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# “What is a House without Food?”

Mozambique’s Coal Mining Boom and Resettlements





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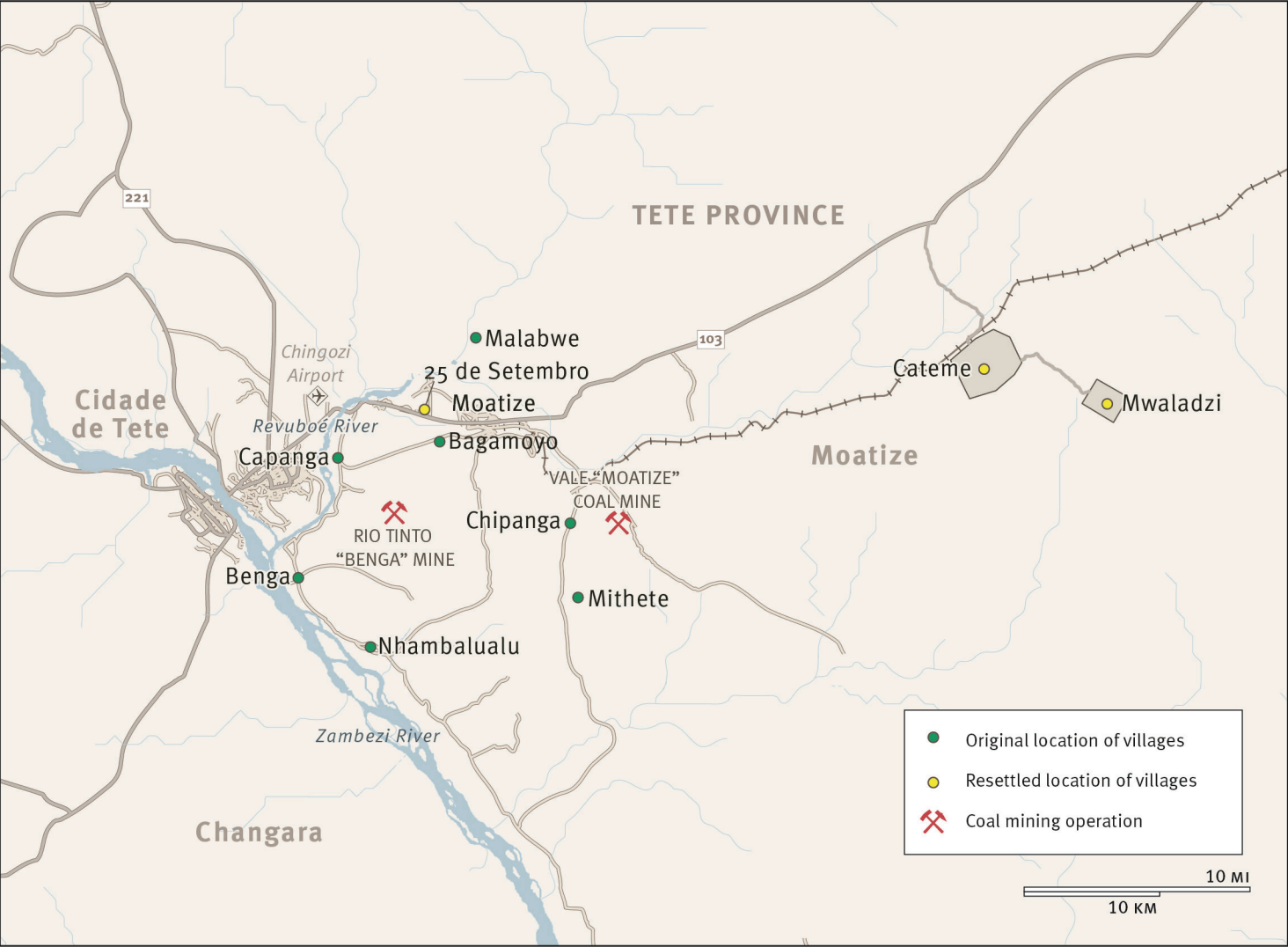
## Mozambique’s Coal Mining Boom and Resettlements

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SITES OF ORIGINAL AND RESETTLED VILLAGES IN TETE PROVINCE



## **SUMMARY AND RECOMMENDATIONS**

# “What is a House without Food?”

## Mozambique’s Coal Mining Boom and Resettlements

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Photographs by Samer Muscati / Human Rights Watch



Female farmers on a barren agricultural plot in Mwaladzi. Resettlement to an area with limited water supply and poor agricultural productivity has led farmers who once produced most of their own food to become dependent on food assistance programs. Erica D. (middle) said, "Look at this soil. Do you think this is soil where people can grow something? Just look at these dried plants. Do you think that maize can come from these small plants? They don't grow here."



*I used to grow sorghum, enough to fill the storehouse, probably about five or six sacks. We had a full kitchen of maize. We used to buy food when there was a problem, but usually we didn't have to.*

*The farming land we received [upon resettlement] is red, not black like we had before. I tried to grow maize and it died. Sorghum also failed.*

*The new house is just a house. I am not that satisfied. What I can say is, what is a house without food? I cannot eat my house.*

—MARIA C., RESETTLED FARMER, MWALADZI,  
RIO TINTO RESETTLEMENT VILLAGE,  
OCTOBER 5, 2012



A surge of foreign investment in Mozambique's vast natural resources, including large reserves of coal and off-shore natural gas, promises new economic possibilities for a country long ranked one of the poorest in the world. Multinational mining and gas companies have invested billions of dollars in Mozambique in the past ten years and the government estimates it will attract an additional fifty

billion dollars of investment in the coming decade. But without adequate safeguards, the explosive growth of the mining sector could lead to human rights violations and squander an opportunity to reduce widespread poverty.

In coal-rich Tete province, local communities displaced and resettled from 2009 to 2011 due to coal operations owned



by mining companies Vale and Rio Tinto have faced significant and sustained disruptions in accessing food, water, and work. Many farming households previously lived along a river, could walk to markets in the district capital Moatize, and say they were self-sufficient. They are now living in sites roughly 40km away with agricultural land of deeply uneven quality, unreliable access to water, and diminished access to key sources of non-farming income.

Rio Tinto's "Benga" coal mining operation in Tete province in central Mozambique. Arid, coal-rich Tete has been at the epicenter of a coal mining boom that has attracted billions of dollars in foreign investment. Without adequate safeguards, this surge also poses grave risks to human rights.

Many resettled households have experienced periods of food insecurity, or when available, dependence on food assistance financed by the companies that resettled them.

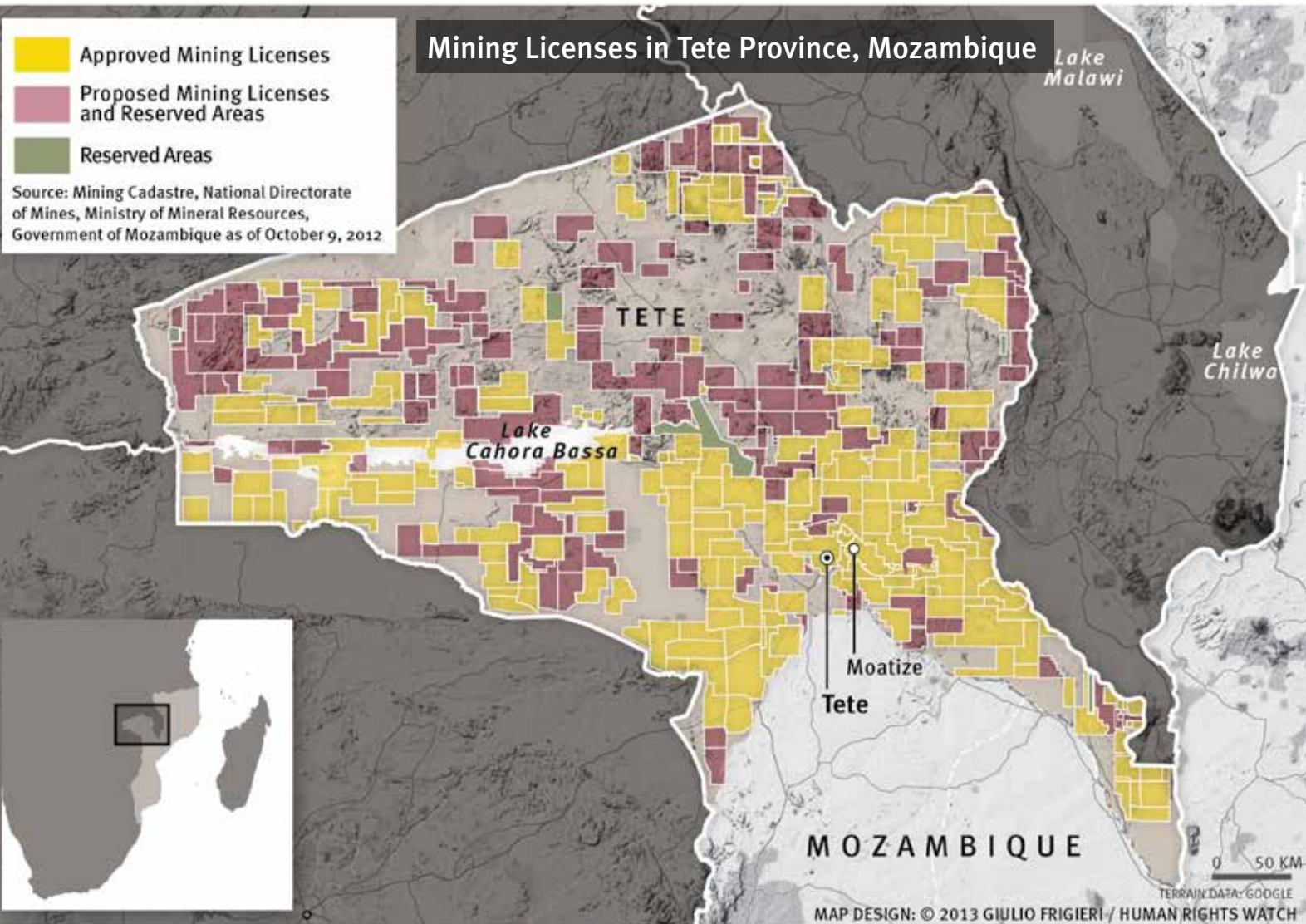
Serious shortcomings in government policy and oversight and in private companies' implementation led to the relocation of communities to these sites. There has also been insufficient communication between the government and the mining companies with resettled communities, as well as a lack of accessible and responsive mechanisms for participation in decision-making, expression of complaints, and redress of grievances. Frustrated by the lack of response to their situation, an estimated 500 residents from the Vale resettlement village Cateme protested on January 10, 2012, blocking the railroad linking Vale's coal mine with the port in Beira. This demonstration, and a violent response by local police—who beat several protesters—brought national scrutiny to the problems in Cateme and the other resettlements.

Tete province in central Mozambique is home to an estimated 23 billion tons of coal reserves, attracting investors from across the globe. The Mozambican government's speed in approving new mega-projects has outstripped its development and implementation of adequate safeguards to protect the rights of affected populations. Despite the resettlement of local communities to make way for coal mines as early as 2009, the government had no specific regulations on resettlement until August 2012.

According to data from the Mozambican government's mining registry in October 2012, the government has approved at least 245 mining concessions and exploration licenses in Tete province, covering approximately 3.4 million hectares or 34 percent of its area. Coal mining

A railway track used to transport Vale's shipments of coal from their mine in Moatize to the port in Beira. On January 10, 2012, about 500 people staged a demonstration and blocked the railway. Deeply frustrated and anxious about their living conditions since resettlement in 2010, residents of Cateme protested to Vale and local government officials demanding a response to their concerns about land, houses, water, transport, and job opportunities.





accounts for roughly one-third of these. When factoring in all applications pending approval, the amount of land involved jumps to roughly 6 million hectares, or approximately 60 percent of Tete province's area. There has been little management and planning for the cumulative impact of numerous mining projects. And while not all exploration activity will lead to the development of mining projects, the high concentration of land designated for mining licenses in Tete province has profoundly limited the availability of appropriate resettlement sites for communities displaced by mining operations.

The earliest to begin coal mining operations include two of the world's three largest mining companies: Vale, a Brazilian firm, and Rio Tinto, an Anglo-Australian firm

This map is based on data from the Mozambican government's mining registry in October 2012 and does not reflect any new, expired, or canceled licenses since then. There may be additional licenses not reflected in this map due to some gaps in the obtained data. Not all exploration activity leads to the discovery of commercially viable deposits and to the development of mines, so this map does not imply that all of the shaded areas will eventually be covered by mining operations. But the crowded number of licenses contribute to problems including resettlement of local communities, water resource management, and conflicts over claims to land use.

that acquired the Australian company Riversdale and its holdings in Tete province in 2011. Jindal Steel and Power Limited, an Indian company, and Beacon Hill Resources, a British firm, also started mining coal in 2012. Several other companies and partnerships are still in prospecting or development phases.

Vale and Rio Tinto's development of open-pit coal mines, access roads, and related infrastructure has displaced thousands of people from local communities, primarily subsistence farmers. Between 2009 and 2010, Vale resettled 1,365 households to a newly-constructed village, Cateme, and an urban neighborhood, 25 de Setembro. Rio Tinto and Riversdale resettled 84 households to a newly-constructed village, Mwaladzi, in 2011. Rio Tinto plans to resettle an additional 595 households to Mwaladzi by May 2013 and to urban areas near the district capital Moatize. Jindal Steel and Power Limited is planning to resettle 484 families once the government approves its relocation site and plans. It will compensate more than a thousand other households for losing farmland or other assets.

Through interviews with 79 resettled or soon-to-be-resettled community members and 50 government officials, company representatives, civil society activists, and international donors, Human Rights Watch investigated the human rights impacts of the resettlements and the response of the Mozambican government, Vale, and Rio Tinto. Our research shows the resettlements, particularly the provision of poor-quality agricultural land and unreliable access to water, have had negative impacts on community members' standard of living, including rights to food, water, and work.

People resettled to the Vale resettlement village Cateme and the Rio Tinto resettlement village Mwaladzi experienced a major disruption to their livelihoods and are still struggling to re-establish their self-sufficiency. Human Rights Watch interviewed farmers in May and October 2012 who showed us their barren fields and empty food warehouses and said the farmland provided to them as compensation is unproductive, unsuitable for growing their staple crops of maize and sorghum, and unable to support their typical second harvest of vegetables. In contrast, several farmers awaiting resettlement to Mwaladzi, but still living in one of the original villages, had rich yields of vegetables from their plots along the Revubóé river.





Malosa C. and her family outside their new home in Mwaladzi, in front of their empty storage for maize. People resettled to Mwaladzi told Human Rights Watch that they received a major shock and disruption to their livelihoods and are still struggling to re-establish their self-sufficiency. Mining company officials have acknowledged the marginal quality of the land and poor access to water in the new community. The government has awarded so much land for mining licenses in Tete province that there are few options for viable resettlement areas.



Atilia M. and her son harvest vegetables in a plot along the Revuboé river near their village, Capanga, before resettlement. They grow onions, tomatoes, sweet potatoes, and other vegetables. Households already resettled in Mwaladzi do not have access to a river and have struggled to farm staple crops or vegetables in their new location.



Zos B. harvests a variety of vegetables near the naturally irrigated soil on the banks of the Revuboé river. She and her neighbors said they depend on the river for watering livestock and successful agriculture and are worried about resettlement to Mwaladzi, which has no river nearby.



(top) Matilde, J., a mother of three young children from Cassoca, said, “I think we will suffer. We are moving to a place with no gold. We are going against our wishes.”

(bottom) A woman from Cassoca shows a gold nugget panned that day by a member of her family that would earn enough income to cover a month’s expenses. Residents from Cassoca expressed concern that once they are relocated, they would lose access to gold panning, which is an important source of secondary income for the community.





Women panning for gold in Cassoca, a village earmarked for resettlement to make way for Jindal Steel and Power Limited's mining operations. All of the residents of Cassoca that Human Rights Watch interviewed said they currently supplemented their income by panning for gold and selling fruit.



