kabia's wife pushed on the checkpoint barrier, and the police officers saw. They chased her home, arrested and beat her, stripped her naked, and took her to the Tankoro Police Station. Kabia saw them on their way back to the station, so he approached them to ask what had happened to his wife. The police responded by beating him; to this day he still feels pain in his ribs.<sup>18</sup>
- 14) On December 17, 2012, Plaintiff Finda Kamanda was conducting business outside her shop, about 20 yards from the police encampment, when people started running from the protest site and around the city. She closed her shop and brought her children inside for safety. They heard gunfire, and she advised them to lay flat on the ground. While she lay on the floor, a bullet traveled through the front of her shop and hit her right leg. She was unable to get help for some time, as no one could hear her cries over the general noise.<sup>19</sup> Kamanda eventually made it to the hospital, where she spent eight months recovering from her injuries.<sup>20</sup> The bullet remains in her leg, causing her daily pain and limiting her ability to move and earn a living.<sup>21</sup>
- 15) Some Plaintiffs from the 2007 Incident received "good will payments" that were insufficient to cover their medical costs,<sup>22</sup> while none of the Plaintiffs from the 2012 Incident received compensation of any kind. The police officers responsible remain on the force and have faced no criminal charges from their actions.

#### *MAPO Claims for Economic and Social Rights*

- 16) The people listed in Annex C1 either continue to live within 500 meters of the KHL mine boundary despite the acknowledged need for them to be relocated, and/or have been relocated to company-built housing that is inadequate to the needs of their families and incommensurate with their living situation prior to 2007.<sup>23</sup> These people formed the Marginalized Affected Property Owners Limited (MAPO), an association

registered in Koidu to advocate for access to remedies, reparations, and compensation for property owners affected by mining activities. They authorized MAPO to file this action on their behalf.<sup>24</sup>

- 17) Since 2007, some MAPO members have been relocated due to their proximity to the mine, while others remain in its shadow. These groups find themselves dealing with similar but distinct ongoing challenges. Each group's quality of life has diminished due to increased difficulties in securing water for daily activities, general environmental degradation, loss of adequate accommodation, dramatic shifts in procuring their livelihoods, increased health concerns, and a loss of property. In many cases, the company and Defendant alike have failed to compensate people for their losses at a fair rate or provided no compensation at all.
- 18) KHL conducts blasting in the course of its operations. Until recently, this blasting occurred above-ground, requiring MAPO members to vacate their homes for several hours at a time.<sup>25</sup> People's homes have been damaged, including cracks in their walls and holes in their roofs.<sup>26</sup> Yet those people who are waiting to be resettled were told repeatedly by authorities, including locally elected chiefs, not to attempt to improve their homes or repair damage as they were to be moved "at any time."<sup>27</sup> Moreover, many have limited access to necessary resources like water and fertile soil as a result of the mine.<sup>28</sup>
- 19) At all times, the Defendant has known that KL's operations necessitate resettlement, as it approved KHL's Environmental Impact Assessment and Resettlement Action Plans describing its resettlement obligations. Moreover, Defendant has the statutory and contractual power to require KL to properly relocate affected persons and compensate them for their harms, as both Sierra Leone law and KL's Mining Lease Agreement require it.<sup>29</sup> However, despite knowing of dire conditions in Koidu, Defendant has turned a deaf ear and abetted KL's negligence by using excessive force to disperse protests against the company. Community members submitted a complaint to the Sierra Leone Environment Protection Agency (EPA) in July 2018.<sup>30</sup> The EPA promised to investigate the complaints but has taken no further steps to date.
- 20) Many community members have lost farmland as a result of the mining activities. Some members such as Kumba King report that the company has dumped rocks and waste rubble onto their farmland,<sup>31</sup> while others, such as MAPO member Isata Fillie, report that they have lost their farmland to flooding.<sup>32</sup> MAPO members Komba Joe Kamasie and Tamba Prince Boima report that the crop yields have dropped because the water table is disturbed or the land is polluted.<sup>33</sup> MAPO member Adama Bona used to farm enough rice to feed her family, but KHL told her that it would be taking her land and ordered her to stop farming, even though she was about to harvest. She was not compensated for the loss of her rice that year, although she did receive some undervalued compensation for economic trees. Since then, she has maintained a backyard garden, but it does not provide enough food for her family. Her husband is ill and she is responsible for all of the family's needs. Ms. Bona took care of her grandchildren but can no longer do so due to her losses.<sup>34</sup>
- 21) MAPO member Aminata Bangura lost her livelihood due to loss of farmland. Her family's farmland was completely flooded when KL diverted water onto the land. KL compensated them 900,000 leones for the plantation, which was worth 60 million leones. Because she is unable to farm or find other employment, Ms. Bangura now works as a rock-breaker. She uses hand-tools to break the mine's waste rock into gravel for sale to construction crews. The work is arduous, and she makes little money. She has pain in her sides and her hands become numb from the labor. She has sought treatment for headaches and coughing caused by the dust. Ms. Bangura is only one of many women who have lost their farmland and become rock-breakers, and who face long-term damage to their eyes, limbs and lungs. However, Ms. Bangura – having lost her farmland – has no choice, so she endures the health consequences to provide for her family.<sup>35</sup>
- 22) MAPO member Alikaly Bangura is a traditional herbalist. He once faced down KHL's bulldozers as they came to evict him from his home when he refused to move until provided with a proper resettlement package. He still lives about 50 meters from the boundary of the mine. Since blasting began in 2007, Mr. Bangura has lived with heavy rock debris falling onto his property and the slow crumbling of his walls due to the physical shocks of the blasts. He used to gather wild herbs and grow them around his house, but the company leveled the land, destroying his herb gardens and making his land unproductive. His family now relies on rain and a hand-dug well for water, but the water is undrinkable unless he treats and strains it several times. Mr. Bangura continues to experience physical, emotional, and economic distress, but rather than helping him, chiefs and town officials once took him to court and tried to force him out of his house.<sup>36</sup>

- 23) MAPO member Sia Bayoh, whose chief source of livelihood was raising pigs, was also put under tremendous pressure to leave her home and move to the resettlement site. She originally refused because KL was not prepared to rebuild all the structures on her land or to prepare a new hog pen for her pigs. Finally, in 2016, KL diverted water onto her land, flooding her home and killing many of her pigs.<sup>37</sup>
- 24) MAPO member Aiah Fengai lives near the mine. The chiefs tell him not to cultivate his garden, as KL is expected to relocate them at any time. The frequent blasting, which comes without warning, forces him and his family to vacate his house, often leaving food to spoil on the cookstove. Mr. Fengai is unsure his family will have enough water during the dry season, as they have lost access to fresh water and must buy it all. He used to rent out rooms in his compound, but people no longer rent out of fear of the blasting.<sup>38</sup>
- 25) During the dry season, MAPO members now experience water shortages. Before KHL began operations, most could draw well water during the dry season, but the mine's operations have disturbed the water table and caused wells to dry up. Now they buy water for household use. Ms. Bangura has nine children and needs 10 gallons of water per day for her family's needs.<sup>39</sup> The price per gallon is 1,000 leones, and roundtrip transport costs 4,000 leones.<sup>40</sup> Mr. Boima spends up to 50,000 leones every month to provide water for his family.<sup>41</sup> Transporting the water can be difficult on the residents; Ms. Bona once had to carry the water over a mile home. Because the water was difficult to carry, she fell and injured herself.<sup>42</sup>
- 26) While in the rainy season, MAPO members can often find water, it is often undrinkable. Mr. Bangura has observed rust in his well water and believes that bacteria are present. He and many other members develop skin rashes from using the well water.<sup>43</sup> Ms. Bona's water has also changed color,<sup>44</sup> and Ms. Bangura smells an odor in hers.<sup>45</sup> These problems were not present before the mining operations started.
- 27) Blasting from the mine disturbs residents' sleep. The blasting is frequent and unpredictable, causing stress. It damages the structural integrity of their houses; Mr. Bangura and MAPO member Sahr Kaiagbanja have seen stones fall through their roofs and break furniture and appliances. KHL did not repair the damaged items,<sup>46</sup> and the Chief forbade Mr. Kaiagbanja from making repairs due to the impending relocation.<sup>47</sup>
- 28) Blasting creates rock waste, and the noise from company vehicles dumping waste increases Ms. Bona and Mr. Kaiagbanja's stress levels because they fear the rocks will destroy their houses.<sup>48</sup> The blasting often comes with no warning, causing heart palpitations,<sup>49</sup> high blood pressure,<sup>50</sup> and elevated heart rate.<sup>51</sup> The noise from the blasting has damaged Mr. Kaiagbanja's and MAPO member Kumba King's hearing.<sup>52</sup>
- 29) The dust from the mine's activities causes health problems. A film of dust often covers the community, causing headaches, difficulty breathing, and burning eyes. Ms. King had an eye operation because the dust damaged her eyesight.<sup>53</sup> Mr. Boima has a scratchy sensation when the dust touches his skin and sometimes observes bubbles forming on his skin. The dust hits his eyes, nose, and throat to burn.<sup>54</sup> Mr. Bangura and his family are chronically ill, and his children have been hospitalized for fainting.<sup>55</sup>
- 30) As for those who have been resettled, they suffered the same deprivations as those who have not been resettled, prior to being relocated. Since arriving at the relocation site, their quality of life is significantly lower than promised. For example, the water pump built by KHL was broken, and they were forced to travel long distances to fetch water. One MAPO member, Emmanuel Thollie, dug his own well, but KHL personnel filled in the well before it could become operational. Eventually, Mr. Thollie paid someone to fix KHL's pump because neither KHL nor the government fulfilled their promises to repair it.<sup>56</sup> Even then, the water at the resettlement site is not clean. Another MAPO member, Ibrahim Gborie, notes that the water has a salty taste, and he gets skin rashes and often has diarrhea from drinking it. He travels at least two miles to visit a hospital when sick.<sup>57</sup> The resettlement site is far from essential facilities such as markets, hospitals, schools, or police stations.<sup>58</sup> The roads are very poor, so it is difficult for them to access the city center. The resettlement site lacks electricity, and the houses are often smaller than promised and poorly built. Mr. Gborie's house was built less than a year ago, but the roof and walls are already leaking.<sup>59</sup> As a result, those who remained in their community do not believe that the quality of life at the resettlement site is better.
- 31) Close to 1000 families still await relocation and deal with the daily consequences of living next to and above an active mine site. These families face high levels of stress over obtaining basic living necessities and suffer from deteriorating mental health. Individuals have reported falling into depression when they see how their once-vibrant community has become a ghost town. Meanwhile, those who have been resettled are dissatisfied with their lodgings due to lack of basic needs and diminished living standards.

## JURISDICTION

- i. Plaintiffs are citizens of the Republic of Sierra Leone
- ii. Defendant is a party to the Revised Treaty of the Economic Community of West African States.
- iii. Defendant Sierra Leone ratified the International Covenant on Civil and Political Rights as well as the International Covenant on Economic, Social and Cultural Rights on 23<sup>rd</sup> August, 1996. Sierra Leone ratified the African Charter on Human and Peoples' Rights on 21<sup>st</sup> September, 1983, the African Charter on the Rights and Welfare of the Child on 13<sup>th</sup> May 2002; and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (otherwise known as the Maputo Protocol).

## SUMMARY OF PLEAS IN LAW

### *1. The Defendant has violated the Plaintiffs' Right to Life and Physical Integrity.*

All people are entitled to life and physical integrity.<sup>60</sup> Defendant violated this right as to Plaintiffs Sia Momoh, as the next-of-kin of decedent Aiah Momoh; Ahmed Ibrahim Saa Bockarie; Safea Gbanie; Maker Jagetay; Ibrahim Tamba Lamin, in his own capacity and as the next-of-kin of decedent Almamy Lamin; Finda Kamanda; and Alie Kabia.

This Court has adopted the African Commission's framework on the right to life in the context of arbitrary killing,<sup>61</sup> which centers on four elements: whether the killing was permitted under international or domestic law; whether the State took all necessary measures to investigate the killing; the extent to which the State held itself and its agents accountable; and whether reparation granted is "proportional to the gravity of the violations and harms suffered."<sup>62</sup> In the context of police violence, the first element – whether the killing is permitted – is determined with reference to international law on police use of force. While use of force by police must be necessary and proportional,<sup>63</sup> firearms "may never be used simply to disperse an assembly."<sup>64</sup>

The right to physical integrity includes freedom from severe and arbitrary physical or psychological harm. A use of force that would have violated the right to life if it caused death may violate an individual's physical integrity, as international law uses the same analytical framework regardless of whether the result is death or injury.<sup>65</sup>

#### a. Incident of 2007

The Sierra Leone police killed Aiah Momoh without warning or due process, adhering to neither international nor domestic law, thus violating his right to life. They similarly shot and wounded Plaintiffs Bockarie, Jagetay, and Gbanie recklessly and without regard for their life, thus violating their right to physical integrity. By accepting the recommendations of the Jenkins-Johnston Report, Defendant acknowledged that the police had used lethal force indiscriminately in dispersing the protests – a practice that the African Commission has prohibited.<sup>66</sup> There is no evidence that it was necessary to open fire, nor was the shooting proportional to any reasonable objective because police fired wildly, killing bystanders like Aiah Momoh and hitting Plaintiffs Bockarie, Jagetay, and Gbanie. They did not choose particular targets or take precautions to minimize injury or spare innocent lives.<sup>67</sup>

The attacks on Momoh, Bockarie, Jagetay, and Gbanie meet all the elements of arbitrary deprivation of life or physical integrity. First, the killing was not permitted under national or international law. The deprivation of life by the State except in execution of a court sentence, including police action that was not "reasonably justifiable," contravenes the Constitution of Sierra Leone.<sup>68</sup> As arbitrary and excessive applications of force, the attacks violated international law as well. In *Umetaliev v. Kyrgyzstan*, U.N. Human Rights Committee held the State responsible when police opened fire into a peaceful protest for the sole purpose of dispersing a crowd, killing a protestor.<sup>69</sup>

Second, the State formed a judicial commission but implemented the commission's recommendations. Compliance with this element hinges on the *effectiveness* of an investigation, and not simply on having conducted one.<sup>70</sup>

Third, the State has not held itself or its agents accountable. The perpetrators remain employed and have not faced any disciplinary measures. Defendant has failed to implement reforms recommended in the Jenkins Johnston Report, contributing directly to the recurrence of violence in 2012. The failure to punish those responsible and prevent repetition contributes to a violation of Article 4 of the African Charter.<sup>71</sup>

Finally, Plaintiffs have not received proportionate reparation. As in *Umetaliev*, the State offered no remedy to the families of the deceased.<sup>72</sup> The Aiah Momoh's family lost its main source of economic support but has not received any assistance, nor has any Plaintiff received anything other than Plaintiff Gbanie, who was awarded the paltry sum of USD 195 for a grievous wound to the head that still plagues him today. They have no effective remedy.