Children swimming in the Revuboé river. Prior to their resettlement, many residents relied on their proximity to the river not only for agriculture, but also to bathe, wash their clothes, and socialize. Ana Maria B., a woman about to be resettled to the Rio Tinto resettlement village Mwaladzi, said, “Since I was born, I have taken baths here in the river. I have washed my clothes here.... Even my children have grown up here in this river. They know how to swim. Where we are going we will be given water in small containers. I’m not used to that kind of thing.”





Vale installed water pumps in Cateme to address the lack of natural water sources in the area and reduce the amount of time they spent gathering water. But in the first two years after resettlement, the pumps sometimes fell into disrepair and households had insufficient quantities of water.

Vale representatives have acknowledged that the land in the resettlement sites is arid and requires irrigation to improve its fertility, and a Rio Tinto communication to Human Rights Watch noted that they were “aware that the carrying capacity of the land in Mwaladzi is very marginal without irrigation schemes.” While Vale and Rio Tinto have implemented the resettlement of communities displaced by their operations, the Mozambican government is ultimately responsible for approving and allocating resettlement sites as well as monitoring their outcomes.

The choice in resettlement sites also had negative impacts on resettled households’ access to non-farming livelihoods. Cateme and Mwaladzi are located approximately 40 km from the markets in the district capital Moatize, whereas before resettlement the communities were a few kilometers away. The increased distance, limited transportation options, and the scarcity of baobab trees—a widely-used resource in their original villages—has reduced the communities’ ability to sell firewood, charcoal, and wild fruits, activities that many typically turned to when poor rains affected their crops or if they needed cash income. Jobs generated by Vale and Rio Tinto during their construction phases and available to resettled individuals were largely short-term contracts that have ended.



Compounding their problems with livelihoods, resettled households in Cateme and Mwaladzi have experienced serious problems with the availability and accessibility of water for both domestic and agricultural use. In the initial period after resettlement, water pumps in disrepair or ceasing to function due to electricity outages exacerbated overall problems with water availability. Households in Mwaladzi sometimes depended on water to be delivered by trucks and reported instances of having no water for three days at a time. Having once lived near the Zambezi or Revuboé rivers, the water problems in the resettlement sites represented a significant deterioration in the standard of living for many households.

Vale designed the urban resettlement village 25 de Setem-

Joia B., 27, making bricks in Mwaladzi in exchange for food packages financed by Rio Tinto. “Our fields are not producing anything.... We have houses, but we don’t have food.”

bro for households relying primarily on non-agricultural livelihoods. People who chose to move to 25 de Setembro did not receive any new farmland as part of their compensation packages, even if they had farmed previously. Human Rights Watch spoke to resettled residents who struggled with the transition from having both cash income and farming plots to relying solely on earning money to support their families. Individuals and households faced new costs in paying for food, and had not anticipated expenses such as paying for piped water, which a majority had previously obtained from a nearby river, pipes, or wells at no cost.



In Vale's "urban" resettlement area of 25 de Setembro, several female-headed households live in the kitchens of the houses they were provided while renting the main house to buy food. Residents received no farmland as they were expected to earn their living in other ways. Fatima S. said that she and her six children live and sleep in the small confines of her kitchen.

Female-headed households were often in particularly precarious economic situations, including elderly widows and single mothers who moved to 25 de Setembro primarily to be close to family members or health care services, not because they could rely on urban-based jobs. Human Rights Watch interviewed six women and heard reports of additional households in 25 de Setembro who resorted to living in their kitchens, sometimes with as many as six children, and renting out the houses given to them as compensation

in order to earn enough money to buy food and water.

The provision of education and health infrastructure in Cateme has proceeded relatively smoothly. Vale financed a new primary school, residential secondary school, and health center. Due to delays in the resettlement schedule, residents of the Rio Tinto resettlement village Mwaladzi generally travel to Cateme for health care and for primary school. Limited transport, especially at night and on weekends, led to several women and girls in Mwaladzi delivering babies at home in 2011 and 2012 instead of in health care settings with skilled attendants. Their original villages had been close to the district hospital and transportation options in Moatize.



Other major complaints include the quality of housing. In the Vale resettlement sites of Cateme and 25 de Setembro, where new cement housing with zinc roofs was planned as an improvement over the wood huts many lived in before, poor construction led to cracks in the walls and heavy leaks when it rained. During the initial construction process, Vale also changed the agreed-upon design of the houses without adequate consultation and communication with the resettled communities and built them without foundations.

A detailed analysis of environmental impacts is beyond the scope of this report, however, coal mining is widely recognized as one of the most hazardous forms of natural resource extraction for human health and the environ-

Compensation packages for resettled households included a new house made with bricks, cement, a zinc roof, and separate structures for a kitchen, toilet, and storage for crops. Poor quality construction by the company contracted by Vale in Cateme led to cracks in the walls of many houses and leaks from both the roof and floor when it rained.

ment. In the case of open-pit coal mines, these include air pollution, water pollution, land degradation, social impacts, and carbon emissions that contribute to climate change. The environmental impact assessments prepared by Vale and Riversdale note that the proximity of their coal mines to the populated settlements of Moatize and Tete city, as well as to the Zambezi and Revubóé rivers heighten the risk of negative impacts, especially in case of mitigation failures.



During the initial building phase, Vale changed the agreed-upon design of the new houses to a model with no foundation to hasten construction. Upon complaints by the resettled households, Vale began to repair all the houses in Cateme and 25 de Setembro in 2012, including by adding a foundation.

\* \* \*

The Mozambican government has obligations under its national constitution and international human rights law to protect a range of rights, including to food, water, work, housing, and health. These obligations require the government to avoid any deliberate retrogressive measures that interfere with the enjoyment of these rights and to take measures to promote their progressive realization. For Mozambique, this means coordinating management of extractive industries with national poverty reduction strategies, strengthening protections for people resettled due to mining projects, and providing fair, timely remedies for those negatively impacted.

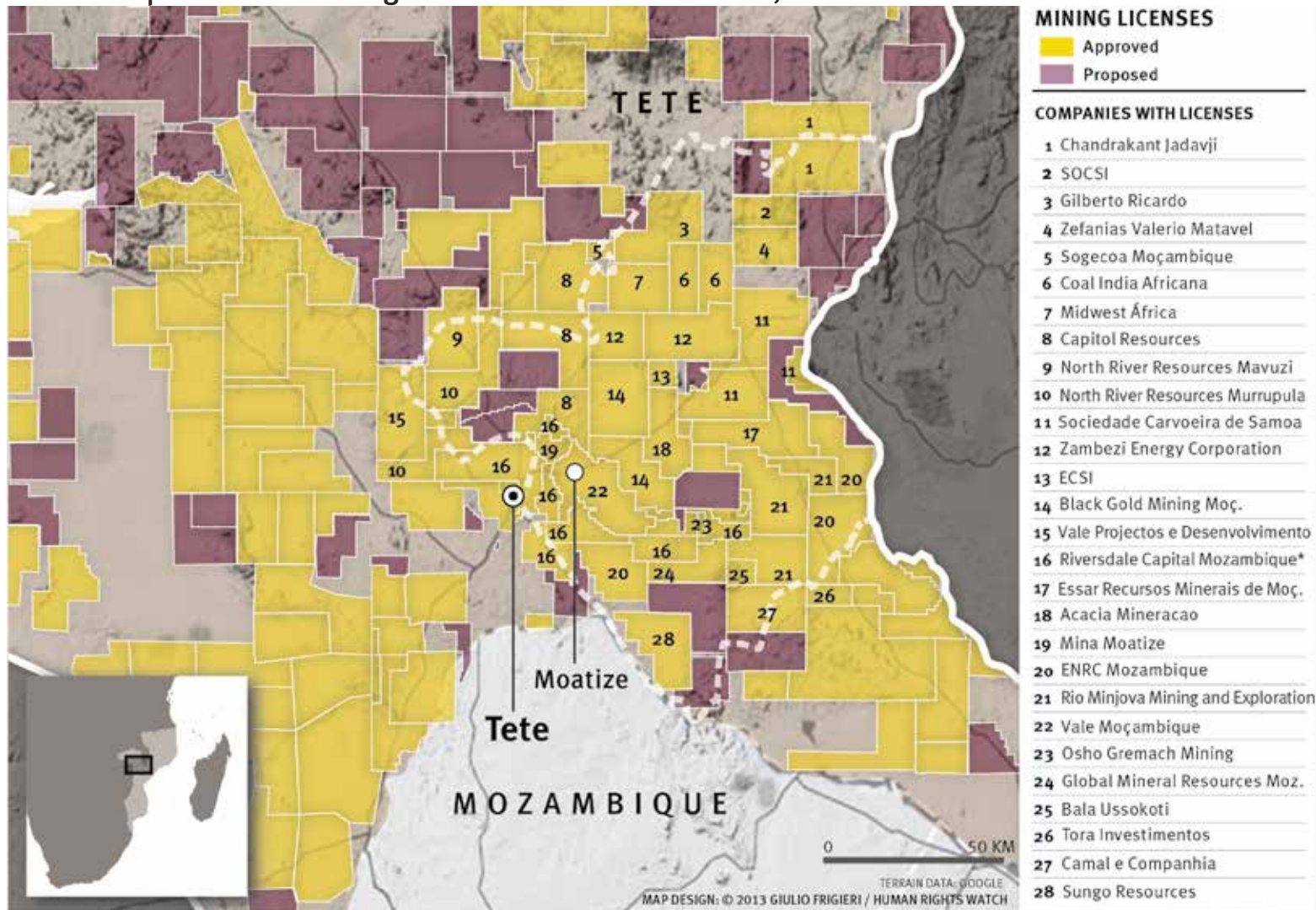
Private companies are required to respect these rights, including by conducting due diligence to prevent human rights abuses through their operations and mitigating them if they occur.

Both Vale and Rio Tinto have made private and public commitments to improve resettled communities' standard of living. By early 2013, both had implemented projects to improve water supply and storage for domestic use and were studying ways to enhance availability of water for livestock and agricultural use. In July 2012, Vale signed a Memorandum of Understanding with the governor of Tete province to complete repairs and add foundations to all constructed houses, increase training opportunities, and provide ten fruit trees for each household in Cateme and 25 de Setembro.

Despite these improvements, provision of the full promised compensation and infrastructure improvements, including replacement agricultural land, adequate water supply, healthcare infrastructure, and restoration of livelihoods, have been delayed by months and in some cases years. According to international standards, resettled individuals have the right to their compensation, including access to services, established by the time of resettlement.

At least 83 families in Cateme effectively have had no access to farmland because their plots were filled with rocks or had been reclaimed by the land's original users. As of April 2013, alternate compensation for this land was still being negoti-

## Companies with Mining Licenses in Moatize District, Tete Province



ated, but Vale said it had not yet provided these households with any additional compensation or assistance for their extra hardship in the three years since they were resettled.

As of April 2013, all resettled households in Cateme were still waiting for the provincial government to allocate a second hectare of farmland promised in their original compensation package in 2009. A second plot of land—if fertile—could greatly alleviate resettled communities' problems in restoring their livelihoods and access to food. The difficulty in finding suitable farmland is particularly pronounced in Moatize district, where approximately 80 percent of the land has been designated for mining concessions and exploration licenses. At this writing, Vale officials told Human Rights Watch that the government

This map is based on data from the Mozambican government's mining registry in October 2012 and does not reflect any new, expired, or canceled licenses since then. Moatize district's coal basin has been a major focus of investor interest.

had decided to change the terms of the compensation package and that Vale should provide resettled households in Cateme with money in lieu of the second hectare of promised farmland. This change raises a number of concerns, including the long-term sustainability of financial compensation if not invested in productive assets.

Short-term solutions have included handing out food packages to residents of Cateme and Mwaladzi, and organizing intermittent food-for-work programs through a government agency. Vale provided food packages as com-



Ernesto M. riding his motorbike at dusk from his home in Capanga, where he has lived for 35 years. Some of his neighbors were resettled a year earlier but he does not know when his family will move. Lack of information about changes to the resettlement schedule has led to uncertainty about investing in critical house repairs or working on his current farm. “They told us we would move this month, but until now, I have not received any information. I am worried, I haven’t repaired the roof, if the rain starts, my situation will be bad.”

pensation for disrupted harvests in 2009 and 2010, but despite the hardship that many households were facing in cultivating adequate food or earning money to purchase food, they did not provide additional food assistance until March 2012. Similarly, after giving households a three-month food package upon resettlement, Rio Tinto only began providing additional food assistance in September

2012. Lack of information about the timing and duration of food assistance have contributed to resettled households’ anxiety about food security and self-sufficiency.

Upon growing recognition of resettled households’ livelihood problems, Vale and Rio Tinto have initiated projects such as forming chicken cooperatives, encouraging people to farm new cash crops instead of their main staples, and exploring complex technological fixes to the endemic water problem, with proposals ranging from building a water-catchment dam to piping in water from the Zambezi river 60 kilometers away. Resettled households in Cateme and Mwaladzi may benefit from these initiatives, but they are also now dependent on “development” projects that could take years to come to fruition.

Local, provincial, and central government officials have acknowledged making some mistakes with the resettlements but say they have learned from the experience and will prevent similar problems in the future. Blaming Vale and Rio Tinto for many of the problems, the government says it should have played a stronger mediating role. It now requires a government representative to be present during meetings between communities and companies. While this practice can potentially play a protective role during negotiations and resolution of conflicts, it has also impeded more regular communication between companies and communities, and slowed the frequency of meetings and resulting action to resolve complaints.

District officials have also instructed resettled community leaders not to speak with civil society activists, journalists, and other agencies unless they secure prior approval and appropriate “credentials” from the district administrator. Withheld permission has prevented international agencies such as the United Nations Children’s Fund (UNICEF) from conducting research and programming in the resettled villages. Such actions undermine the right to freedom of expression.

The government has scrambled to institute a more comprehensive regulatory framework that should have been in place prior to the development of mega-projects and resettlements. On August 8, 2012, Mozambique’s Council of Ministers adopted a new decree regulating resettlements due to economic projects. The decree helps fill a critical gap and sets out basic requirements on housing and social service infrastructure. However, the government did not properly consult the public, civil society, the private sector, and international donors during its drafting, and the final version falls short of providing critical protections, relating, for example, to land quality, livelihoods, access to health care, and grievance mechanisms. The decree does not establish clear standards for access to water supply, timing of moves to avoid disruptions to farming cycles, and technical assistance for those who must adapt or change their livelihoods.

The government has increasingly pursued several other measures to manage extractive industries and their impact on the economy. This includes revising its mining law, for example, to require publication of new contracts

and revising its fiscal regime to include taxation policies more favorable to the government. The 2013 Budget Law requires 2.75 percent of revenues from gas and mining to be set aside for community development projects for directly impacted populations. Mozambique has also become a compliant member of the international Extractive Industries Transparency Initiative (EITI), a voluntary initiative that works to enhance revenue transparency by verifying and publicizing the revenues paid to member governments by extractives companies.

These are positive measures for which the government deserves credit, yet more remains to be done. For example, communities affected by large projects need to be aware of their legal rights and should be able to participate meaningfully in decision-making at all stages of resettlement. Integrated planning to coordinate the cumulative economic, social, and environmental impacts of the natural resource boom and national poverty-alleviation efforts remains weak. And there is little transparency on how revenues from the mining and gas sector are used.

Mozambique is at a crossroads. Increased revenues coupled with careful planning and checks and balances have the potential to make significant contributions to the progressive realization of internationally protected economic, social and cultural rights. But without transparency, good governance including channels for complaints and remedies, and plans for inclusive growth, large foreign investments into natural resources can all too easily translate into huge profits for a few and harmful impacts for local communities most directly affected.

The Vale and Rio Tinto projects in Tete province are just the first in many large projects and resettlements likely to take place over the next few decades in Mozambique, making the lessons learned from current projects vitally important. New resettlements, including those planned by Jindal Steel and Power Limited and Rio Tinto will provide an important test of the effectiveness of evolving safeguards. The recommendations below highlight key steps that the Mozambican government and mining companies should take to remedy the plight of already resettled communities, and to strengthen protections moving forward.