This is a case in which, like in the *Ogoni* case at the African Commission, the State condoned and facilitated violations by placing security forces in service of a multinational company.<sup>73</sup> As in the *Ogoni* case, the police responded to inadequate oversight with disproportionate brutality and have enjoyed impunity while the victims continue to suffer. For these reasons, Defendant violated Article 4 of the African Charter and Art. 6(1) of the International Covenant on Civil and Political Rights (ICCPR) with regard to the 2007 Incident.

#### b. Incident of 2012

The actions of the Defendant's agents on December 17, 2012 also violated the rights to life and physical integrity by using arbitrary, unnecessary, and disproportionate force. Police officers induced terror throughout Koidu, shooting sporadically in a residential and commercial area, killing and wounding innocents and arresting and beating others.<sup>74</sup>

These police attacks were excessive and abusive applications of lethal force, prohibited under both international and domestic law. The killings of Almamy and the motorbike rider violated the Sierra Leone Constitution because they were neither carried out pursuant to a court sentence nor "reasonably justifiable" for purposes such as to suppress a riot.<sup>75</sup> Almamy was merely trying to help his aunt, and the motorbike driver was hit at random. Furthermore, the shootings were not necessary to manage the crowd and was thus inconsistent with the strict rules on use of lethal force during protests.<sup>76</sup> At the moment the police opened fire, the protesters were at a distance and posed no threat, and the police pursued them while shooting live bullets and releasing tear gas even as they were fled.<sup>77</sup> The arrest and beating of Plaintiffs Lamin and Kabia and of Kabia's wife constituted arbitrary arrests and inhuman treatment, respectively.<sup>78</sup> Lamin was snatched off the street as he stood by his home for no discernible reason; Kabia's wife was detained, humiliated, and beaten for showing concern for the dead Almamy; and Kabia was detained and beaten for asking after his wife. The beatings were gratuitous, unjustified, malicious applications of force.

After the incident, Defendant launched no official investigation into the deaths or injuries; no individuals or institutions were held accountable, nor did any affected person receive an effective remedy. For the above omissions and failures, Defendant is in violation of Article 4 of the African Charter and Article 6 of the ICCPR.

#### 2. *The Defendant has violated the Plaintiffs' Right to a Suitable Environment.*

The Defendant has an obligation to ensure a safe, clean and healthy environment for the fulfillment of human rights, which this Court affirmed as "essential to every human being."<sup>79</sup> The government must work "to prevent pollution and ecological degradation. . . and to secure an ecologically sustainable development and use of natural resources."<sup>80</sup> To satisfy their duty of "vigilance and diligence," States must take concrete measures to prevent environmental damage, ensure accountability, and provide effective remedies.<sup>81</sup>

The right to a healthy living environment is connected to the enjoyment of other rights. For example, development projects that harm the environment can deny indigenous people "their sources of nutrition and break[] their symbiotic relationship with their lands[.]"<sup>82</sup> The right has particular significance[ for women, for whom States must regulate and control non-State actors to ensure a safe, clean, and healthy environment, free of threats posed by land

and soil degradation, water pollution, and extractive industries.<sup>83</sup> And environmental hazards limit people's ability to enjoy their homes, constituting a violation of their rights to a private home life and to health.<sup>84</sup>

The African Commission has expressed concern about the people of Kono, whose environment has suffered "spoliation which resulted from mining activities."<sup>85</sup> It observed that Defendant failed to provide information on provisions ensuring benefits from these activities,<sup>86</sup> and suggested that the state should establish mechanisms to address the environmental effects of mining and include remedies for affected communities.<sup>87</sup> Defendant's failure to protect Plaintiffs from the negative environmental impacts of KL's conduct is therefore a violation of their rights under Article 24 of the African Charter and concurrent rights, just as this Court concluded in *SERAP v. Nigeria*.<sup>88</sup> The environmental impacts affect them in numerous ways:

*Disturbance of home environment.* Blasting throws up rocks that fall onto the homes and property of MAPO members. The explosive force damages the structural integrity of their houses, disturbs their peace of mind, disturbs their sleep and rest, causes heart palpitations and stress, and forces them to abandon their homes. Like the oil companies in *SERAC v. Nigeria*, KHL's failure to abide by environmental standards has created a hazard to "physical and moral health,"<sup>89</sup> leading to environmental degradation that has made living on the land "a nightmare."<sup>90</sup> Defendant has tolerated and facilitated the company's harmful practices.<sup>91</sup> As the European Court of Human Rights found in an analogous case, the State was obliged to either rein in the company or provide for resettlement.<sup>92</sup>

*Access to adequate water.* The right to safe drinking water is enshrined in the African Charter on the Rights and Welfare of the Child (1990)<sup>93</sup> and is necessary for the enjoyment of other rights, including the rights to life, health, and adequate food. The State must prevent third parties from interfering with access to safe water that is adequate in amount and of an acceptable quality. The State violates MAPO members' rights by condoning and facilitating KL's actions that have restricted their access to water.<sup>94</sup> Due to KHL's operations, wells have run dry, and the naturally occurring water is not potable. Whereas MAPO members could previously access potable water with relative ease, they now rely on rain, contaminated well water, or purchased drinking water to survive. But many are unable to afford the costs of purchasing and transporting water because KHL has destroyed their agricultural livelihoods.

The State's failure is particularly acute for women,<sup>95</sup> who are disproportionately affected by water shortages because they are responsible for finding and using water to household use. The state breached its duty to ensure proper disposal of toxic waste by permitting KHL's activities to contaminate water sources.<sup>96</sup> Now, women have to travel long distances to carry water by hand, reducing their income and exposing them to physical hardship.

*Pollution and destruction of farms.* Community members have lost productive farmland, as the mine has been allowed to dump waste rocks, divert water, and level land without proper regulation. Some residents report that their land became less productive due to the runoff from the waste dump, while others report that KHL simply covered their land with mine waste. Defendant was under an obligation to prevent the destruction of the land<sup>97</sup> and/or to resettle residents on adequate replacement land.<sup>98</sup> However, Defendant took no steps to protect its citizens from these impacts or to rectify the impacts once they occurred, thereby violating Plaintiffs' rights under Articles 24 of the African Charter. Defendant additionally owed a duty under the Maputo Protocol to alleviate the economic burdens of the women who farmed on the swampland and to create conditions to support their economic activities. State Parties to the Protocol must implement measures to eliminate gender discrimination and promote women's rights to economic and social welfare. Instead, women saw their land flooded, buried under rocks, and destroyed. No longer able to make a living from their land, women like Aminata Bangura have been forced into the difficult and intense labor of breaking rocks to survive. The state has not provided any means or assistance to promote women's economic activities, and instead has facilitated the mining activities that destroyed their lands and livelihoods.<sup>99</sup>

### *3. The Defendant has violated Plaintiffs' Right to Property and Adequate Housing.*

The Charter provides that: "The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in general interest of the community and in accordance with the provisions of appropriate



laws.”<sup>100</sup> The right to housing is further guaranteed by Article 14 in conjunction with Articles 16 and 18(1) of the Charter<sup>101</sup> and is part of the right to an adequate standard of living guaranteed under Article 11 of the ICESCR<sup>102</sup> and Article 25 of the UDHR.<sup>103</sup>

The State has a duty to protect its citizens from property and housing rights violations committed by non-state actors.<sup>104</sup> In the event where such infringements occur, the state is obligated to prevent further abuses and to guarantee access to legal remedies.<sup>105</sup> The state further owed particular attention to ensuring women’s “access to and control over productive resources” and right to property.<sup>106</sup> However, the Human Rights Commission has critiqued Defendant for providing inadequate remedies or compensation to forcibly evicted property owners and residents.<sup>107</sup>

a. Property rights violations

The right to property precludes the destruction of an individual’s means of subsistence. As the African Commission explained, “It doesn’t matter whether they had legal titles to the land, the fact that the victims cannot derive their livelihood from what they possessed for generations means they have been deprived of the use of their property under conditions which are not permitted by Article 14.”<sup>108</sup> International law is particularly solicitous of the disproportionate impacts that such violations of the right to property and livelihood have on rural women.<sup>109</sup>

Under international law, a state may only deprive a person of his property if (1) the deprivation of property was done in a proportionate manner to public need and (2) it was done in accordance with the provisions of appropriate laws.<sup>110</sup> The interference should be necessary to the public interest, and should represent the least restrictive measure possible.<sup>111</sup> The right requires governments to not destroy the housing of its citizens, to not obstruct efforts of inhabitants to rebuild lost homes, to protect against the violation of an individual’s right by other individuals and non-state actors, and to preclude further deprivations by providing access to effective remedies.<sup>112</sup>

*The Forcible Evictions and Failure to Resettle.* Defendant was aware that KL would need to resettle many people – this was disclosed in the EIA and the Resettlement Action Plans that the company submitted to Defendant.<sup>113</sup> Despite this knowledge, it failed to ensure the resettlement of affected persons under adequate conditions. KL’s Mining Lease Agreement (MLA) obligated KL to “comply with the Mining Law and other relevant laws and regulations in connection with the carrying out of its obligations and work[.]”<sup>114</sup> Under this provision, KL was required to pay compensation or provide adequate relocation prior to beginning operations.<sup>115</sup> Defendant had the authority to “take the necessary action to give effect to a resettlement agreement or determination.”<sup>116</sup> Yet Defendant did not hold KL accountable to the MLA, nor did it ensure that those who were forcibly evicted in 2007 received the protections of domestic law, which requires compensation for forcibly acquired property<sup>117</sup> and resettlement for those displaced by mining operations.<sup>118</sup> The State also violated the rights of Mr. Bangura by allowing him to be subjected to judicial harassment by state and traditional authorities and physical threat by KL personnel. And the State has violated the rights of those who have left their homes due to pressure from local chiefs (who are state agents by virtue of Sierra Leone law) or – in the case of Ms. Bayoh – the diversion of water and other destructive substances onto their lands. These latter were under so much pressure that their right to property was effectively meaningless. A practice that renders a right illusory is disproportionate and constitutes a violation of the right.<sup>119</sup>

KL’s actions were also inconsistent with international law in that it has never been shown that the expansion of a diamond mine at the expense of local livelihoods is in the public interest. Moreover, the evictions were not proportionately executed. The use of force and political pressure is a prima facie violation of the right to housing;<sup>120</sup> use of force to acquire property is, except in exceptional circumstances, always disproportionate to the need of a mining company to gain access to the land.

*Destruction of Land.* The State failed to prevent KL from dumping waste rocks and diverting water onto property and farmland owned or used by MAPO members such as Ms. Fillie and Ms. Bangura, thus interfering with their right to use the land and enjoy its fruits.<sup>121</sup>

b. Housing rights violations

Defendant has failed in its duties to ensure that mining-affected persons have housing that shelters them from the elements and disease, is free of structural hazards, and guarantees physical safety. Defendant has further deprived them of their rights by failing to provide adequate services, facilities, and infrastructure to the affected persons.<sup>122</sup> Those residing near the mine lack safe drinking water, and individuals in the resettlement site lack basic facilities such as electricity and lighting, and access to employment options, healthcare, schools, or other social facilities.

*Degradation of Housing.* By allowing KL to blast without first resettling the people living nearby, Defendant has facilitated the degradation of Plaintiffs' homes, which are cracked and collapsing due to the vibrations and flying rocks. The State has further violated plaintiffs' rights by obstructing their efforts to rebuild or repair their homes.<sup>123</sup> For example, Mr. Kaiagbanja was prevented from repairing damage to his house by the Chief – a state agent.<sup>124</sup>

*Inadequate Resettlement Conditions.* Having failed to protect their homes from degradation by KL, the State should have ensured proper and adequate resettlement conditions, which it failed to do; for example, Mr. Gborie's resettlement house was leaking just months after he moved in.<sup>125</sup> Other MAPO members, like Ms. Bayoh, found that their resettlement homes are not suitable or comparable to their previous living standards;<sup>126</sup> homes at the resettlement site already show structural degradation, thus exposing plaintiffs to the elements, and the site has no electricity.<sup>127</sup>

*Barriers in Access to Remedy for Women.* Defendant has violated womens' rights by not addressing the discrimination they face in accessing remedy.<sup>128</sup> Widows are especially vulnerable because they manage property while fulfilling their traditional roles as caretakers, but their status as women affords them less power to assert their land rights.

4. *The Defendant has violated the Plaintiffs' Right to Health.*

Defendant violated MAPO members' right to health. States are required to "take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick."<sup>129</sup> To fulfill this right, the State must, at the minimum "not carry[] out, sponsor[] or tolerat[e] any practice, policy or legal measures violating the integrity of the individual."<sup>130</sup> The right to health involves "access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information."<sup>131</sup> Thus States should neither degrade the right to food and water nor allow it to be destroyed.<sup>132</sup> Yet Defendant has failed to investigate the community's EPA complaint as promised and has allowed KHL to blast without resettling the affected population, degrade the environment, and reduce MAPO members' food and water supply, harming their physical and mental health.<sup>133</sup>

5. *The Defendant violated Plaintiff Ibrahim Lamin's Right against Arbitrary Detention*

Article 6 of the African Charter provides that "no one may be arbitrarily arrested or detained."<sup>134</sup> The ICCPR further insists that anyone who is arrested "shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him."<sup>135</sup> Abundant African Commission law precedent makes clear that detention without informing the detainee of the charges against him, or detention without legal justification, is per se arbitrary.<sup>136</sup> By snatching Plaintiff Ibrahim Lamin off the street for no known reason, beating him, and locking him up for three days without charges, Defendant violated his right against arbitrary detention.

6. *By failing to ensure these rights were protected, the Defendant has failed to give effect to Plaintiffs' rights.*

States are required to take policy measures to give effect to human rights protected under international law.<sup>137</sup> The failure to ensure such rights can constitute a violation. As the government has a "responsibility to secure the safety and liberty of its citizens" even where violations were committed by non-state actors.<sup>138</sup> This means implementing and enforcing rights through law, regulation, and legal accountability. Defendant has violated the obligation to take measures that give effect to all human rights described above, specifically:

- Ignoring and failing to regulate or prevent pollution and degradation of land and homes in response to the findings of the EIA and Resettlement Action Plans.
- Failing to hold KL to the Mining Lease Agreement to resettle affected persons in accordance with IFC Performance Standards and Sierra Leonean law.
- Failing to act upon Plaintiffs' complaint to the Environmental Protection Agency in 2018, which requested monitoring of KL's environmental and resettlement commitments.
- Declining to adopt any of the reform measures with regard to security operations or oversight of mining operations prescribed by the Jenkins-Johnston Commission of Inquiry, such as:
  - Modifying the police Rules of Engagement to restrict use of live ammunition.
  - Developing a protocol for involving affected landowners in the decision-making process of negotiating or granting exploration or prospecting licenses.
  - Implementing policy to better protect the Plaintiffs' traditional land rights.
  - Preventing KL from blasting while affected people were still waiting to be resettled
  - Appointing an independent team of arbitrators determine resettlement benefits.