# RECOMMENDATIONS

## TO THE GOVERNMENT OF MOZAMBIQUE

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The governor of Tete province, in coordination with the relevant central, provincial, and local officials, should work with resettled communities, Vale, and Rio Tinto to ensure the provision of immediate relief and longer-term measures to remedy the violations of the rights of resettled individuals, and ensure the enjoyment of key economic, social and cultural rights. These include:

- Ensuring that each resettled household in Cateme and Mwaladzi, prior to the next farming season, has the promised two hectares of cleared farmland that meet the criteria of adequate fertility, access to water, capacity to grow their staple crops, and location within a reasonable distance:
  - Allocate the second hectare of farmland promised to residents of Cateme as part of their compensation package. If offering financial compensation instead, do so in a way that promotes productive capacity and economic self-sufficiency, such as supporting an assisted indemnification process in which Vale and the government help resettled individuals to identify and acquire a suitable plot of land or to invest in other productive assets;
  - Prioritize the completion of sustainable water and irrigation projects to improve the fertility of the farmland in the resettlement sites.
- Designating and adhering to a reasonable timeframe for implementing measures requiring government approval and action, including by revising and updating current Resettlement Action Plans and related Memoranda of Understanding.
  - Establishing a timeline and ensuring company compliance to complete all needed infrastructural improvements in Cateme, 25 de Setembro, and Mwaladzi, including with respect to housing, health, roads, transport, markets, electricity, and water for consumption, domestic use, and agricultural use.
- Implementing strategies for developing alternative income-generating activities in close consultation with resettled communities, including by:
  - Ensuring equality of opportunity for both women and men during recruitment and training for employment opportunities, including those generated by coal mining and affiliated businesses;
  - Identifying and providing additional assistance to particularly vulnerable individuals, including the elderly, people living with disabilities, and female-headed households; and
  - Including clauses in project contracts and resettlement action plans targeting local communities in business supply chains, such as food supply.
- Ensuring the distribution of regular food assistance and other forms of support so that resettled communities are able to meet their immediate needs until conditions for self-sufficiency are restored.
- Ensuring provision of compensation for the delays and shortcomings in establishing appropriate conditions in the resettlement sites that led to violations of resettled individuals' rights, including but not limited to:
  - Providing appropriate compensation to the 83 households in Cateme that have not had access to a suitable plot of farmland since their resettlement because the first hectare provided was too rocky or was reclaimed by the land's original users.

**Mozambique's government, including the Ministry of Mineral Resources, the Ministry of Coordination of Environmental Action, and the relevant local and provincial authorities, should review, and if necessary, halt, the process of awarding prospecting licenses and mining concessions to ensure that appropriate sites for resettlement are available when necessary, and to permit planning for cumulative social, economic, and environmental impacts.**

**The government of Mozambique should revise the August 2012 resettlement decree with broad consultation among relevant stakeholders, including the public, companies, donors, academics, and civil society. A revised decree should:**

- Include the principle that resettlement be avoided when possible, only after exploring possible alternatives, and to minimize its scope and impact when it takes place.
- Ensure regular, broad, and meaningful public consultation and participation at all stages of resettlement, including through:
  - Meaningful consultation in the design, implementation, and post-move phases of resettlement;
  - The full, prior, and informed consent of affected individuals regarding the relocation site;
  - Consideration of alternative plans proposed by affected persons and communities;
  - Provision of viable alternatives so that affected communities can make real choices in their best interest instead of having to accept one standard compensation package;
  - Participation restricted not only to public hearings, but coupled with other forms of dialogue, including individual and small group consultations;
  - Establishment of accessible channels for providing feedback outside the framework of planned consultations; and
  - Dedicated measures that facilitate the participation of groups that may face specific impacts or that are marginalized such as women, children, the elderly, people with disabilities, and minorities.
- Elaborate clear guidelines for reestablishing and improving the resettled population's standard of living, with as minimal disruption as possible, including livelihoods and access to services such as health care and education. These guidelines should ensure that:
  - Affected populations have the right to receive any promised financial compensation prior to resettlement;
  - Compensation—including the means of livelihoods and promised infrastructure such as housing, schools, health posts, and roads—should be established prior to relocation to minimize disruptions to the resettled population's standard of living;
  - Compensation packages contribute to the progressive realization of the availability, affordability, accessibility, and quality of health care, housing, and education;
  - Resettlements involving the allocation of agricultural land meet minimum requirements for the type and quality of replacement land, access to water supply, provision of technical assistance

for communities adapting or changing their livelihoods, and consideration of farming cycles in the timing of resettlement;

- Compensation packages address economic means and activities such as home vegetable gardens, transportation, and access to key markets;
  - The standards on housing should allow for the expression of cultural identity, practices, and diversity; and
  - Surveys of registered beneficiaries and their compensation should be updated prior to resettlement to accommodate recent marriages, separations, births, and deaths.
- **Provide accessible mechanisms for grievance redress.**
    - Establish accessible channels and mechanisms for various stakeholders to make complaints or resolve disputes related to the resettlement process, and to receive responses to their complaints;
    - Conduct public awareness campaigns among communities to be resettled to inform them of their legal rights throughout the process;
    - Ensure existing channels for seeking redress through Mozambique's justice system are available to parties affected by resettlement; and
    - Require companies to establish effective grievance mechanisms so that individuals affected by mining projects can complain directly to the companies in addition to the government.
  - **Conduct robust monitoring, including inspections, to ensure implementation of the decree and accountability.**

**Mozambique's government, including the Ministries of Finance, Mineral Resources, Coordination of Environmental Action, Planning and Development, and Agriculture, should strengthen measures for governance, transparency, and respect for human rights in its management of the boom in large-scale investments and associated economic development plans.**

- **The relevant government entities at the central, provincial, and local levels, should evaluate and monitor the cumulative economic, environmental, human rights, and developmental impacts of mining, gas, agricultural, and other large investments.**
  - The Ministry of Mineral Resources should coordinate with other appropriate government sectors, including at the provincial and local level, about the number, speed, and scale of coal concessions being awarded in Tete province to minimize impacts on local communities, including harmful environmental impacts, involuntary resettlements, reduced availability of appropriate land for resettled populations, and the effective functioning of general infrastructure and social services.
- **The government of Mozambique should improve its regulation and monitoring of large-scale investments and impose penalties in case of violations, including by:**
  - Adopting the proposed revisions to the 2002 mining law which require publication of contracts, time limits by which investors must begin mining operations upon acquisition of a license, and adherence to regulations on environmental and social impacts;
  - Developing, through a process of broad consultation, and adopting a policy for corporate social responsibility in the extractives industry that meets the international human rights standards laid out in the "Protect, Respect, and Remedy" framework;

- Increasing the Ministry of Coordination of Environmental Affairs’ recruitment and retention of trained staff to analyze environmental impact assessments (including resettlement action plans), monitor compliance reports, and form inspection teams to verify that companies adhere fully to their commitments; and
- Participating in partnerships and informational exchanges with other governments and institutions with relevant experience in ensuring human rights safeguards in managing natural resource booms, including institutions able to provide independent monitoring.
- **The government of Mozambique should protect the rights to information, freedom of expression, and community participation, and improve transparency, including by:**
  - Ending any measures that interfere with resettled communities’ right to free speech, assembly, and access to information, including by ending bureaucratic requirements for NGOs, journalists, UN agencies and others to obtain “credentials” before speaking to village leaders in Tete province;
  - Protecting freedom of speech, including critical opinions and public statements on economic development projects and their execution, and the right to peaceful protest;
  - Including representatives of civil society and affected communities on provincial resettlement commissions;
  - Providing public information on the role and tasks of the provincial resettlement commission;
  - Ensuring wide public access to regular, timely information that tracks the use of revenue flows from extractive industries; and
  - Requiring companies that prepare environmental impact assessments, environmental monitoring reports, and resettlement plans to make these documents easily available and accessible to the public, including by providing short summaries in non-technical language, translating the summaries and the full reports into local languages, posting them on the internet, and providing copies in public buildings such as local schools in directly affected communities.

## TO VALE AND RIO TINTO

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**Vale and Rio Tinto should work with resettled communities and appropriate representatives of the Mozambican government, including the governor of Tete province, to provide immediate relief and longer-term measures to remedy the negative impacts on the rights of resettled individuals. These include:**

- **Working to ensure that each household in Cateme and Mwaladzi has cleared farmland of suitable fertility and quality for growing their staple crops, including by:**
  - Working with the Mozambican government proactively and as a matter of high priority to replace all currently-allocated plots of poor agricultural value with suitable ones;
  - Working with the Mozambican government to allocate the second hectare of farmland promised to residents of Cateme as part of their compensation package;
  - Where financial compensation is to be provided, do so in a way that promotes productive capacity and economic self-sufficiency, such as an assisted indemnification process in which Vale and the district government can help resettled individuals to identify and acquire a suitable plot of land or to invest in other productive assets;

- Prioritizing the completion of sustainable water and irrigation projects to improve the fertility of the farmland in the resettlement sites; and
- Continuing technical assistance to improve agricultural yields.
- **Vale and Rio Tinto should work with resettled communities to develop a clear action plan to provide immediate relief and longer-term measures to remedy the negative impacts on the rights of resettled individuals.**
  - Provide timely and appropriate compensation for the delays and shortcomings in establishing appropriate conditions in the resettlement sites that led to violations of resettled individuals' rights.
  - Provide timely and appropriate compensation to the 83 households in Cateme that have had not had access to a suitable plot of farmland since their resettlement because the first hectare provided was too rocky or was reclaimed by land's original users.
  - Distribute regular food assistance and other forms of support so that resettled communities are able to meet their immediate needs until conditions for self-sufficiency are restored.
  - Survey resettled households on key indicators of standard of living to establish the extent to which they enjoy basic social and economic rights until these have been restored at minimum to the guidelines in the resettlement decree, their pre-resettlement levels, and goals outlined in the resettlement action plans, and make these findings publicly available.
  - Ensure equality of opportunity for both women and men during recruitment and training for employment opportunities, including those generated by coal mining and affiliated businesses.
  - Identify and provide additional assistance to individuals having the most difficulty reestablishing their former standard of living, including the elderly, people living with disabilities, and female-headed households.
  - Complete needed repairs on all houses in a timely manner. Keep resettled households informed about the timeline of repairs and train them on maintenance and upkeep.

## **TO ALL INVESTORS, INCLUDING VALE, RIO TINTO, AND JINDAL STEEL AND POWER LIMITED**

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- Ensure that future resettlements comply with international human rights standards in their design, implementation, and follow-up.
- Improve public access to information and transparency by:
  - Strengthening channels of communication with local and national civil society and with community members affected by resettlement; and
  - Making documents such as environmental assessments, periodic environmental monitoring reports, resettlement action plans, and updates on implementation more accessible, including by providing short summaries in non-technical language, translating the summaries and the full reports into local languages, posting them on the internet, and providing copies in public buildings such as local schools in directly affected communities.
- Establish effective grievance mechanisms so that individuals affected by mining projects can complain directly to companies in addition to the government.

- Support efforts to improve Mozambique's management of the individual and cumulative impacts of economic development projects and exploitation of natural resources.
- Support research on cumulative, long-term economic, social, environmental, and human rights impacts.

## **TO THE GOVERNMENTS OF BRAZIL, INDIA, AUSTRALIA, THE UNITED KINGDOM AND OTHER HOME GOVERNMENTS OF MINING FIRMS OPERATING IN MOZAMBIQUE**

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**Take steps to regulate and monitor the human rights conduct of domestic companies operating abroad, such as requiring companies to carry out and report publicly on human rights due diligence activity.**

## **TO THE G19 DONOR GROUP, INCLUDING THE WORLD BANK**

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**Support increased capacity of the government at the central, provincial, and district levels to manage the growth in extractive industries, by:**

- Expanding research and public dialogue on managing the natural resource boom to meet economic and social development goals.
  - Consider the creation of an annual conference to bring together Mozambican government officials, representatives of extractive industries, academics, members of affected communities, civil society activists, donors, and other stakeholders to learn from ongoing efforts and to incorporate lessons into future planning and monitoring.
  - Create spaces for permanent tripartite dialogue around resettlement processes at the provincial level, including businesses, civil society and members of resettled communities, and relevant provincial and district authorities.
- Building capacity of provincial directorates and local administration.
  - This includes training and support for implementation of land use laws, monitoring the environment, integrated planning, and management of resettlements.
- Funding scholarships, trainings, and international exchanges for civil society activists, journalists, academics, and government officials to build capacity to negotiate and monitor mega-projects.

**Engage in political dialogue with government on the impact of the extractives sector on development and human rights, including through developing relevant indicators for evaluation during the annual donor review.**

**Support increased transparency and accessibility of information about the extractives sector to directly affected communities, civil society, the broader public, and the media.**

- Establish an annual review of transparency in the extractives sector, including indicators such as publication of contracts, resettlement plans, environmental assessments, a breakdown of revenue flows, and memoranda of understanding as well as dissemination of laws and policies and information about rights.

- Create a publicly available and easily accessible document mapping the amounts of donor funding focused on the extractives sector, the types of projects, and their outcomes.

**Provide financial and technical support to civil society institutions to strengthen their coordination and monitoring of the government and the private sector in their fulfillment of their obligations to protect and respect human rights, including by:**

- Supporting them to work with communities to obtain a delimitation of their lands before resettlement to clarify their land rights.
- Supporting them to work with resettled communities at all stages of resettlement, including early stages to ensure awareness of their legal rights and during and after the move to improve access to complaints mechanisms.
- Supporting their capacity to conduct research and report on the adherence of the government and mining companies to human rights obligations.

**Enhance own resettlement policies to meet international human rights standards and ensure that all activities funded by members of the G19 Donor Group, including the World Bank comply with these standards.**

## **TO THE INTERNATIONAL MONETARY FUND**

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**Establish, in coordination with other donors, an annual review of transparency in the extractives sector, including indicators such as publication of contracts, resettlement plans, environmental assessments, a breakdown of revenue flows, and memoranda of understanding as well as dissemination of laws and policies and information about rights.**

## Methodology

This report is based on field research conducted in Mozambique in January, May, and October 2012. Human Rights Watch researchers conducted interviews in three communities (Cateme, 25 de Setembro, and Mwaladzi) in Moatize district, Tete province that had been resettled by the coal mining companies Vale, Riversdale, and Rio Tinto. We also visited two communities in Moatize district (Capanga) and Changara district (Cassoca) that were in the process of being resettled by Rio Tinto and Jindal Steel and Power Limited.

Human Rights Watch researchers conducted interviews with 79 community members (55 women and girls and 24 men and boys) affected by resettlement, including 41 interviews using a detailed survey. Twenty-six of the survey interviews took place in resettled communities and 15 in communities about to be resettled. Five of the general interviews included village-level leaders, and five interviews were with children between the ages of 14 and 17. We interviewed ten people twice, in both May and October, to gauge any change in their situation.

Human Rights Watch researchers discussed with all interviewees the purpose of the interview, its voluntary nature, the ways the information would be used, and that no compensation would be provided for participating. Interviews typically lasted between 20 minutes and one hour.

The survey questionnaire covered demographic information and detailed questions about land, water, livelihoods, housing, and hunger. The questionnaire was tested and translated into both Portuguese and the local language, Nyungwe. Human Rights Watch researchers divided up the villages geographically by their neighborhoods and interviewed households in each geographic area. If a respondent was not home or declined to participate, the researcher would move on to the next adjoining house on the same side of the street. While the sample used in the survey is not a statistically representative sample, it presents an indication of general living conditions for affected communities.

Human Rights Watch researchers held numerous meetings and telephone conversations with representatives from Vale, Rio Tinto, and Jindal Steel and Power Limited, including

country directors in Maputo, and mine managers and community development advisors in Tete province.