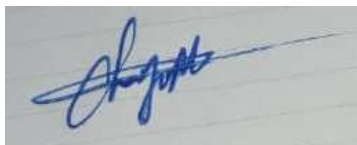
By the Defendant's failure to act, it has been guilty of and complicit<sup>139</sup> in human rights violations around the Koidu mine, violating Article 1 of the Charter<sup>140</sup> and Article 2(1) of the ICESCR.

#### **D. ORDERS SOUGHT BY PLAINTIFF**

The Plaintiff therefore is asking the ECOWAS Court of Justice for the following reliefs:

1. A DECLARATION that the State has violated the rights to life and physical integrity of Plaintiffs Ahmed Saa Ibrahim Bockarie, Safea Gbanie, Aiah Momoh, Ibrahim Tamba Lamin, Almamy Lamin, Maker Jagetay, Finda Kamanda, and Alie Kabia.
2. A DECLARATION that the State has violated MAPO's right to a suitable environment
3. A DECLARATION that the State has violated the MAPO members' right to adequate housing and property.
4. A DECLARATION that the State has violated the MAPO members' right to health.
5. AN ORDER that the State communally compensate the Plaintiffs for damage to the natural environment.
6. AN ORDER that the Plaintiffs be provided compensation individually for the time they have been denied proper resettlement on appropriate land.
7. AN ORDER that the State ensure KL complies with all provisions of the Mining Lease Agreement, including the commitment to resettle affected persons pursuant to the IFC Performance Standards
8. AN ORDER that Plaintiffs be provided compensation individually for their emotional suffering resulting from their degraded quality of life and health, and the instability and uncertainty of their resettlement status.
9. AN ORDER that the State pay compensation to the families of the deceased victims of the 2007 and 2012 incidents of violence for suffering and loss of economic support.
10. AN ORDER that the State pay compensation for medical costs, lost earning potential, and suffering to the victims who survived the 2007 and 2012 incidents of violence.
11. AN ORDER for the State to investigate and initiate criminal proceedings into the deaths of the decedents.
12. AN ORDER for the State to take effective measures towards protecting and remediating the environment upon which Plaintiff's livelihoods and traditional practices depend, with special regard for the impacts that environmental damage have on women and youths.
13. AN ORDER for the State to address accessibility and quality of water, and to give equal consideration to all members of the community, regardless of their status as women, men, youths, or the elderly.

Signed this 19<sup>th</sup> day of August, 2019: Chernor Mamoud Benedict Jalloh  
C&J Partners, Makeni, Sierra Leone



Daniel Fofanah  
(Sierra Leone)

Maitre Idrissa Tchernaka  
(Niger)

Gloria Eguono Aigbadon  
(Nigeria)

Pepe Antoine Lama  
(Guinea)

Ifeyinwa Nwabueze  
(Nigeria)

Diallo Aïssata Genevieve  
(Côte d'Ivoire)

Ibitowa Rashidi  
(Côte d'Ivoire)

Chima Williams  
(Nigeria)

Maitre Djibril Welle  
(Senegal)

Cltr. Alfred Lahai Gbabai Brownell Sr.  
(Liberia)

Jonathan Kaufman  
(New York, USA)

<sup>1</sup> *Environmental and Social Impact Assessment Report for the Koidu Kimberlite Project*, prepared by Digby Wells & Associates (Pty) Ltd. (Dec. 2011) 4-5, 12 [hereinafter “Koidu Limited EIA”] **ANNEX B1**.

<sup>2</sup> Katrina Manson, *S. Leone halts mining after 2 die in diamond riots*, Reuters (Dec. 14, 2007), **ANNEX B2**; *Violent strike halts work at Sierra Leone Koidu diamond mine*, Reuters (Dec. 21, 2012), **ANNEX B3**; Kazumi Kawamoto, *Diamonds in war, diamonds for peace: Diamond sector management and kimberlite mining in Sierra Leone*, in *HIGH VALUE NATURAL RESOURCES AND PEACEBUILDING* at 133-36 (P. Lugala, S. A. Rustad), **ANNEX B4**.

<sup>3</sup> Witness Statement of Sia Nyandemoh ¶¶ 2-3, 5-7, 9-11, 13-16, **ANNEX B5**.

<sup>4</sup> Witness Statement of Ahmed Saa Ibrahim Bockarie ¶¶ 8-13, **ANNEX B6**; Hospital Record for Ibrahim Bockarie, **ANNEX B7**.

<sup>5</sup> *Ibid.* ¶ 18, **ANNEX B7**; see also Witness Statement of Maker Jagetay ¶ 7, **ANNEX B8**.

<sup>6</sup> Witness Statement of Ahmed Saa Ibrahim Bockarie ¶¶ 18-19, **ANNEX B6**.

<sup>7</sup> Witness Statement of Maker Jagetay ¶¶ 2-4, 6-8, **ANNEX B8**, Hospital Record for Maker Jagetay, **ANNEX B9**.

<sup>8</sup> Witness Statement of Safea Gbanie ¶¶ 1-5, 7-11, **ANNEX B10**; Hospital Record for Safea Gbanie, **ANNEX B11**.

<sup>9</sup> The Gov’t White Paper on the Report of Jenkins-Johnston Comm’n of Inquiry, 2-15 [hereinafter “Government White Paper”], 2-15, **ANNEX B12**.

<sup>10</sup> See Government White Paper, **ANNEX B12**.

<sup>11</sup> Amnesty International, *A Force for Good?: Restrictions on peaceful assembly and impunity for excessive use of force by the Sierra Leone police* 9 (2018), **ANNEX B13**.

<sup>12</sup> Witness Statement of Berns Komba Lebbie ¶ 16, **ANNEX B14**; Witness Statement of Sahr Emmanuel Allieu ¶¶ 3-6, **ANNEX B15**; *Whose Development?*, Human Rights Watch, 18 (Feb. 19, 2014), **ANNEX B16**; *Violent strike halts work in Sierra Leone Koidu diamond mine*, Reuters (Dec. 21, 2012), **ANNEX B3**.

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- <sup>13</sup> Witness Statement of Jonathan Yorpoi ¶¶ 9-11, **ANNEX B17**; Witness Statement of Berns Komba Lebbie ¶ 21, 27, **ANNEX B14**; Witness Statement of Sahr Emmanuel Allieu ¶¶ 8-11, **ANNEX B15**, Witness Statement of Alie Kabie ¶ 8, **ANNEX B18**.
- <sup>14</sup> Witness Statement of Alie Kabia ¶¶ 4-7, **ANNEX B18**; Witness Statement of Ibrahim Tamba Lamin ¶¶ 4-10, **ANNEX B19**; Witness Statement of Sia Mariama Lamin ¶¶ 4-7, **ANNEX B20**.
- <sup>15</sup> Witness Statement of Sia Mariama Lamin ¶ 7, **ANNEX B20**; Witness Statement of Alie Kabia ¶ 7, **ANNEX B18**.
- <sup>16</sup> Witness Statement of Berns Komba Lebbie ¶¶ 24-26, **ANNEX B14**; Witness Statement of Alie Kabia ¶ 7, **ANNEX B18**; *see* Images of Decedent Almamy with Gunshot Wound, **ANNEXES B21, B22**.
- <sup>17</sup> Witness Statement of Alie Kabia ¶ 7, **ANNEX B18**.
- <sup>18</sup> Witness Statement of Alie Kabia ¶¶ 7-13, **ANNEX B18**.
- <sup>19</sup> Witness Statement of Finda Kamanda ¶¶ 2-5, **ANNEX B23**.
- <sup>20</sup> *Ibid.* ¶¶ 7-9, **ANNEX B23**; Hospital record for Finda Kamanda, **ANNEX B24**; Image of Finda Kamanda in Koidu Hospital, **ANNEX B25**; Witness Statement of Mohamed Kellie ¶¶ 9-10, **ANNEX B26**.
- <sup>21</sup> Witness Statement of Finda Kamanda ¶ 10, **ANNEX B23**.
- <sup>22</sup> Witness Statement of Ibrahim Bockarie ¶ 18, **ANNEX B6**; Witness Statement of Safea Gbanie ¶ 11, **ANNEX B10**; Witness Statement of Maker Jagetay ¶ 7 **ANNEX B8**.
- <sup>23</sup> **MAPO membership list, ANNEX C1**
- <sup>24</sup> **MAPO Authorization for legal action, ANNEX C2.**
- <sup>25</sup> *Environmental and Social Impact Assessment (ESIA) Study, Final Report*, The Gov't of the Republic of Sierra Leone/World Bank, Univ. of Sierra Leone, p. 88, [hereinafter "World Bank EIA"], **ANNEX B27**.
- <sup>26</sup> Witness Statement of Kumba King ¶ 9, **ANNEX B28**; Witness Statement of Sahr Kaiagbanja ¶¶ 2-3, **ANNEX B29**; Witness Statement of Tamba Prince Boima ¶¶ 4-5, **ANNEX B30**; Witness Statement of Alikaly Bangura ¶¶ 10-12, **ANNEX B31**; Witness Statement of Aiah Fengai ¶ 5-6, **ANNEX B32**.
- <sup>27</sup> Witness Statement of Aiah Fengai ¶ 9, **ANNEX B32**; Witness Statement of Sahr Kaiagbanja ¶ 4, **ANNEX B29**.
- <sup>28</sup> Witness Statement of Tamba Prince Boima ¶ 12, **ANNEX B30**; Witness Statement of Kumba King ¶¶ 10, 12, **ANNEX B28**; Witness Statement of Aminata Bangura ¶¶ 9-10, **ANNEX B33**; Witness Statement of Isata Fillie ¶ 6, **ANNEX B34**; Witness Statement of Sahr Kaiagbanja ¶ 8, **ANNEX B29**; Witness Statement of Aiah Fengai ¶ 7, **ANNEX B32**.
- <sup>29</sup> *Mines and Minerals Act, 2009* § 35, 37, 38, The Republic of Sierra Leone, **ANNEX A1**; *Mining Lease Agreement dated 2010 between The Republic of Sierra Leone and Koidu Holdings S.A. relating to the mining and commercial exploitation of the Koidu kimberlites in a project to be known as "The Koidu Kimberlite Project,"* clause 6.1, [hereinafter "Mining Lease Agreement"] **ANNEX B35**.
- <sup>30</sup> Request for the Quarterly Environmental Monitoring Report of Koidu Limited Pursuant to Section 2(1) of the Right to Access Information Act 2013, **ANNEX B36**.
- <sup>31</sup> Witness Statement of Kumba King ¶ 10, **ANNEX B28**.
- <sup>32</sup> Witness Statement of Isata Fillie ¶ 6, **ANNEX B34**; *see also* Witness Statement of Aminata Bangura ¶ 10, **ANNEX B33**.
- <sup>33</sup> Witness Statement of Tamba Prince Boima ¶ 12, **ANNEX B30**; Witness Statement of Komba Joe Kamasie ¶ 3, **ANNEX B37**.
- <sup>34</sup> Witness Statement of Adama Bona ¶¶ 2, 7-8, **ANNEX B38**.
- <sup>35</sup> Witness Statement of Aminata Bangura ¶¶ 10-11, **ANNEX B33**.
- <sup>36</sup> Witness Statement of Alikaly Bangura. ¶¶ 2, 5, 10-12, 13, 15-18, **ANNEX B31**.
- <sup>37</sup> Witness Statement of Sia Bayoh ¶¶ 10-19, **ANNEX B39**; *see* Images of Destruction of Sia Bayoh's Property, **ANNEXES B40, B41, B42**.
- <sup>38</sup> Witness Statement of Aiah Fengai ¶¶ 3, 6-7, 9, **ANNEX B32**.
- <sup>39</sup> Witness Statement of Aminata Bangura ¶ 1, 9, **ANNEX B33**.
- <sup>40</sup> Witness Statement of Adama Bona ¶ 7, **ANNEX B38**; Witness Statement of Kumba King ¶ 12, **ANNEX B28**.
- <sup>41</sup> Witness Statement of Tamba Prince Boima ¶ 11, **ANNEX B30**.
- <sup>42</sup> Witness Statement of Adama Bona ¶ 7, **ANNEX B38**.
- <sup>43</sup> Witness Statement of Alikaly Bangura ¶ 18, **ANNEX B31**; Witness Statement of Aminata Bangura ¶ 9, **ANNEX B33**.
- <sup>44</sup> Witness Statement of Adama Bona ¶ 6, **ANNEX B38**.
- <sup>45</sup> Witness Statement of Aminata Bangura ¶ 9, **ANNEX B33**.
- <sup>46</sup> Witness Statement of Alikaly Bangura ¶ 10, **ANNEX B31**; Witness Statement of Sahr Kaiagbanja, ¶ 2 **ANNEX B29**.
- <sup>47</sup> Witness Statement of Sahr Kaiagbanja, ¶ 4, **ANNEX B29**.
- <sup>48</sup> *Ibid.* ¶ 6, **ANNEX B29**; Witness Statement of Adama Bona, ¶ 5 **ANNEX B38**.
- <sup>49</sup> Witness Statement of Alikaly Bangura ¶ 9, **ANNEX B31**;
- <sup>50</sup> Witness Statement of Aiah Fengai, ¶ 4 **ANNEX B32**.
- <sup>51</sup> Witness Statement of Aminata Bangura, ¶ 7 **ANNEX B33**.
- <sup>52</sup> Witness Statement of Sahr Kaiagbanja ¶ 6, **ANNEX B29**; Witness Statement of Kumba King ¶ 8, **ANNEX B28**.
- <sup>53</sup> Witness Statement of Kumba King ¶ 7, **ANNEX B28**.
- <sup>54</sup> Witness Statement of Tamba Prince Boima ¶ 9, **ANNEX B30**.
- <sup>55</sup> Witness Statement of Alikaly Bangura ¶ 9, **ANNEX B31**.
- <sup>56</sup> Witness Statement of Isata Thollie ¶ 7, **ANNEX B43**.
- <sup>57</sup> Witness Statement of Ibrahim Gborie ¶ 13, **ANNEX B44**.