We also held meetings with the Mozambican government at the district, provincial, and central levels. These include Moatize's district administrator and Tete province's permanent secretary, provincial director of mining and energy, and provincial director of environmental action. At the central level, we met with the minister for mineral resources, the deputy minister of the national mining directorate, the deputy minister for coordination of environmental affairs, the permanent secretary for planning and development, and ministerial advisors in the Ministry of Women and Social Affairs.

We spoke with 31 representatives of human rights, women's rights, development, and environmental NGOs, including Associação de Apoio e Assistência Jurídicas Comunidades (AAAJC), Associação para a Sanidade Ambiental (ASA), Liga dos Direitos Humanos, and Centro de Integridad Pública (CIP). We also met with eight representatives of UN agencies, donors, and multilateral institutions, including the United Nations Children's Fund (UNICEF), the World Food Programme, the embassy of Norway, and the World Bank. Finally, we additionally held three roundtable discussions with members of the G19 Extractive Industries Taskforce, including representatives from Finland, France, Italy, Spain, the United Kingdom, the International Monetary Fund (IMF), and UN Women, and two roundtable discussions with members of Mozambican civil society in Maputo and Tete.

The vast majority of interviews with community members were conducted in the local language, Nyungwe, with direct translation into English. Some interviews, including with government officials, donors, and company representatives were conducted in English, and other interviews were conducted in Portuguese with English translation.

We have used pseudonyms with a first name and second initial throughout the report for many of the interviewed community members in the interest of their privacy. Other interviewees preferred to have their real names used.

This report also draws on synthesis and analysis of licensing data collected from Mozambique's mining cadaster in May and October 2012 and satellite imagery. Background research included analysis of Mozambique's legal framework, review of existing literature, and press monitoring.

# I. Mozambique and Foreign Investment

## Poverty and Growth

On October 4, 2012, Mozambique celebrated twenty years of peace after a long struggle for independence and a bloody civil war killed nearly one million people, displaced five million, and decimated the country's infrastructure.

Many international donors, development agents, and the media herald Mozambique as an "African success story," pointing to a lasting peace after decades of conflict and sustained economic growth.<sup>1</sup> While Mozambique has made some significant social and economic gains, including increases in school enrollment rates and a drop in maternal mortality, it remains one of the poorest countries in the world, ranking 185 out of 187 countries on the 2012 UN Human Development Index.<sup>2</sup>

Mozambique's gross domestic product registered annual growth rates between 6.3 and 8.7 percent from 2003 to 2012,<sup>3</sup> but this growth has not been accompanied by significant poverty reduction or a rapid improvement of key health and social indicators.<sup>4</sup> More than half the population remains below the poverty line, and malaria, HIV, and perinatal diseases account for the top three causes of death.<sup>5</sup> An estimated 11.3 percent of the population between ages 15 and 49 are living with HIV/AIDS. Forty-five percent of adults and children at

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<sup>1</sup> For example, Shanta Devarajan, "Achieving shared growth in post-stabilization Mozambique," "Africa Can...End Poverty" (blog), January 24, 2013, <http://blogs.worldbank.org/africacan/african-successes-one-pager#1> (accessed October 30, 2012).

<sup>2</sup> United Nations Development Programme (UNDP), "Human Development Indices," *Human Development Report 2013*, (New York: UNDP, 2013), [http://hdr.undp.org/en/media/HDR2013\\_EN\\_Summary.pdf](http://hdr.undp.org/en/media/HDR2013_EN_Summary.pdf) (accessed April 16, 2013), p. 16-18.

<sup>3</sup> African Economic Outlook, *Table 2 - Real GDP Growth Rates, 2003-13*, <http://www.africaneconomicoutlook.org/en/data-statistics/table-2-real-gdp-growth-rates-2003-2013/> (accessed October 29, 2012).

<sup>4</sup> "The poverty headcount fell from 69 percent in 1996/97 to 54 percent in 2002/03. While subject to some methodological caveats, the 2008/09 household survey data indicate that the poverty rate has remained high at about 54 percent, with rural poverty actually increasing to 57 percent. While the food and fuel crisis of 2008/09 played a role in this outcome, the limited progress in poverty reduction while the economy continued to grow at substantially high rates suggests that growth has become less inclusive than in previous years." World Bank, International Development Association Program Document for a Proposed Credit in the Amount of SDR 71.7 Million (US\$110 Million Equivalent) to the Republic of Mozambique for an Eighth Poverty Reduction Support Credit Operation, February 15, 2012.

<sup>5</sup> United Nations Development Program (UNDP), "Report on the Millennium Development Goals – Mozambique – 2010," February 2011, <http://www.undp.org/mz/en/Publications/National-Reports/Report-on-the-Millennium-Development-Goals-Mozambique-2010> (accessed October 30, 2012), p. 6 and Mozambique National Institute of Statistics, U.S. Census Bureau, MEASURE Evaluation, U.S. Centers for Disease Control and Prevention, *Mortality in Mozambique: Results from a 2007–2008 Post-Census Mortality Survey* (Chapel Hill: MEASURE Evaluation, 2012), <https://www.cpc.unc.edu/measure/publications/tr-11-83/> (accessed October 30, 2012).

an advanced stage of HIV infection were on antiretroviral therapy as of 2011.<sup>6</sup> Nationally, 42.6 percent of children under five suffer from chronic malnutrition, and this figure rises to 44.2 percent in Tete province, the home of Mozambique's vast coal reserves.<sup>7</sup>

Mozambique depends heavily on international donor funds, coordinated through the Programme Aid Partnership (PAP), a consortium of donors commonly referred to as the "G19."<sup>8</sup> This is one of the largest coordinated donor initiatives in sub-Saharan Africa, both in terms of the volume of funds and the number of donors.<sup>9</sup> In 2013, the PAP committed to provide Mozambique with US\$606 million, of which \$344 million will be direct budget support.<sup>10</sup> The proportion of donor funds in the national budget is starting to decline due to Mozambique's increasing revenues from its emerging extractive sectors, donor frustration with insufficient government action on corruption and effectiveness, and donors' economic pressures domestically.<sup>11</sup>

## Coal Mining Investments in Tete Province

Mozambique is rich in natural resources, including coal, natural gas, agricultural land, bauxite, and phosphates. The government, with support and technical assistance from international financial institutions, including the World Bank and the International Monetary Fund, has wooed foreign investment since the 1990s.<sup>12</sup>

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<sup>6</sup>UNAIDS, "Mozambique," <http://www.unaids.org/en/regionscountries/countries/mozambique/> (accessed December 17, 2012) and Republic of Mozambique National AIDS Council (CNCS), *2012 Global AIDS Response Progress Report* (Maputo: CNCS, 2012), [http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce\\_MZ\\_Narrative\\_Report\[1\].pdf](http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_MZ_Narrative_Report[1].pdf) (accessed December 17, 2012), p. 51.

<sup>7</sup> Instituto Nacional de Estatística, Ministério da Saúde, Maputo, Moçambique, MEASURE DHS/ICF International, *Moçambique, Inquérito Demográfico e de Saúde 2011, Relatório Preliminar* (Maputo: Instituto Nacional de Estatística, Março 2012), p. 20.

<sup>8</sup> The G19 includes the African Development Bank (ADB), Austria, Belgium, Canada, Denmark, European Commission, Finland, France, Germany, Holland, Ireland, Italy, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom, and the World Bank. The United States and United Nations are associate members.

<sup>9</sup> Aid Effectiveness Portal, "Country Profile: Mozambique," <http://www.aideffectiveness.org/Country-Mozambique.html> (accessed October 30, 2012). See also <http://www.pap.org.mz/>. The PAP provides financing for poverty reduction and links its support to indicators on performance and governance.

<sup>10</sup> "Mozambique: Most of 2012 Budget Support Already Disbursed," *AllAfrica.com*, September 21, 2012, <http://allafrica.com/stories/201209220221.html> (accessed October 30, 2012).

<sup>11</sup> African Economic Outlook, *Mozambique*, <http://www.africaneconomicoutlook.org/en/countries/southern-africa/mozambique/> (accessed October 30, 2012) and Human Rights Watch interviews with donors, Maputo, May 2012.

<sup>12</sup> United Nations Conference on Trade and Development (UNCTAD), *Investment Policy Review: Mozambique* (New York and Geneva: United Nations, 2012), [http://unctad.org/en/PublicationsLibrary/diaepcb2012d1\\_en.pdf](http://unctad.org/en/PublicationsLibrary/diaepcb2012d1_en.pdf) (accessed February 7, 2013), pp. 15-23, 36-42; World Bank, "IDA at Work: Mozambique: Mining an Opportunity," <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:22294362~menuPK:141310~pagePK:34370~piPK:34424~theSitePK:4607,00.html> (accessed April 5, 2012); and reports related to the International Monetary Fund's assistance to

Discoveries of high-grade coking coal—used in steel production—coupled with rising demand from China, India,<sup>13</sup> and Japan<sup>14</sup> have contributed to a surge in investor interest despite concerns about Mozambique’s weak infrastructure, including limited rail capacity to transport coal from mines to ports. Mozambique’s Tete province has among the largest untapped coal reserves in the world, estimated at more than 23 billion tons of coal.<sup>15</sup>

In the last ten years, foreign companies have invested billions of dollars in coal exploration, infrastructure development, and coal mining activities. Foreign investors in Tete province’s mining sector rank among the largest mining companies worldwide: Vale, a Brazilian multinational company and Rio Tinto, an Anglo-Australian multinational company have secured concessions to vast coal reserves and have already begun their mining operations. Jindal Steel and Power Limited, an Indian company, and Beacon Hill Resources, a British company, have also started coal mining on a smaller scale.

Other licenses are held by Minas de Revubóé (jointly owned by Anglo-American Talbot Group, Nippon Steel, and POSCO) and the Mozambican state company MozambiCoal, along with local partners, though it is still in an early exploration and prospecting phase. MozambiCoal has title to explore the richest coal regions near Mutarara in Tete province, with combined estimated reserves of over 6 billion metric tons<sup>16</sup> (see Appendix A for a list of coal mining concessions in Tete province, their size, and expected coal output).

Several civil society groups and academic experts in Mozambique have criticized the pace of growth in Tete province’s coal industry and questioned the social and economic benefits for the country.<sup>17</sup> Their critiques include the lack of transparency around the terms of the first mining contracts, limited information about how revenues will be tracked and used, and a

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Mozambique available at: International Monetary Fund, *Republic of Mozambique and the IMF*, updated January 4, 2013, <http://www.imf.org/external/country/moz/index.htm> accessed February 7, 2013).

<sup>13</sup> Peter Galuszka, “With China and India Ravenous for Energy, Coal’s Future Seems Assured,” *New York Times*, November 12, 2012, [http://www.nytimes.com/2012/11/13/business/energy-environment/china-leads-the-way-as-demand-for-coal-surges-worldwide.html?\\_r=0](http://www.nytimes.com/2012/11/13/business/energy-environment/china-leads-the-way-as-demand-for-coal-surges-worldwide.html?_r=0) (accessed November 18, 2012).

<sup>14</sup> “Japan eyes Mozambique for cheaper coal, gas,” *Agence-France Presse*, October 29, 2012, <http://www.google.com/hostednews/afp/article/ALeqM5hHjw8cvYvywcuMred8HBHfvgQdQg?docId=CNG.18e8e6adac2712ad9d516458f6b31dc2.361> (accessed March 29, 2013).

<sup>15</sup> “Moçambique Regista Produção Histórica De Carvão Em 2012,” *Agência de Informação de Moçambique*, February 27, 2013, <http://noticias.sapo.mz/aim/artigo/703227022013154346.html> (accessed March 19, 2013).

<sup>16</sup> MozambiCoal Limited, “2012 Mozambique Coal Conference,” company presentation, July 2012, <http://www.mozambicoal.com/docs/asx/2012/MOZpres20120703.pdf> (accessed December 19, 2012).

<sup>17</sup> João Mosca and Tomás Selemane, *El Dorado Tete: os mega projectos de mineração* (Maputo: Center for Public Integrity, 2011).

lack of government monitoring mechanisms to ensure that companies comply with the environmental and social commitments they made.<sup>18</sup> They also express concern about the Mozambican government's capacity to manage the scale and speed of these investments.

## Environmental Impacts

A detailed analysis of environmental impacts is beyond the scope of this report. However, coal mining is widely recognized as one of the most hazardous forms of natural resource extraction for human health and the environment. The government has the responsibility to regulate and monitor such impacts, including with respect to the cumulative impact of individually approved mining projects.

Coal mining releases harmful carbon emissions into the atmosphere, including methane (CH<sub>4</sub>) and carbon dioxide, greenhouse gases recognized as leading causes of climate change and estimated to account for 71 percent of the global warming impact triggered by human activities.<sup>19</sup> Open-pit mining involves clearing of trees, plants, and topsoil, and can destroy natural wildlife habitats and local biodiversity.<sup>20</sup>

Coal mining also leads to water and air pollution. Dust and coal particles resulting from mining—as well as soot released during coal transport—contributes to air pollution that may cause severe and potentially deadly respiratory problems to both mine workers and community members living in close proximity to mining sites.<sup>21</sup> Coal exposed to air and water leads to acid mine drainage—acidic run-off containing toxic material such as copper,

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<sup>18</sup> Dionisio Nombora, *Extractive Industries Transparency Initiative: Mozambique moves towards Compliant Status* (Maputo: Centro de Integridade Publica, 2012), [http://publishwhatyoupay.org/sites/publishwhatyoupay.org/files/Mozambique%20moves%20towards%20Compliant%20Status%20DN%20\(2\).pdf](http://publishwhatyoupay.org/sites/publishwhatyoupay.org/files/Mozambique%20moves%20towards%20Compliant%20Status%20DN%20(2).pdf) (accessed November 21, 2012) and Rogério Ossemane, “MEITI – Analysis of the Legal Obstacles, Transparency of the Fiscal Regime and Full Accession to EITI,” Instituto de Estudos Sociais e Económicos, Boletim No. 43E, April 19, 2012, [http://www.iese.ac.mz/lib/publication/outras/ideias/ideias\\_43E.pdf](http://www.iese.ac.mz/lib/publication/outras/ideias/ideias_43E.pdf) (accessed February 19, 2013); and UNCTAD, *Investment Policy Review: Mozambique*, p. 19.

<sup>19</sup> Intergovernmental Panel on Climate Change, “Fourth Assessment Report: Climate Change 2007,” <http://www.epa.gov/climatechange/ghgemissions/global.html> (accessed February 6, 2013).

<sup>20</sup> Paul R. Epstein, “Full Cost Accounting for the Life Cycle of Coal,” *Annals of the New York Academy of Sciences: Ecological Economics Review*, v.1219, February 2011, [http://solar.gwu.edu/index\\_files/Resources\\_files/epstein\\_full%20cost%20of%20coal.pdf](http://solar.gwu.edu/index_files/Resources_files/epstein_full%20cost%20of%20coal.pdf) (accessed February 6, 2013), pp.78-79.

<sup>21</sup> Sierra Club, “The Dirty Truth about Coal: Why Yesterday’s Technology Should Not Be Part of Tomorrow’s Energy Future,” June 2007, <http://www.sierraclub.org/coal/downloads/coalreport.pdf> (accessed January 31, 2013).

lead, mercury, and other heavy metals.<sup>22</sup> This contaminated water can leach into nearby rivers, streams, and groundwater, further jeopardizing the health and livelihoods of local communities.<sup>23</sup>

The Environmental Impacts Assessments (EIAs) submitted by Vale and Riversdale (later acquired by Rio Tinto) describe the anticipated environmental impacts of their mining projects as well as plans to mitigate them.<sup>24</sup> Human Rights Watch did not investigate the impacts of Vale and Rio Tinto's operations, however, several aspects are worthy of further scrutiny. These documents note that the proximity of both the Moatize and Benga mines to the populated settlements of Moatize and Tete city, as well as to the Zambezi and Revuboé rivers raise the risk of negative health and economic impacts, especially in the case of mitigation failures.