- <sup>58</sup> *Ibid.* ¶ 14, **ANNEX B44**; Witness Statement of Isata Thollie ¶ 8, **ANNEX B43**.
- <sup>59</sup> Witness Statement of Ibrahim Gborie ¶ 8, **ANNEX B44**; *see* Images of Damages in Ibrahim Gborie’s Resettlement House, **ANNEXES B45, B46, B47**.
- <sup>60</sup> African Charter on Human and People’s Rights, art. 4, *adopted* June 27, 1981, 21 I.L.M. 58 (entered into force Oct. 21, 1986), [hereinafter African Charter] **ANNEX A2**; International Covenant on Civil and Political Rights, art. 6(1), Dec. 16, 1966, 999 U.N.T.S. 171, [hereinafter “ICCPR”], **ANNEX A3**.
- <sup>61</sup> *Wing Commander Danladi A Kvasu v. Federal Republic of Nigeria*, Case No. ECW/CCJ/JUD/04/17 22–23 (Oct. 10, 2017), **ANNEX A4**.
- <sup>62</sup> ACHPR, *Gen. Comment No. 3 on the African Charter on Human and Peoples’ Rights: The Right to Life (Article 4)*, ¶ 10 (adopted during the 57<sup>th</sup> Ordinary Session, Nov. 18, 2015), **ANNEX A5**.
- <sup>63</sup> *Ibid.* ¶ 28, **ANNEX A5**; U.N Code of Conduct for Law Enforcement Officials, art. 3, adopted by UNGAOR 34/169 (17 Dec. 1979), **ANNEX A6**.
- <sup>64</sup> ACHPR Gen. Comment No. 3 ¶ 28, **ANNEX A5**.
- <sup>65</sup> *See e.g., Caso La Finca Exacta v. Guatemala*, Inter-Am. Comm’n Hum. Rts., Case No. 11.382, ¶¶ 39, 68 (Oct. 21, 2002), **ANNEX A7**.
- <sup>66</sup> *See supra* note 62 and accompanying body text, **ANNEX A5**.
- <sup>67</sup> *See* Basic Principles on the Use of Force and Firearms, art. 5(b), adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 27 Aug. to 7 Sept. 1990 [hereinafter “BPUFF”], **ANNEX 8**; *Cf. Giuliani and Gaggio v. Italy*, Eur. Ct. Hum. Rts., App. 23458/02, ¶¶ 190, 255 (Grand Chamber 2011) (police officer’s prior measures helped to absolve the State of responsibility for the ensuing death of a protester), **ANNEX A9**.
- <sup>68</sup> The Const. of Sierra Leone (Act No. 6 of 1991) Chapter III, art. 16 (1991), **ANNEX A10**.
- <sup>69</sup> *Umetaliev and Tashtabekova v. Kyrgyzstan*, U.N. Doc. CCPR/C/94/D/1275/2004, ¶ 10 (Nov. 20, 2008), **ANNEX A11**.
- <sup>70</sup> *Compare Umetaliev*, ¶ 9.6 (State was responsible when it started but discontinued investigation) **ANNEX A11 with Giuliani** ¶¶ 300-02 **ANNEX A9**.
- <sup>71</sup> *Ass’n of Victims of Post Electoral Violence & INTERIGHTS v. Cameroon*, Af. Comm’n. 272/03, ¶¶ 119–20 (2009), **ANNEX A12**.
- <sup>72</sup> *Umetaliev*, ¶ 9.6 **ANNEX A11**.
- <sup>73</sup> *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v. Nigeria*, Af. Comm’n. 155/96, ¶¶ 3, 67 (2001), [hereinafter “Ogoni Case”], **ANNEX A13**; *see supra* note 2, **ANNEX B4**
- <sup>74</sup> *Ibid.*, ¶ 67, **ANNEX A13**.
- <sup>75</sup> The Const. of Sierra Leone, art. 16, **ANNEX A10**.
- <sup>76</sup> *See* BPUFF arts. 12-14, **ANNEX A8**; *Umetaliev*, ¶ 9.5, **ANNEX A11**.
- <sup>77</sup> Witness Statement of Berns Komba Lebbie ¶¶ 25-27, **ANNEX B14**; Witness Statement of Alie Kabia ¶¶ 8-9, **ANNEX B18**.
- <sup>78</sup> The Const. of Sierra Leone, arts. 17(1), 20, **ANNEX A10**.
- <sup>79</sup> African Charter on Human and People’s Rights, art. 24, **ANNEX A2**; *SERAP v. Nigeria*, Final Judgement, ECW/CCJ/JUD/18/12, ¶ 101 (Dec. 12, 2012), **ANNEX A14**.
- <sup>80</sup> Ogoni Case, ¶ 52, **ANNEX A13**
- <sup>81</sup> *SERAP v. Nigeria*, ¶ 105, **ANNEX A14**.
- <sup>82</sup> CESCR, *Gen. Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, U.N. Doc. E/C.12/2000/4 ¶ 27 (Aug. 11, 2000) **ANNEX A16**.
- <sup>83</sup> CEDAW, *Gen. Recommendation No. 34 (Rural Women)*, U.N. Doc. CEDAW/C/GC/34 ¶ 12 (Mar. 4, 2016), **ANNEX A17**.
- <sup>84</sup> *Taşkın v. Turkey*, Eur. Ct. Hum. Rts., App. No 46117/99, ¶ 113 (2004), **ANNEX A18**.
- <sup>85</sup> ACHPR, *Concluding Observations and Recommendations on the Initial and Combined Periodic Report of the Republic of Sierra Leone on the Implementation of the African Charter on Human and Peoples’ Rights*, ¶ xxxv [hereinafter Concluding Observations], **ANNEX A15**.
- <sup>86</sup> *Ibid.* ¶ 82.
- <sup>87</sup> *Ibid.*
- <sup>26</sup> *SERAP v. Nigeria*, ¶¶ 111–12, **ANNEX A14**.
- <sup>89</sup> Ogoni case ¶ 51, **ANNEX A13**.
- <sup>90</sup> Ogoni case ¶ 67, **ANNEX A13**.
- <sup>91</sup> Ogoni case ¶ 52, **ANNEX A13**.
- <sup>92</sup> *Dubetska v. Ukraine*, Eur. Ct. Hum. Rts., App. No 30499/03, ¶ 155 (2011), **ANNEX A19**.
- <sup>93</sup> African Charter on the Rights and Welfare of the Child, art. 14.2, adopted July 1, 1990 (entered into force Nov. 29, 1999) (“State parties shall undertake to pursue the full implementation of this right and in particular shall take measures: [...] c. to ensure the provision of adequate nutrition and safe drinking water”), **ANNEX A20**.
- <sup>94</sup> CESCR, *Gen. Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant)*, U.N. Doc. E/C.12/2002/11 ¶ 12(b)-(c), 23 (Jan. 20, 2003), [hereinafter “CESCR Gen. Comment 15”] **ANNEX A21**.
- <sup>95</sup> *Ibid.*, ¶ 16, **ANNEX A21**.
- <sup>96</sup> Protocol to the African Charter on Human and Peoples’ Rights of Women in Africa, art. 18(2)(d) (July 11, 2003) [hereinafter Maputo Protocol], **ANNEX A22**.
- <sup>97</sup> Ogoni Case ¶ 58, **ANNEX A13**.
- <sup>98</sup> *See Dubetska*, ¶ 155, **ANNEX A19**.
- <sup>99</sup> Maputo Protocol, art. 13(e), **ANNEX A22**.