For example, Vale officials and the Riversdale EIA both mentioned that communities on the outskirts of Tete city are directly in the path of air pollution carried by prevailing winds.<sup>25</sup> In one phase of the Benga mine operations, "hourly average NO<sub>2</sub> concentrations exceed WHO guidelines of 200 ug/m<sup>3</sup>, but is within the Mozambican legal limit of 400 ug/m<sup>3</sup>."<sup>26</sup> The EIAs for both the Moatize and Benga mines discuss numerous sources of potential water contamination as well as land degradation.<sup>27</sup>

Although environmental assessments are supposed to be publicly available, in practice they are not easily accessible. When Human Rights Watch conducted its research in 2012, most of

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<sup>22</sup> National Water-Quality Assessment Program, "Effects of Coal-Mine Drainage on Stream Water Quality in the Allegheny and Monongahela River Basins—Sulfate Transport and Trends," [http://pa.water.usgs.gov/reports/wrir\\_99-4208.pdf](http://pa.water.usgs.gov/reports/wrir_99-4208.pdf) (accessed February 6, 2013), p. 2.

<sup>23</sup> Center for Health and the Global Environment: Harvard Medical School, "Coal Mining, Mounting Costs: The Life Cycle Consequences of Coal," <http://chge.med.harvard.edu/sites/default/files/resources/MiningCoalMountingCosts.pdf> (accessed February 6, 2013). For example, there is no known safe level of exposure to mercury, a toxic substance that attacks the central nervous system, causes a range of neurological conditions, and is especially harmful to children. Stephan Bose-O'Reilly et al., "Mercury Exposure and Children's Health," *Current Problems in Pediatric and Adolescent Health Care*, vol. 40, (2010), pp. 186-215. See also Human Rights Watch, *Mali – A Poisonous Mix: Child Labor, Mercury, and Artisanal Gold Mining in Mali*, December 6, 2011, <http://www.hrw.org/reports/2011/12/06/poisonous-mix>, p. 6.

<sup>24</sup> Riversdale Moçambique Limitada, *Environmental Impact Assessment (EIA), Benga Mineral Title Area, Benga Coal Project, Final Environmental Impact Statement Report*, July 2009, Rio Doce Moçambique [Vale], *Estudo de Impacto Ambiental – EIA Complexo Industrial de Moatize*, November 2006, and Vale Moçambique Limitada, *Estudo de Impacto Ambiental do Complexo Industrial de Moatize e sua Expansão*, December 2010. While conducting the EIA for its planned expansion of the Moatize project, Vale updated its 2006 EIA and integrated this into the 2010 EIA.

<sup>25</sup> Riversdale, *EIA, Benga Coal Project*, 2009, p. 335 and Human Rights Watch tour of Vale Moatize Mine, May 16, 2012.

<sup>26</sup> Riversdale, *EIA, Benga Coal Project*, 2009, p. 164.

<sup>27</sup> Riversdale, *EIA, Benga Coal Project*, 2009, pp. 199-220, 337-342 and Vale, *Volume III: Avaliação de Impactos e Plano de Gestão, EIA do Complexo Industrial de Moatize e sua Expansão*, 2010.

the civil society activists and donors to whom we spoke said they had not been able to obtain copies of the EIAs or Resettlement Action Plans. Furthermore, EIAs, as well as subsequent six-month environmental monitoring reports are lengthy, technical documents that are not easily digestible for the public, including affected communities, the media, and civil society. Aside from initial community consultations while preparing the EIAs, Human Rights Watch did not learn of any information dissemination strategies by either the government or by mining companies regarding ongoing and future environmental impacts.

The Mozambican government is still in the process of building its capacity to oversee the environmental implications of the rapidly growing extractives sector. This has included introducing new regulations on environmental emissions and penalties.<sup>28</sup> Ana Chichava, deputy minister of the Ministry of Coordination of Environmental Affairs, said, “The limitation is resources. We have to build the capacity of our staff.... We are investing in training people, but we are also losing some. We are trying to bind them with scholarships, but there is a lot of competition with the private sector because of salaries.”<sup>29</sup>

## Transparency Concerns

The government should renegotiate and publish the contracts so as to alter the bleak picture characterised by the low contribution made by the mega-projects to state revenue, and the secrecy surrounding the contracts.

—Center for Public Integrity, Extractive Industries Transparency Initiative:  
Mozambique moves towards Compliant Status, 2012

Mozambique’s central bank reported that coal had risen to become Mozambique’s second largest export in 2012, after aluminum, with US\$196 million in exports in the first half of 2012.<sup>30</sup> The question of whether Mozambique is receiving a fair share of revenue from large

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<sup>28</sup> For example, a Council of Ministers decree in 2010 amended a 2004 regulation on environmental quality and emissions, introducing new standards and penalties. Decreto do Conselho de Ministros No. 67/2010 de 31 de Dezembro, Publicado no Boletim da República No 52, 1.ª Série, 12<sup>nd</sup> Suplemento. Maputo: Imprensa Nacional de Moçambique.

<sup>29</sup> Human Rights Watch interview with Ana Chichava, deputy minister, Ministry of Coordination of Environmental Affairs, Maputo, May 24, 2012.

<sup>30</sup> Banco de Moçambique, *Conjuntura Económica e Perspectivas de Inflação*, July 2012, [http://www.bancomoc.mz/Files/DEE/CEPI\\_JULHO\\_2012.pdf](http://www.bancomoc.mz/Files/DEE/CEPI_JULHO_2012.pdf) (accessed December 18, 2012), and “Recursos minerais poderão substituir ajuda externa ao país em 20 anos,” *Jornal O País*, November 16, 2012,

economic investments as well as the risk of conflicts of interest and corruption, have been the subject of intense debate. A donor told the *Financial Times*, “It’s a race against time – is the big money that corrupts going to come before stronger checks and balances?”<sup>31</sup> The Mozambican public has been limited in its ability to participate meaningfully in these discussions because of the lack of transparency and limited opportunities for dialogue.<sup>32</sup>

Mozambique’s Council of Ministers adopted revisions to the 2002 mining law in December 2012 to address some of these issues and these have been submitted to parliament.<sup>33</sup> As of April 1, 2013, these had not yet been passed into law. The existing mining law has few detailed requirements that companies must meet in order to obtain, and retain, a mining license. The proposed revision would require mining companies to publish their contracts.<sup>34</sup> The revision would also set the standard rate of taxes and royalties to be paid instead of leaving it subject to negotiation by each individual project proponent. To avoid speculation and land remaining unused, the proposed revision also requires investors to begin mining activities within 12 months of being awarded a concession, and to begin mining production within 48 months.<sup>35</sup>

In an effort to attract investment, the government gave early investors, including Mozal, an aluminum producer, and Sasol, focused on natural gas, favorable fiscal incentives.<sup>36</sup> The terms of these contracts have not been made public. Many civil society groups have condemned the lack of transparency around these investments and have questioned whether the government signed away important revenue-generating opportunities. Several civil society groups have called for the publication and renegotiation of these contracts.<sup>37</sup>

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<http://www.opais.co.mz/index.php/economia/38-economia/23626-recursos-minerais-poderao-substituir-ajuda-externa-ao-pais-em-20-anos.html> (accessed January 30, 2013).

<sup>31</sup> Andrew England, “Mozambique poised for coal boom,” *The Financial Times*, March 12, 2012.

<sup>32</sup> Letter from Civil Society to the Minister of Mineral Resources, “Assunto: Auscultação Pública sobre Revisão da Política e Estratégia de Recursos Minerais,” March 15, 2013, <http://www.iese.ac.mz/lib/noticias/2013/Carta%20MIREM.pdf> (accessed March 29, 2013).

<sup>33</sup> “Mozambique: Government Revises Mining Law,” *All Africa*, December 19, 2012, <http://allafrica.com/stories/201212200130.html> (accessed January 16, 2013).

<sup>34</sup> Ministério dos Recursos Minerais, *Anteprojecto da Lei de Minas Versão de 31 de Agosto de 2012* [Draft Revision of Mining Law, August 31, 2012], [http://www.mirem.gov.mz/legislacao/anteprojecto\\_lei\\_minas\\_31%2008%202012.pdf](http://www.mirem.gov.mz/legislacao/anteprojecto_lei_minas_31%2008%202012.pdf) (accessed March 29, 2013).

<sup>35</sup> Ibid.

<sup>36</sup> Keith Campbell, “Moz exercising its concession contract rights, early fiscal incentives expire,” *Mining Weekly*, August 17, 2012, <http://www.miningweekly.com/article/mozambique-exercising-its-concession-contract-rights-and-early-fiscal-incentives-expire-2012-08-17> (accessed August 17, 2012).

<sup>37</sup> Plataforma da Sociedade Civil sobre Recursos Naturais e Indústria Extractiva, Letter to Coordinator of the EITI, July 11, 2011 and Tomas Selemane and Dionisio Nombora, *EITI Implementation, natural resources management, and urgency of renegotiating and publishing the contracts with mega-projects: The case of Mozambique* (Maputo: Center for Public Integrity, 2011).

Recently, the government has been engaged in a process of strengthening the fiscal regime. For example, effective January 2013, foreign companies selling local assets will have to pay the government a 32 percent capital gains tax. Civil society organizations had critiqued gaps in the government's fiscal regime, including a missed opportunity in 2011 when Rio Tinto acquired Riversdale for \$4 billion but did not have to pay any taxes.<sup>38</sup>

In another bid to heighten transparency, Mozambique became a candidate in the Extractive Industries Transparency Initiative (EITI) in 2009. The EITI is a voluntary international initiative that brings together governments, extractives firms, and civil society groups to increase transparency around the revenues participating governments earn from extractives industries. Under EITI, member companies and governments each publish their figures on the revenues paid to governments by extractives firms, in order to help ensure that those figures are both transparent and accurate.<sup>39</sup>

The EITI board designated Mozambique's first report, covering company payments and government revenues in 2008 and submitted in February 2011, as making "meaningful progress" but falling short of compliance with EITI standards.<sup>40</sup> The EITI board highlighted concerns related to the inclusion of all relevant entities in the reporting process and the full disclosure of all material oil, gas, and mining payments made by companies and revenues received by the government. The board also requested that government disclosures be based on audited accounts that meet international standards.<sup>41</sup> Mozambique incorporated these recommendations and submitted a second report in March 2012 that covered company payments and government revenues in 2009. The EITI board designated Mozambique as an EITI compliant country on October 26, 2012.<sup>42</sup> Mozambique must produce an EITI report annually and undergo another validation process in 2017 to retain this status.

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<sup>38</sup> Agnieszka Flak and Pascal Fletcher, "Mozambique to tax capital gains at fixed rate of 32 pct," *Reuters*, December 17, 2012, <http://www.reuters.com/article/2012/12/17/mozambique-capitalgains-idUSL5E8NH86520121217> (accessed December 17, 2012).

<sup>39</sup> *Extractive Industries Transparency Initiative (EITI)*, <http://eiti.org> (accessed January 15, 2013).

<sup>40</sup> EITI, "Secretariat review: Mozambique," Board Paper 21-4-D, October 26, 2012, [http://eiti.org/files/mozambique/Board-Paper\\_21-4-D\\_Secretariat\\_Review\\_Mozambique.pdf](http://eiti.org/files/mozambique/Board-Paper_21-4-D_Secretariat_Review_Mozambique.pdf) (accessed October 31, 2012), p. 4 and Dionisio Nombora, *Extractive Industries Transparency Initiative: Mozambique moves towards Compliant Status* (Maputo: Centro de Integridade Publica, 2012), [http://publishwhatyoupay.org/sites/publishwhatyoupay.org/files/Mozambique%20moves%20towards%20Compliant%20Status%20DN%20\(2\).pdf](http://publishwhatyoupay.org/sites/publishwhatyoupay.org/files/Mozambique%20moves%20towards%20Compliant%20Status%20DN%20(2).pdf) (accessed November 21, 2012).

<sup>41</sup> Ibid.

<sup>42</sup> EITI, "Mozambique declared 'EITI Compliant,'" October 26, 2012, <http://eiti.org/news-events/mozambique-declared-eiti-compliant#> (accessed January 30, 2013).

## Debates on the Natural Resource Boom and Poverty Reduction

Mining projects can have both positive and negative impacts on local communities. Benefits may include job creation and improved infrastructure, but downsides can involve migration that drives up prices for goods and services, or growth in inequalities and social conflict.<sup>43</sup> Because open-pit coal mines rely on skilled labor and heavy machinery, they do not necessarily generate significant direct employment opportunities for local or directly impacted communities.

The greatest potential revenue may come from several discoveries of natural gas along Mozambique's coastline, with estimates of up to 130 trillion cubic feet of offshore gas.<sup>44</sup> With regard to natural gas, the minister of mineral resources, Esperança Bias, says the country hopes to attract US\$50 billion of investment in the next ten years and to earn \$5.2 billion in government revenues a year by 2026.<sup>45</sup>

Manufacturing and extraction of natural resources are sectors of increasing importance in Mozambique's economy, but agriculture and fishing remain central to many Mozambicans' livelihoods and to poverty reduction, with 80 percent of the population counting these activities among their sources of income.<sup>46</sup> The government has prioritized strengthening of agriculture and fisheries as a principal strategy for targeting poverty in its 2011-2014 Poverty Reduction Plan. However this plan does not address integrated planning with the rapidly growing extractives sector or the issue of widening inequalities between the rich and the poor and between urban and rural populations.<sup>47</sup> In an academic study of development in the Zambezi basin commissioned by Vale, the authors note that,

the potentially transformative extractive industry is still a recent phenomenon. Without targeted investments in rural development, the urban-rural income divide will worsen and likely give rise to political and

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<sup>43</sup> International Institute for Environment and Development (IIED), "Local Communities and Mines," *Breaking New Ground: Mining, Minerals and Sustainable Development* (London: Earthscan Publications, Ltd., 2002), <http://pubs.iied.org/pdfs/Go0901.pdf> (accessed March 28, 2013), p.200-208.

<sup>44</sup> "All fired up: Coking coal and gas should hugely boost Mozambique's economy," *The Economist*, September 29, 2012 and "Mozambique projects \$5.2 bn yearly earnings from gas," *Agence-France Presse*, September 6, 2012.

<sup>45</sup> Ibid.

<sup>46</sup> Republic of Mozambique, *Poverty Reduction Action Plan (PARP) 2011-2014*, 2011, p. 9.

<sup>47</sup> Ibid.

social unrest. Mining regions generally suffer from economic disruptions such as a surge in demand-driven prices and, especially, food prices.<sup>48</sup>

Similarly, a 2012 International Monetary Fund (IMF) report that examined natural resources exporters in sub-Saharan Africa, including Mozambique, noted that much of the income from capital-intensive extractive industries flowed to foreigners, highlighting the importance of licensing and taxation policies for countries to benefit from increased revenues. Even then, while “natural resource exporters have experienced faster economic growth than other sub-Saharan African economies during 2000–12 ... the improvement in social indicators is not noticeably faster.”<sup>49</sup>

Mozambique has begun to engage with these issues. In 2007, Mozambique amended its tax laws to include provisions specific to the mining and petroleum industries.<sup>50</sup> Article 19 of Law 11/2007 requires the government to invest a specific percentage of mining revenues—to be determined in the annual state budget—into community development projects for areas directly impacted by mining projects.<sup>51</sup> The 2013 budget fixed the percentage at 2.75 percent.<sup>52</sup> The government is also currently debating the establishment of a sovereign wealth fund, modeled after other resource-rich countries such as Norway, Brazil, and Angola, that would harness the revenues from mining and gas for broader national development.<sup>53</sup>

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<sup>48</sup> Vale Columbia Center on Sustainable Development, *Resource-Based Sustainable Development in the Lower Zambezi Basin* (New York: Columbia University, 2011), pp. 9-10.

<sup>49</sup> International Monetary Fund (IMF), *Regional Economic Outlook: Sub-Saharan Africa, Sustaining Growth amid Global Uncertainty* (Washington DC: IMF, 2012), <http://www.imf.org/external/pubs/ft/reo/2012/afr/eng/sre00412.htm> (accessed November 1, 2012), pp. 59 and 63.

<sup>50</sup> Lei N 11/2007 de 27 de Junho, Actualiza a legislação tributária, especialmente a relativa à actividade mineira [updates the tax law, especially in relation to mining] and Lei N 12/2007 de 27 de Junho, Actualiza a legislação tributária, especialmente a relativa à actividade petrolífera [updates the tax law, especially in relation to oil activity], da Assembleia da República. Publicado no Boletim da República No 26, 1.ª Série, Suplemento. Maputo: Imprensa Nacional de Moçambique.

<sup>51</sup> Lei N 11/2007, art. 19.

<sup>52</sup> Orçamento do Estado para 2013, art. 7.

<sup>53</sup> “PM diz: fundo soberano só se ajudar a resolver problemas de Moçambique,” *Notícias*, December 22, 2012, [http://www.portaldogoverno.gov.mz/noticias/news\\_folder\\_econom\\_neg/dezembro-2012/pm-diz-201c-fundo-soberano-so-se-ajudar-a-resolver-problemas-de-mocambique201d/](http://www.portaldogoverno.gov.mz/noticias/news_folder_econom_neg/dezembro-2012/pm-diz-201c-fundo-soberano-so-se-ajudar-a-resolver-problemas-de-mocambique201d/) (accessed January 30, 2013).

## II. Coal Mining and Resettlement of Local Communities

This section provides information about the size and estimated timeline of major coal mining operations in Tete province and the associated plans for resettling local communities.

In order to secure the right to develop and operate a coal mine, companies must first obtain an exploration mining license to assess the reserves of coal in a designated area, study the feasibility of mining operations, and then obtain a "mining concession." The mining company should conduct an environmental impact assessment (EIA), including an evaluation of social impacts. An approved EIA is necessary for an environmental license, which along with a DUAT (a permit for the right to land use) are required for the mining company to retain its mining concession.<sup>54</sup> If the company plans to resettle existing local communities to develop coal mining operations, they must draw up a Resettlement Action Plan (RAP), including a detailed profile of the communities, farms, and infrastructure to be displaced and the design of the compensation package.

### Vale

Vale Mozambique Ltd. (Vale) is a subsidiary of the Brazilian company Vale, which is the second largest mining company worldwide and listed on the New York Stock Exchange. Vale obtained permission from the Mozambican government to explore for coal in 2004 and a 35-year mining concession for 25,000 hectares in Moatize district of Tete province in 2007. The Mozambican government approved Vale's EIA in 2007 and a revised EIA incorporating a planned expansion in 2011. Vale began construction on its "Moatize" mine in 2008, resettling households in 2009, and mining coal in May 2011.<sup>55</sup>

The scale of the project is massive in the context of Mozambique's economy, which has a gross domestic product (GDP) of US\$12.8 billion.<sup>56</sup> Vale spent between US\$1.9 to 2 billion

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<sup>54</sup> Lei de Minas [Mining Law] No 14/2002 de 26 de Junho, da Assembleia da República. Publicado no Boletim da República No 26, 1.<sup>a</sup> Série, Suplemento. Maputo: Imprensa Nacional de Moçambique, art. 15.

<sup>55</sup> Human Rights Watch interview with Ricardo Saad, project director - Africa, Asia, and Australia, Vale Moçambique, Lda; Cássia Carvalho Pacheco, corporate affairs manager, Vale, S.A.; Liesel Mack Filgueiras, general manager, corporate social responsibility, Vale, S.A.; Sergio Chitara, corporate affairs - Moçambique and Malawi, Vale, S.A.; and Camilla Lott, general manager, project office, Vale Moçambique, Lda, Maputo, May 4, 2012.

<sup>56</sup> World Bank, "Mozambique," data, <http://data.worldbank.org/country/mozambique> (accessed December 19, 2012).

in its first phase, another two billion in its second phase, and an additional four billion in supporting infrastructure, including transport links.<sup>57</sup> Vale hopes to export up to 11 million tons of coal per year in its first phase and ramp up to 22 million tons per year in its second phase.<sup>58</sup> Vale cut its export target from 5 million tons to 2.6 million tons in 2012, citing capacity constraints on the Sena railway line connecting the mine and the port in Beira.<sup>59</sup> It is also upgrading the Nacala railway line and port to handle its increased coal production in the future.<sup>60</sup>

The terms of the mining concession enable the government to reserve the right to 25 percent of the shares. In 2012, the government acquired 5 percent of shares in the venture, although it did not disclose how much it paid, and reserved an additional 10 percent for private Mozambican investors.<sup>61</sup>

Vale's Moatize mine and expansion involved moving 1,365 households living in and near the villages of Chipanga, Bagamoyo, Mithete, and Malabwe into two resettlements or providing them with other forms of compensation. Vale resettled 289 families into 25 de Setembro, designed as an urban neighborhood in the town of Moatize. Compensation did not include agricultural land, but included water pumps at each house, a promise to refurbish Moatize's elementary school and hospital, and new houses. This resettlement was meant for individuals relying primarily on wage jobs instead of farming. Vale resettled 716 families into Cateme, a rural resettlement designed for farmers located approximately 40 km from Moatize. The compensation included new houses, neighborhood pumps, an elementary school, secondary school, health clinic, and a promised two hectares of farmland.<sup>62</sup>

For those who did not wish to move to either 25 de Setembro or Cateme, Vale provided 106 households with assistance to buy a new house and another 254 households with direct financial compensation, often in the case of people who already owned another house.

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<sup>57</sup> Vale, "Vale em Moçambique, Visita – HRW," power point presentation, Maputo, May 4, 2012.

<sup>58</sup> Ibid.

<sup>59</sup> "UPDATE 1-Vale cuts 2012 Mozambique coal output, export target," *Reuters*, November 7, 2012, <http://uk.reuters.com/article/2012/11/07/mozambique-vale-idUKL5E8M7B5N20121107> (accessed January 31, 2013).

<sup>60</sup> Vale, "Vale em Moçambique, Visita – HRW," power point presentation, Maputo, May 4, 2012 and "Vale gets definitive exploration authorisation in Mozambique," *Facing Finance*, September 18, 2012, <http://www.facing-finance.org/en/2012/09/vale-gets-definitive-exploration-authorisation-in-mozambique/> (accessed January 31, 2013).

<sup>61</sup> Vale, "Vale em Moçambique, Visita – HRW," power point presentation, Maputo, May 4, 2012, and Keith Campbell, "Moz exercising its concession contract rights, early fiscal incentives expire," *Mining Weekly*, August 17, 2012.

<sup>62</sup> Vale, "Projeto Carvão Moatize – Processo de Reassentamento," May 2012.

Vale officials told Human Rights Watch they did not advertise prominently the possibility of direct or indirect financial assistance for fear that affected communities would spend all of their money quickly and then be left in vulnerable conditions without proper housing and land.<sup>63</sup>

After lingering problems with the resettlements of Cateme and 25 de Setembro in 2012, described more fully below, Vale and the Mozambican government signed a Memorandum of Understanding (MOU) in which Vale agreed to complete repairs and add foundations to all constructed houses, improve the water supply system, increase training opportunities, and provide ten fruit trees for each household in Cateme and 25 de Setembro.<sup>64</sup>

## Rio Tinto and Riversdale

Riversdale Moçambique Limitada (Riversdale) is a subsidiary of the Australian company Riversdale Mining, which is listed on the Australian Stock Exchange. Riversdale acquired rights to prospect for coal in Tete province and after government approval of its EIA and Resettlement Action Plan for the “Benga” coal mine, began resettling affected communities in 2011.

In 2011, the Anglo-Australian firm Rio Tinto, one of the largest coal mining companies worldwide with a presence in forty countries, acquired Riversdale, including its multiple coal concessions in Tete province. These include the “Zambeze” project (estimated 9 billion metric tons), the “Tete East” project (estimated 5 billion metric tons) and the furthest developed Benga project (estimated 4 billion metric tons). In 2013, Rio Tinto revised the estimates of recoverable coal downward.<sup>65</sup> The Indian company Tata Steel owns a 35 percent stake in the Benga mine.

Riversdale had already designed the resettlement action plan (RAP) when it was acquired by Rio Tinto. Fernando Nhantumbo, Rio Tinto’s manager for social relations, said,

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<sup>63</sup> Human Rights Watch interview with Ricardo Saad, Cássia Carvalho Pacheco, Liesel Mack Filgueiras, Sergio Chitara, and Camilla Lott, May 4, 2012.

<sup>64</sup> Memorando de Entendimento entre o Governo da Província de Tete e a Vale Moçambique: Relativo à Reestruturação das Povações de Cateme e Barro 25 de Setembro no Distrito de Moatize, July 2012.

<sup>65</sup> Keith Campbell, “Rio Tinto Coal Mozambique hit by lower reserves, transport problems,” *Mining Weekly*, January 18, 2013, <http://www.miningweekly.com/article/rio-tinto-coal-mozambique-hit-by-lower-reserves-and-transport-problems-2013-01-18> (accessed January 18, 2013).

“Riversdale made the RAP, not us. But when you buy something you are bound to what was there before. We had 100 to 200 houses already complete and some people already resettled. But we are looking at where we should improve on the policies Riversdale had in place.”<sup>66</sup> In 2012, Rio Tinto conducted an analysis to compare the Riversdale RAP and resettlement performance with its standards to produce an updated plan and bridge gaps.<sup>67</sup>

The Benga project included resettlement of a total of 679 households living in or near the villages of Capanga and Benga. Of these, 472 are being resettled to a newly-constructed village named Mwaladzi, which adjoins the Vale resettlement village of Cateme. Although 84 households moved to Mwaladzi in 2011 and 2012, delays in establishing adequate resettlement conditions stalled the operation. Rio Tinto told Human Rights Watch it expected to resettle the remaining 388 households by May 2013.<sup>68</sup>

The compensation package for those moving to Mwaladzi included a newly constructed house, a primary school, two hectares of cleared land per household, and neighborhood water pumps. After complaints by resettled community members, Rio Tinto also financed a health post and an ambulance operating on weekdays.

The company also compensated some non-farming households with combinations of direct payments and support for buying houses in and around Tete city and Moatize.<sup>69</sup> Rio Tinto began mining and exporting coal from its Benga mine in 2012.

## Jindal Steel and Power Limited

Jindal Steel and Power Limited Mozambique (JSPL) is a subsidiary of Jindal Steel and Power Limited, an Indian mining company listed on the Bombay Stock Exchange. JSPL’s “Chirodzi” concession has an estimated 724 million tons of coal reserves and is located in Changara district, Tete province. The company estimates it will invest US\$180 million in the project.

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<sup>66</sup> Human Rights Watch interview with Fernando Nhantumbo, Rio Tinto, May 14, 2012.

<sup>67</sup> Written communication from Rio Tinto to Human Rights Watch, “Feedback to Human Rights Watch,” January 30, 2012, p. 2.

<sup>68</sup> Ibid., p. 3.

<sup>69</sup> Human Rights Watch interview with Breznévia Gemo, Rio Tinto, May 14, 2012 and Golder Associates, “10570 Benga Coal Project Resettlement Action Plan – Final Report,” submitted to Riversdale Moçambique, Limitada, September 1, 2009.

The government has a 10 percent stake.<sup>70</sup> JSPL obtained the concession in 2011 and began mining coal in 2012.

As its mining activities expand and upon securing approval for its Resettlement Action Plan, JSPL will carry out resettlements of affected communities. JSPL plans to resettle 2,050 people in 484 directly affected households from the villages of Cassoca (including Xissica) and Nhomadzinedzani into newly-constructed houses and farms.<sup>71</sup> As of mid-April 2013, the proposed relocation site had yet to be formally approved by the government. Another 968 households from Chirodzi, Chirodzi-Ponte, and Nhatsanga-Ponte will lose their farmland to the mining operations but not their homes. JSPL plans to compensate them with replacement land.

JSPL has initiated some projects in the affected communities already, including building an elementary school in Chirodzi, improving the access road from the main highway to Cassoca village, and providing water pumps. As of mid-April 2013, the timeline for resettlement remained uncertain.

TABLE 1: RESETTLEMENTS DUE TO COAL MINING IN TETE PROVINCE

| COMPANY                        | NAME OF MINE | ORIGINAL VILLAGE                     | RESETTLED VILLAGE        |
|--------------------------------|--------------|--------------------------------------|--------------------------|
| Vale                           | Moatize      | Chipanga, Bagamoyo, Mithete, Malabwe | Cateme, 25 de Setembro   |
| Rio Tinto                      | Benga        | Capanga, Benga, Nhambualu            | Mwaladzi                 |
| Jindal Steel and Power Limited | Chirodzi     | Cassoca, Xissica, Nhomadzinedzani    | <i>Not yet resettled</i> |

<sup>70</sup> "India's Jindal wins 25-yr coal licence in Mozambique," *Reuters*, February 4, 2011, <http://www.reuters.com/article/2011/02/04/jindal-mozambique-idUKWEB694920110204> (accessed April 4, 2013).

<sup>71</sup> Human Rights Watch interview with Stelio Matavel, liaison officer, Jindal Steel and Power Limited, Maputo, October 9, 2012. These numbers reflected the population as of October 2012 and may be subject to change by the time of the actual move. Disaggregated, this includes 248 families (1080 people) from Cassoca and 236 families (970 people) from Nhomadzinedzani.

### III. Problems with the Vale and Rio Tinto Resettlements

We are just suffering here. Where they moved us from—there we had enough food to eat and here we do not. There we could do something to earn money and here we can do nothing.

—Eulália Z., resettled woman with three children, Mwaladzi, May 11, 2012

Households in the three communities resettled by Vale, Riversdale, and Rio Tinto (25 de Setembro, Cateme, and Mwaladzi) have experienced significant disruption in the enjoyment of several economic and social rights, including their ability to obtain adequate food and water, and access work and health care. While Human Rights Watch does not have comprehensive data on the outcomes for each resettled family, the agricultural land given to many residents resettled to Cateme and Mwaladzi is recognized by the authorities and companies interviewed by Human Rights Watch as having deeply uneven quality and not having access to enough water to be fertile.

Communities also have reduced options for non-farming work and an erratic water supply. They now live approximately 40 km from a major market compared to a few kilometers before resettlement. While new cement housing provided in the three resettled communities was planned as an improvement over the wood huts many lived in before, poor construction at Vale's resettlement site in Cateme and 25 de Setembro has led to cracks and leaks in many homes and widespread dissatisfaction with the overall quality of the houses. As mentioned earlier, at the time of writing, Vale was in the process of undertaking repairs to all the houses.

Resettled households in Cateme have had to live without adequate access to replacement agricultural land for three years due to delays in the government's allocation of land. Households in Cateme and Mwaladzi experienced problems with erratic water supply for months after resettlement.<sup>72</sup> And households in Mwaladzi have had delayed access to the school and health clinic promised for their community. Many infrastructure improvements happened only after resettlement and after complaints from the community, such as the construction of an access road to connect Cateme to the main road or the drilling of additional bore wells in Cateme and Mwaladzi.

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<sup>72</sup> Most repairs to the water system in Cateme and Mwaladzi took place in 2012 and 2013. Residents of Cateme first moved there in between 2009 and 2010, and residents of Mwaladzi moved in 2011.

Other elements of the resettlement have gone well. All resettled households are receiving land use titles (DUATs) for their new household and agricultural plots, and these were provided in the names of both men and women. Few households had a DUAT before their move. Both Vale and Rio Tinto have made investments in education and training, most notably Vale's construction of a secondary school in Cateme.

Vale paid for the construction of and equipment for Cateme's residential secondary school. It is only the fourth secondary school in Tete province, has a computer lab, and accommodates 300 students from the region.<sup>73</sup> According to Vale, the Cateme hospital, also constructed by Vale, serves about 75 people a day.<sup>74</sup> All households have experienced an improvement in sanitation as the number of households with toilets increased from only a few prior to resettlement to 100 percent after the move.

As discussed in more detail in chapter V, local, provincial, and central government officials have acknowledged some problems—such as those linked to housing—publicly committing to prevent similar shortcomings in future resettlements. However, they have been slow to address the land and water problems highlighted below. The government's limited capacity and experience with resettlement have exacerbated some problems.