- <sup>100</sup> African Charter, art. 14, **ANNEX A2**.
- <sup>101</sup> Ogoni Case ¶ 62, **ANNEX A13**.
- <sup>102</sup> International Covenant on Economic, Social and Cultural Rights, art. 11, Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR], **ANNEX A23**.
- <sup>103</sup> *Universal Declaration of Human Rights*, art. 25, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948) [hereinafter UDHR], **ANNEX A24**.
- <sup>104</sup> *Af. Comm'n on Hum and Peoples' Rights v. Kenya*, Af. Ct. 006/2012, ¶ 57, [hereinafter: Ogiek case], **ANNEX A25**.
- <sup>105</sup> Ogoni Case ¶ 61, **ANNEX A13**.
- <sup>106</sup> Maputo Protocol, art. 19(c), **ANNEX A22**.
- <sup>107</sup> Concluding Observations ¶ 65, **ANNEX A15**.
- <sup>108</sup> *Sudan Human Rights Org. & Ctr. on Hous. Rts. and Evictions (COHRE) v. Sudan*, Af. Comm'n. 279/03-296/05, ¶ 205, **ANNEX A26**.
- <sup>109</sup> CEDAW Gen. Comment No. 34 (*Rural Women*), ¶¶ 77-78, **ANNEX A17**.
- <sup>110</sup> *Ctr. for Minority Rights Dev. (Kenya) and Minority Rights Group (on behalf of the Endorois Welfare Council) v. Kenya*, Af. Comm'n. 276/2003, ¶¶ 100, 211 [hereinafter: Endorois Case], **ANNEX A27**; *Dino Noca v. Democratic Republic of the Congo*, Af. Comm'n. 286/2004, ¶ 144 **ANNEX A28**. See also African Charter, art. 14, **ANNEX A2**.
- <sup>111</sup> *Dino Noca v. Democratic Republic of the Congo* ¶ 145, **ANNEX A28** citing Endorois Case.
- <sup>112</sup> ACHPR Gen. Comment No. 3, ¶¶ 41-43, **ANNEX A5**; Ogoni Case, ¶ 61, **ANNEX A13**. See also *Principles and Guidelines on the Implementation of Economic Social and Cultural Rights in the African Charter on Human and People's Rights*, Af. Comm'n, adopted Nov. 2010, ¶ 55, **ANNEX A29**.
- <sup>113</sup> Koidu Limited EIA, p. v, **ANNEX B1**. By virtue of these documents, KL agreed to adhere to Sierra Leonean legislation and the requirements of IFC Performance Standard 5: Land Acquisition and Involuntary Resettlement (IFC PS5).
- <sup>114</sup> Mining Lease Agreement 2010 clause 6.1, **ANNEX B35**.
- <sup>115</sup> *Mines and Minerals Act, 2009*, § 37(2), 38, The Republic of Sierra Leone, **ANNEX A1**.
- <sup>116</sup> *Mines and Minerals Act, 2009*, § 38, The Republic of Sierra Leone, **ANNEX A1**.
- <sup>117</sup> The Const. of Sierra Leone, art. 21(1)(c)(i), **ANNEX A10**; *Mines and Minerals Act, 2009*, § 37, The Republic of Sierra Leone, **ANNEX A1**.
- <sup>118</sup> *Mines and Minerals Act, 2009*, § 38, The Republic of Sierra Leone, **ANNEX A1**.
- <sup>119</sup> Ogiek Case, ¶ 214, **ANNEX A25**.
- <sup>120</sup> CESCR Gen. Comment 4: *The Right to Adequate Housing (Art. 11(1) of the Covenant)*, U.N. Doc. E/1992/93 ¶ 8(a), 18 (Dec. 13, 1999) [hereinafter CESCR Gen. Comment 4], **ANNEX A30**. See also Ogiek Case, ¶ 131, **ANNEX A25**.
- <sup>121</sup> See Ogiek Case, **ANNEX A25**.
- <sup>122</sup> CESCR Gen. Comment 4, ¶¶ 8(b), 8(d), 8(f), **ANNEX A30**.
- <sup>123</sup> Ogoni Case ¶ 61, **ANNEX A13**.
- <sup>124</sup> Witness Statement of Sahr Kaiagbanja ¶ 4, **ANNEX B29**.
- <sup>125</sup> Witness Statement of Ibrahim Gborie ¶ 8, **ANNEX B44**.
- <sup>126</sup> Witness Statement of Sia Bayoh ¶ 11, **ANNEX B38**.
- <sup>127</sup> Witness Statement of Ibrahim Gborie ¶¶ 8-11, **ANNEX B44**; Witness Statement of Isata Thollie ¶¶ 11-12, **ANNEX B43**.
- <sup>128</sup> See Convention on the Elimination of All Forms of Discrimination against Women, art. 15, Dec. 18, 1979, 19 I.L.M. 33 (entry into force Sept. 3, 1981) [hereinafter CEDAW], **ANNEX A31**; UN Human Rights Special Procedures, *Insecure land rights for women threaten progress on gender equality and sustainable development*, Working Group on the issue of discrimination against women in law and in practice (July 2017), **ANNEX A32**.
- <sup>129</sup> African Charter, art. 16, **ANNEX A2**; see also UDHR, art. 25, **ANNEX A24**; ICESCR, art. 12, **ANNEX A23**.
- <sup>130</sup> Ogoni Case, ¶ 52, **ANNEX A13**.
- <sup>131</sup> CESCR, Gen. Comment No. 14, ¶ 11, **ANNEX A16**.
- <sup>132</sup> Ogoni Case, ¶ 65, **ANNEX A13**. See also ACHPR 300: *Resolution on the Right to Water Obligations*, ACHPR/Res.300 (EXT.OS/XVII) 20, **ANNEX A33**; ACHPR 374: *Resolution on the Right to Food and Food Insecurity in Africa*, ACHPR/Res. 374 (LX) 2017, **ANNEX A34**.
- <sup>133</sup> Ogoni Case ¶ 52, **ANNEX A13**.
- <sup>134</sup> African Charter, art. 6, **ANNEX A2**.
- <sup>135</sup> ICCPR, art. 9(2), **ANNEX A3**.
- <sup>136</sup> See, e.g., *Media Rights Agenda, Constitutional Rights Project, Media Rights Agenda et Constitutional Rights Project c. Nigéria*, Af. Comm'n. 105/93-128/94-130/94-152/96, ¶¶ 84-86, **ANNEX A35**; *Institute for Human Rights and Development in Africa c. République Démocratique du Congo*, Af. Comm'n. 393/10, ¶ 119, **ANNEX A36**.
- <sup>137</sup> E.g., African Charter, art. 1, **ANNEX A2**; ICESCR art. 2(1), **ANNEX A23**.
- <sup>138</sup> *Commission Nationale des Droits de l'Homme et des Libertés v. Chad*, Af. Comm'n. 74/92, ¶ 22, **ANNEX A37**.
- <sup>139</sup> *SERAP v. Nigeria* ¶ 111, **ANNEX A14**.
- <sup>140</sup> *Ass'n of Victims of Post Electoral Violence & INTERIGHTS* ¶ 119, **ANNEX A12**.