Representatives from Vale and Rio Tinto have acknowledged some of the shortcomings in their resettlement processes and are exploring ways to address them. Their proposed solutions to the most serious problems linked to land quality, water supply, and ability to carry out secondary livelihoods (such as chicken-rearing) are long-term in nature. These have not been adequately complemented by measures to alleviate immediate needs and furthermore, not all affected households will benefit.

## Interference with the Right to Food and a Reduction in Self-Sufficiency

Here when you have nothing, it means you really have nothing. There, when I needed money I could go to the bush to get wood or charcoal to sell.

—Flavia J., resettled farmer, Cateme, May 10, 2012

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<sup>73</sup> Vale, "Vale em Moçambique, Visita – HRW," power point presentation, Maputo, May 4, 2012.

<sup>74</sup> Human Rights Watch interview with Paulo Horta, operations director - Moatize, Vale, Moatize, Tete province, May 16, 2012.

Many families resettled by Vale and Rio Tinto have experienced a deterioration of their livelihoods and independence, going from farmers able to produce food for much of the year to communities reliant on outside aid and food-for-work programs.<sup>75</sup>

Most of the individuals resettled to Cateme and Mwaladzi were farmers who supplemented their crops with cash income from selling charcoal, firewood, fruits, and vegetables in the nearby Moatize market.<sup>76</sup> As is typical across much of Mozambique, even households whose primary economic activities were waged jobs or a small business also generally had a *machamba*, a small plot of land, to produce part of their food.

Many of the resettled individuals interviewed by Human Rights Watch were deeply frustrated by their loss of self-sufficiency. Malosa C., resettled by Rio Tinto to Mwaladzi in 2011 said, “We are suffering a lot. We had a meeting with the company and told them that if you can’t supply us with food and water, it is better that you take us back to the place where we used to live, and we will produce our own food and we will continue our life without depending on you.”<sup>77</sup>

### *Poor-Quality Farmland and Low Production*

We used to produce enough food to keep in storage.... The [plot of] land here is bigger, the problem is the land is not good. It did not rain enough this year, but also, the land is not good. We grew beans, only beans. You can check our storage, there is nothing there.... All the food we are eating, we are buying.

—Elena M., a resettled woman, Mwaladzi, May 11, 2012

Many households’ food production dropped dramatically upon resettlement to Cateme and Mwaladzi due to aridity and poor productivity of the land. In their original homes in

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<sup>75</sup> For example, the RAP prepared for Riversdale included a survey of households in Benga Sede and Capanga prior to resettlement to Mwaladzi. The survey noted the majority of households cultivated land, with 65 to 70 percent of these saying maize was their most important crop. More than two-thirds of the households said they experienced an average of three months of food shortage in the previous 12 months. Golder Associates, “10570 Benga Coal Project Resettlement Action Plan – Final Report,” submitted to Riversdale Moçambique, Limitada, September 1, 2009, p. iii.

<sup>76</sup> Ibid.

<sup>77</sup> Human Rights Watch interview with Malosa C., resettled woman, Mwaladzi, October 3, 2012.

Chipanga, Benga, and Capanga, most households had agricultural plots for growing staples such as maize and sorghum and many had additional vegetable gardens near the naturally irrigated soil on the banks of the Zambezi or Revuboé rivers or other water sources close to their villages. Teresa J. said,

[Before the move] I had one big plot for farming and one small plot for vegetables. I could fill up my storage with maize. I produced about four or five bags of sorghum. We produced enough for ourselves ... sometimes we could sell [a surplus]. We never stayed a long time without food.<sup>78</sup>

Out of the 26 households to whom Human Rights Watch administered a detailed survey on farming practices in Cateme, 25 de Setembro, and Mwaladzi, twenty said that, prior to resettlement, they typically grew enough crops to last through the year.<sup>79</sup> Of these, only one household said they were food self-sufficient after resettlement. Community leaders, teachers, nurses, and NGO activists living or working in these two communities said these problems are common. Respondents in Cateme and Mwaladzi said their productivity fell due to the aridity and poor fertility of the soil.

Farmers, Rio Tinto officials, Vale officials, and an agricultural expert all told Human Rights Watch that plots of land in Cateme and Mwaladzi were of varying quality, many unable to produce communities' staple crops, and would not have expanded agricultural potential without irrigation.<sup>80</sup> In response to farmers' inability to grow sufficient amounts of their own food on their land, as they once used to, both Rio Tinto and Vale, after delays, have supported periodic food distribution programs.<sup>81</sup>

The land in many cases is rocky, far from a water source, and unsuitable for producing a sufficient quantity and variety of crops or their preferred staple crops: maize and sorghum. Maria C., a widow supporting five children in Mwaladzi, said, "We used to buy food when

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<sup>78</sup> Human Rights Watch interview with Teresa J., age 63, resettled woman with five children in her household, 25 de Setembro, May 9, 2012.

<sup>79</sup> Human Rights Watch interviews with resettled individuals in Cateme, 25 de Setembro, and Mwaladzi, May 2012.

<sup>80</sup> Human Rights Watch interviews with resettled individuals in Cateme and Mwaladzi, May 2012; Written communication from Rio Tinto to Human Rights Watch, "Feedback to Human Rights Watch," January 30, 2012; Human Rights Watch interview with Carolina Coutinho, senior sustainability analyst, Vale, October 8, 2012; and Human Rights Watch interview with agricultural expert(name withheld), May 17, 2012.

<sup>81</sup> Written communication from Rio Tinto, January 30, 2012 and Human Rights Watch telephone interview with Cassia Dourado and Carolina Coutinho, December 14, 2012.

there was a problem of rain, but usually we didn't have to. The farming land we received [as compensation] is ... red, not black like we had before. It has stones.... I am already buying food [in the month after the harvest season].<sup>82</sup>

Just after harvest time in May 2012, Human Rights Watch researchers observed the stores of crops cultivated by resettled villagers, usually stored in small warehouses or on the roofs of their houses. Though these stores were meant to last for the whole year, in most cases they were only sufficient to last for a few months at best. Ana and Ernesto S., residents of Cateme, said, "We tried to grow maize and sorghum but we only produced a very little amount, you can see on the top of the roof. The lack of rain this year makes a difference, but not that much of a difference."<sup>83</sup> Fatima T., a resident of Mwaladzi, told us, "We didn't produce anything last year or this year. This land does not grow anything, we produced from other land we borrowed so we could grow maize. Most of our food we depend on buying from the market. We do not produce enough to last a month."<sup>84</sup>

Resettled farmers also said they produced a smaller variety of crops. Households surveyed by Human Rights Watch on farming practices said they cultivated roughly four different crops before the move, and averaged one crop after resettlement.<sup>85</sup> Many resettled villagers, especially in Mwaladzi, said they were no longer able to grow their preferred staple crops of maize and sorghum and instead had to shift to beans and other crops better suited for the soil. Cristina L. told Human Rights Watch, "The land is not good, I tried to grow maize but had no results, even with sorghum I had no results. We grew some nyemba (beans) and collected some watermelon. We buy [almost] everything we eat."<sup>86</sup>

An experienced farmer and agricultural expert hired to advise local farmers on improved agricultural practices who had examined the land in Cateme said that it was of uneven quality, with some plots capable of productivity and other plots of poor fertility.<sup>87</sup> Company officials from Rio Tinto agreed that in some cases the compensation land offered in Mwaladzi was poor, but also argued that it varied case by case. Fernando Nhantumbo,

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<sup>82</sup> Human Rights Watch interview with Maria C., resettled widow living with five children, Mwaladzi, May 11, 2012.

<sup>83</sup> Human Rights Watch interview with Ana and Ernesto S., resettled farmers, Cateme, May 10, 2012.

<sup>84</sup> Human Rights Watch interview with Fatima T., resettled farmer with seven people in her household, Mwaladzi, May 11, 2012.

<sup>85</sup> Human Rights Watch interviews with resettled individuals in Cateme, 25 de Setembro, and Mwaladzi, May 2012.

<sup>86</sup> Human Rights Watch interview with Cristina L., resettled woman living with her husband and five children, Mwaladzi, May 11, 2012.

<sup>87</sup> Human Rights Watch interview with agricultural expert (name withheld), near Cateme, May 17, 2013.

manager for social relations from Rio Tinto told Human Rights Watch, “I agree with you that the land is not so good as that which is next to the Zambezi River but there are [some] people with granaries full of maize—others, they have nothing.”<sup>88</sup>

Prior to resettlement, not all households had access to good agricultural land, access to fertile plots of riverbank farmland, or were able to comfortably provide for their families through farming. But Human Rights Watch interviews found that even families who were relatively disadvantaged before being moved experienced a negative impact on their ability to produce food and earn income after being resettled.

### *Delays in Providing Promised Farmland in Cateme*

As of early April 2013, approximately three years after their resettlement, all of the households in Cateme were still waiting for their full allotment of two hectares of farmland promised in the initial compensation package. Vale had provided one hectare of farmland at the time of resettlement, but experienced long delays working with the local government to identify the promised second hectare. Carolina Coutinho, senior sustainability analyst for Vale, said a major obstacle has been the government’s difficulty in identifying suitable plots outside of areas designated for other mining licenses.<sup>89</sup>

Some households lost even their first hectare plots when prior occupants reclaimed them.<sup>90</sup> According to Vale, there were at least 67 households in this situation.<sup>91</sup> Coutinho said, “The process of getting the DUAT [land-use permits] took longer than the final moving process. So I think the government gave us land that belonged to someone else. We only found that out when the community was already settled on the first hectare.”<sup>92</sup> Another 16 households received land that was filled with rocks and unsuitable for farming.<sup>93</sup>

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<sup>88</sup> Human Rights Watch interview with Fernando Nhantumbo, Rio Tinto, May 14, 2012.

<sup>89</sup> Human Rights Watch telephone interview with Carolina Coutinho, December 14, 2012.

<sup>90</sup> These residents did not face problems maintaining their household plots in the village of Cateme but confronted land conflicts on their agricultural plots.

<sup>91</sup> Human Rights Watch meeting with Vania Somavilla, executive director, human resources, health and safety, sustainability and energy, and Marcio Senne de Moraes, corporate affairs head, Europe-North America, Vale, New York City, April 9, 2013.

<sup>92</sup> Human Rights Watch telephone interview with Liesel Filgueiras, general manager, corporate social responsibility and Carolina Coutinho, senior sustainability analyst, Vale, April 4, 2013.

<sup>93</sup> Human Rights Watch meeting with Vania Somavilla and Marcio Senne de Moraes, April 9, 2013.

These combined 83 households did not receive any interim replacement land, compensation for their first plots, legal assistance, or additional assistance to compensate for their loss of livelihood while the government and Vale searched for available land. Senolia S., a 60-year-old farmer in Cateme, said,

I grew maize the first year [2010]. The second year, people came and said the land belonged to them. I left the maize that I had already planted. I went to Vale and told them the land you gave me belongs to another. They said they would give me more land. It has now been two years.<sup>94</sup>

Without any land to farm and desperate for a livelihood, Senolia S. first tried buying and reselling vegetables in Cateme. However, this did not provide enough income and she said that on some days her family did not have enough food to eat. In 2012, she scraped enough money together to rent out a piece of rocky, uncleared farmland so far away that she spends the night in the fields during the week and only returns to her family on the weekends.<sup>95</sup>

In April 2013, Vale representatives told Human Rights Watch that, in a decision led by the governor of Tete province, they were finally able to offer new plots or financial compensation in lieu of land to these 83 households.<sup>96</sup> At this writing, they had not provided any additional compensation for the hardship these households experienced in the interim period.

In addition, Vale representatives said that the government decided to provide resettled households in Cateme with financial compensation in lieu of the promised second hectare of farmland.<sup>97</sup> Liesel Filgueiras, Vale's general manager for corporate social responsibility said,

It is important to understand that in our discussions with the government, the best approach was [to assign] the second hectare of land, we wanted that to happen. [Financial compensation] was the decision of the

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<sup>94</sup> Human Rights Watch interview with Senolia S., resettled farmer, Cateme, October 6, 2012.

<sup>95</sup> Ibid.

<sup>96</sup> Human Rights Watch telephone interview with Liesel Filgueiras and Carolina Coutinho, April 4, 2013 and Human Rights Watch meeting with Vania Somavilla and Marcio Senne de Moraes, April 9, 2013.

<sup>97</sup> Human Rights Watch telephone interview with Liesel Filgueiras and Carolina Coutinho, April 4, 2013.

government.... We are very worried about this approach. It can generate kind of a fake upgrade in terms of income that is not sustainable.<sup>98</sup>

### *Loss of Other Sources of Cash Income and Livestock*

Before we were living in Nyananjou, close to Capanga. It was nicer there than here. There were many ways to survive—we could sell charcoal and firewood.... Here it is not possible because the kind of tree we use for charcoal is not so available and even where we have to go to sell charcoal is very far.

—Bendita S., resettled farmer, Mwaladzi, May 17, 2012

Residents of 25 de Setembro, Cateme, and Mwaladzi have lost a variety of economic activities they used to supplement their farming, including keeping livestock and selling charcoal, firewood, fruits, and vegetables in Moatize. Vale and Rio Tinto's coal mining operations have generated some employment opportunities, but there is no obligation laid out in their resettlement action plans to provide jobs directly to the resettled communities. To date most of the jobs generated have been short-term construction jobs that end within a few months or a year—and even those opportunities will disappear when there is no construction work left to do around the mine sites or building and repairing the resettlement sites.

Many resettled individuals interviewed said they used to supplement their farming by collecting fruits from the baobab tree, firewood, or charcoal, and selling them. The Resettlement Action Plan prepared for Riversdale (and later acquired by Rio Tinto) contains economic and social survey data on the affected communities prior to the move that underlines the importance of these activities:

Wild fruit trees are by far the most important natural resource in the project area, with more than 90% of households reporting that they use this resource. Other important natural resources include firewood and construction materials, which correlates with the use of these materials in housing and structures. Approximately 90% of households in both Benga

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<sup>98</sup> Ibid.

Sede and Capanga villages have a cash income, whether it is regular, occasional or seasonal income. Selling vegetables, retailing home goods and selling firewood are the most common sources of cash income.<sup>99</sup>

Baobab trees are not available near Mwaladzi or Cateme, and there is no nearby market with potential customers for firewood or charcoal. Residents of Mwaladzi and Cateme tend to collect the firewood or produce the charcoal they need and have no market among their neighbors who are in a similar situation. One young man told Human Rights Watch, “There is nothing to do. There is no work. There is no ability to do anything. Here, life is difficult. Over there we sold things, we would sell wood, the fruit of the baobab tree.”<sup>100</sup> Breznévia Gemo, Rio Tinto’s resettlement superintendent concurred that, “the people who really used to live off of the production of charcoal are the ones who are having problems.”<sup>101</sup>

Cateme and Mwaladzi are located almost 40 kilometers from the district capital Moatize, with its market and variety of employment opportunities, whereas Chipanga and Benga were located nearby to markets in Moatize and Tete City. Until the residents of Cateme organized a protest in January 2012 and blocked Vale’s rail link to a port, there was no proper, well-maintained road linking Cateme and Mwaladzi to the main highway to Moatize, nor accessible, affordable transport.

After the January 2012 demonstration, Vale financed a road connecting Cateme to the highway and made arrangements with the government to establish a stop on a public bus route.<sup>102</sup> Vale’s corporate affairs manager said, “We paid for a bus, provide diesel and the maintenance, the government runs the operation. It charges 20 MZN (US\$0.68), which is reasonable. It took time to be implemented so it is another point of frustration.”<sup>103</sup> Residents of Cateme said the bus has been an improvement, but even so, conducting routine business remains difficult, involving greater expense and significantly more time than before.

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<sup>99</sup> Golder Associates, “10570 Benga Coal Project Resettlement Action Plan – Final Report,” submitted to Riversdale Moçambique, Limitada, September 1, 2009, p. iii.

<sup>100</sup> Human Rights Watch interview with Regino P., resettled youth, Mwaladzi, May 11, 2012.

<sup>101</sup> Human Rights Watch interview with Breznévia Gemo, Rio Tinto, Maputo, May 14, 2012.

<sup>102</sup> Written communication from Vale to Human Rights Watch, “Relatório de Acompanhamento das Acções em Desenvolvimento em Cateme e 25 de setembro, Dezembro 2012,” January 9, 2013.

<sup>103</sup> Human Rights Watch interview with Cássia Carvalho Pacheco, corporate affairs manager, Vale, S.A., May 4, 2012.

Residents of Mwaladzi must make their way through Cateme to reach the main highway. The public bus also stops in Mwaladzi. Otherwise, community members pay for a ride in a shared car. Amélia D., resettled to Mwaladzi, said, “No transport comes on Sunday. Only one car comes during the week. It is difficult to go to the hospital or market. It is a small car and not everyone can fit.”<sup>104</sup>

Individuals resettled far from Moatize who had small businesses in carpentry and brick-making also lost their livelihoods and customer base. Julio C., said, “Where I was living I had my business—I could pay my children’s school fees. I owned a kiln. But ... now there is nothing.”<sup>105</sup>

Among the 26 households that Human Rights Watch surveyed in detail about economic activities prior to and after resettlement, the average numbers of livestock owned dropped by more than half after the move.<sup>106</sup> Some resettled individuals interviewed by Human Rights Watch in Cateme and Mwaladzi said they either stopped or greatly reduced their ownership of livestock, primarily pigs, goats, and chickens, because the animals died or were stolen during or shortly after resettlement. Others sold them prior to the move after hearing that there was not enough water or appropriate conditions for livestock. The majority of farmers in Cateme and Mwaladzi interviewed by Human Rights Watch who did move their livestock to their new locations said they could not get adequate food and water to keep livestock. Officials from Rio Tinto acknowledged to Human Rights Watch that lack of water makes it difficult for resettled households to keep many animals.

It is not anticipated that the loss of former livelihoods will be offset by employment generated by the coal companies. Open-pit coal mines rely on skilled workers, for example, operating heavy machinery. The companies say most of the long-term employment they generate requires skilled labor resettled communities cannot provide and for which they have recruited from other parts of the country and from neighboring countries.<sup>107</sup> For those members of resettled communities who obtained paid work linked to the mining companies’ operations, these were primarily short-term jobs constructing resettlement houses. As of May 2012, ninety percent of Vale’s jobs had gone to men,

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<sup>104</sup> Human Rights Watch interview with Amélia D., resettled woman, Mwaladzi, May 17, 2012.

<sup>105</sup> Human Rights Watch interview with Julio C., community leader, Mwaladzi, May 11, 2012.

<sup>106</sup> Human Rights Watch interviews with resettled individuals in 25 de Setembro, Cateme, and Mwaladzi, May 2012.

<sup>107</sup> Vale, “Vale em Moçambique, Visita – HRW,” power point presentation, Maputo, May 4, 2012.

despite the significant economic disruption experienced by both men and women in the resettlements.<sup>108</sup>

Many villagers told Human Rights Watch that the companies had promised that their operations would create employment opportunities for resettled individuals and they factored this into their acceptance of the move. Teresa J. said, “Vale promised ... our children would be their priority for employment to get our acceptance [to the move]. At the beginning, both of my sons were working there. Just for a short time. Now they are not working there.”<sup>109</sup>

Vale and Rio Tinto representatives say they did not promise these jobs. For example, Rio Tinto points to its government-approved resettlement action plan which explicitly states that although they expect their mining activities to generate employment for Mozambicans, they could not guarantee that these would be available to resettled communities due to their skill profile.<sup>110</sup> Ultimately, contractors for Vale and Rio Tinto hired some resettled individuals on short-term contracts to help with construction. Vale’s corporate relations manager told Human Rights Watch, “We used 10,000 [workers] in construction, but for operation [of the mine] we only need 2,000. It is a different skill profile. Before we could hire people from Cateme, but not anymore.”<sup>111</sup>

Human Rights Watch has not been able to reconstruct all of the promises and conversations that may have happened in the years prior to resettlement. However, the difference in resettled communities’ expectations about compensation and the companies’ written obligations in their Resettlement Action Plans point to gaps in ongoing communication and dialogue.

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<sup>108</sup> Ibid.

<sup>109</sup> Human Rights Watch interview with Teresa J., May 9, 2012.

<sup>110</sup> Golder Associates, “10570 Benga Coal Project Resettlement Action Plan – Final Report,” submitted to Riversdale Moçambique, Limitada, September 1, 2009, p. 197.

<sup>111</sup> Human Rights Watch interview with Cássia Carvalho Pacheco, May 4, 2012.

### *Female-Headed Households Living in Kitchens*

We are suffering here. The place where we were living [before], you did not have to rent your house to have something—we could live in our house and live very well. But here we have to rent the house to have something. There, I had a field, I had animals—pigs and goats. I could sell my animals and buy food and cultivate—here it is different.... The kitchen is very small and I have to keep my things there and sleep with my grandson—it is too small.

—Sofia E., elderly woman living with her grandson, 25 de Setembro, May 13, 2012

Vale designed the urban resettlement village 25 de Setembro for households relying primarily on non-agricultural livelihoods. People who chose to move to 25 de Setembro did not receive any new farmland as part of their compensation packages even if they had farmed previously. Human Rights Watch spoke to resettled residents who struggled with the transition from having both cash income and farming plots to relying solely on earning money to support their families. Individuals and households faced new costs in paying for food, and also expenses such as paying for piped water, which a majority had previously obtained from a nearby river, pipes, or wells at no cost.

Female-headed households were often in particularly precarious economic situations, including elderly widows and single mothers who moved to 25 de Setembro primarily to be close to family members or health care services, not because they could rely on urban-based jobs. For example, Human Rights Watch interviewed older women who previously farmed, but chose to be resettled to 25 de Setembro to be closer to their grown children who had jobs in Moatize. These women did not have established livelihoods if they lost family support.

Human Rights Watch interviewed six women and heard reports of additional households in 25 de Setembro who resorted to living in their kitchens, sometimes with many children, and renting out the houses given to them as compensation in order to earn enough money to buy food and water.

Elsa S., an elderly widow, used to farm as her primary livelihood. Now living alone, she said, “Because of suffering I had to rent out my house. It has been one year. I could do

small jobs, make brooms, and sell them. But life was too difficult and that is why I decided to rent. Everything here needs money, water needs money, food needs money, even fire needs money.<sup>112</sup>

Terezinha L., a 70-year-old widow, depended on farming to make a living prior to resettlement, said she has health problems and chose to be resettled to 25 de Setembro to be closer to her adult children. She said,

I am living in the kitchen because I have no money to pay for water or electricity so I am renting my house in order to have some money.

I have been living in the kitchen for four months.... If I had enough assistance I would not have moved from my house to the kitchen. If I am living in my kitchen it means that I am suffering. In Chipanga, I was happy there. I had my own house, my field and I had my animals.

They gave me some money for the place where my house was, but not so much. Then they broke my house and they took me to this place. I don't feel good in my heart because where I was living I didn't pay for food or electricity and I could cultivate food myself.<sup>113</sup>

## *Hunger*

We are worried all the time.... We eat less than we used to.

—Orlanda L., resettled farmer, Cateme, May 10, 2012

Saddled with unproductive land and limited means to earn cash income, some resettled households struggled to have enough food to eat. Senolia S., resettled to Cateme, said, “We usually eat three meals, breakfast, lunch, and dinner. When there is no food, we can spend a whole day without eating even one of those meals.”<sup>114</sup>

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<sup>112</sup> Human Rights Watch interview with Elsa S., resettled woman living alone, 25 de Setembro, May 13, 2012.

<sup>113</sup> Human Rights Watch interview with Terezinha L., resettled widow, 25 de Setembro, May 13, 2012.

<sup>114</sup> Human Rights Watch interview with Senolia S., May 17, 2012.

Human Rights Watch researchers spoke to many resettled individuals in Cateme, 25 de Setembro, and Mwaladzi who resorted to diverse coping mechanisms to deal with the more limited and uncertain quantity and quality of food than before they were resettled. They described eating less than they needed to feel full, eating foods they did not want, and reducing the number of their meals. For example, Carolinda R. said, “I have to eat less than I should because I don’t know where I will get food. I normally eat in the morning, for lunch I eat late so I can skip dinner – because there is not enough food. Since they [Rio Tinto] only provided us food for three months, I should make it last.”<sup>115</sup>

Elderly widows who would have continued to farm had they stayed on their original land, but who were unable to cope with the new conditions and did not have family supporting them were among those who struggled most with obtaining adequate food. One woman disparaged the focus on the housing component of the compensation package and said, “I can’t eat this house. I am just wondering where I can get food.”<sup>116</sup> Teresa J. told Human Rights Watch, “I am always worried about food.... I am depending on my children, sometimes they give little. When I was in Chipanga, I produced my food. I could choose. Here I cannot choose what I eat. I usually have to eat food I don’t like.”<sup>117</sup>

Households with children were also stressed for food. Several parents reported cutting their own intake in order to ensure a sufficient amount for their children. For example, Cristina L., said,

We are always worried, because we have children. Normally we have three meals a day. Sometimes when we see the food ending, we see we have to save it and skip breakfast. Sometimes we go to bed without eating. When we have less food, we cook for the children, and my husband and I will go without food.<sup>118</sup>

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<sup>115</sup> Human Rights Watch interview with Carolinda R., single woman living with three children, Mwaladzi, May 11, 2012.

<sup>116</sup> Human Rights Watch interview with Dores C., age 80, Mwaladzi, May 11, 2012.

<sup>117</sup> Human Rights Watch interview with Teresa J., May 9, 2012.

<sup>118</sup> Human Rights Watch interview with Cristina L., May 11, 2012.

## Food Aid

They said they would give us three months food. This is the last month.  
Whether it is enough or not depends on how many people are living in a  
house. There are eight people living here and it is not enough for us.  
—Julio C., resettled farmer, Mwaladzi, May 11, 2012

In response to the disruptions to farming cycles caused by resettlement and to food shortages in Mwaladzi and Cateme, Vale and Rio Tinto have provided additional food packages and contributed funds to a “food-for-work” program run by the Instituto Nacional de Gestão das Calamidades (Mozambique’s national disaster management agency) that provides resettled households food baskets in exchange for work in community “beautification” projects.<sup>119</sup> Resettled individuals described having to clean roads and plant trees and Human Rights Watch researchers observed Mwaladzi residents making bricks as part of the food-for-work programs.

Vale provided residents in Cateme with initial food packages as part of their compensation prior to resettlement in July 2009 and after their move in June 2010.<sup>120</sup> Resettled households did not receive additional food assistance until March 2012.<sup>121</sup> Those in Mwaladzi, resettled in 2011, received an initial three month food package and only began receiving additional food assistance in September 2012.<sup>122</sup> Resettled residents said the government and the companies provided little information about the timing and duration of these programs, enhancing their anxiety and uncertainty about whether they would have adequate food throughout the year.

The companies and resettled villagers interviewed by Human Rights Watch have different versions of the amount of compensation promised in the form of food aid. With minimal documentation of all the conversations between community members and representatives

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<sup>119</sup> Human Rights Watch interview with Carolina Coutinho, October 8, 2012 and written communication from Rio Tinto, January 30, 2013, p. 5.

<sup>120</sup> Diagonal, “Draft do Parecer sobre o 3º Pacote de Alimentos,” written document provided in email from Carolina Coutinho, Vale to Human Rights Watch, April 22, 2013.

<sup>121</sup> Human Rights Watch interview with Carolina Coutinho, October 8, 2012. Vale provided assistance to 839 households in Cateme from March 21, 2013 to April 10, 2013.

<sup>122</sup> Email from Ivo Laurenço, General Manager Community Relations, Rio Tinto to Human Rights Watch, March 15, 2013.

of the companies and the numerous consultancy firms they contracted in the period before the final resettlement action plans were designed, conditions have been ripe for confusion and misinformation.

Human Rights Watch interviewed farmers who said they were promised anywhere between three months, one year, and five years of food aid until they were fully adjusted and able to support themselves. Representatives of Vale and Rio Tinto say they complied with providing the agreed upon amounts of a few months of food assistance upon resettlement. Regardless of the initial agreements on amounts of food aid, the compensation packages were based on the premise that, at least in Cateme and Mwaladzi, resettled households would ultimately be able to produce their own food from the land they were provided. But as this report shows, for many families that has been impossible due to the poor quality of their farm plots. Despite this, there was no major adjustment of the original compensation package until 2012, when Vale and Rio Tinto recognized that the resettled communities need additional assistance until they are able to produce or earn enough income to buy food on their own.<sup>123</sup>

Many residents were angry that although the poor quality of land was not their fault, they still had to perform labor to receive food supplements. Carlos A. said,

They brought oil and rice but the rice is not enough quantity for all of us and also some dried fish. We have to work for the food, we have to clean the streets [pull weeds] but that was not our agreement when we left our homes. The company says they cannot just give it to us freely—we have to work.<sup>124</sup>

An elderly widow said, “We had to work so they would give us this flour. We had to clean the streets and things like that. We had to stop working in the fields so we could do that.”<sup>125</sup> Others complained that although they performed work with the promise of food in exchange, they did not have information about when they would get their food packages.

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<sup>123</sup> Human Rights Watch interview with Carolina Coutinho, October 8, 2012 and written communication from Rio Tinto, January 30, 2013, p. 5.

<sup>124</sup> Human Rights Watch interview with Carlos A., resettled villager, Mwaladzi, May 11, 2012.

<sup>125</sup> Human Rights Watch interview with Boavista J., elderly widow, Cateme, May 10, 2012.

Coupled with the anger about food shortages and the labor requirements of the food-for-work program is profound anxiety about future supplies of food and a desire to regain economic independence. The provision of food packages has been sporadic and temporary, and resettled households have no guarantee that they will be able to rebuild their self-sufficiency or will have access to such alternatives in future times of need. Ben J., a resettled man in Mwaladzi, said, “Should we keep on depending on them to give us food? Like beggars we keep on begging food, begging food. That’s not right.... We want to work. And earn our own money and buy our food.”<sup>126</sup>

## Unreliable and Insufficient Water Supply

Sometimes they say the pipe is broken. Sometimes the tanks have a problem. Then we have to go with pots and go to other neighborhoods for water. In the place where we used to live, there was no problem with water. If no water was in the pump we could go to the river. Here you can spend two or three days without a bath because there is not enough water.

It happened five or six times last month. This week it has already happened once. It broke on Friday, until Sunday we had no water. Even when water is there, we don’t have it the whole day, sometimes it is there in the morning but not the afternoon, and sometimes in the afternoon and not the morning.

—Senolia S., resettled farmer, Cateme, May 17, 2012

The resettlement sites Mwaladzi and Cateme have had problems in the availability and accessibility of water for drinking, domestic use, and agricultural use. The resettlements are in arid areas identified as having a shortage of natural water resources in the resettlement action plans. Both Vale and Rio Tinto acknowledged these problems, but struggled to find short- and long-term solutions to address adequately the constraints of the arid resettlement sites.

Prior to resettlement, many residents relied on their proximity to the Revubóé or Zambezi rivers to water their livestock and to naturally irrigate nearby farmland and vegetable plots.

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<sup>126</sup> Human Rights Watch interview with Ben J., resettled man, Mwaladzi, October 8, 2012.

Malosa C. said, “We had a river with running water for the whole year. We didn’t have any problem with water or growing food.”<sup>127</sup> To address the lack of natural water sources in the resettlement areas, Vale and Riversdale (later acquired by Rio Tinto) installed water pumps: neighborhood pumps in Mwaladzi and Cateme, and household pumps in 25 de Setembro were meant to improve residents’ standard of living and reduce the amount of time they spent fetching water.

But the pumps have not lived up to expectations. In May 2012, resettled individuals told Human Rights Watch that the neighborhood pumps did not provide a sufficient quantity of water, were unreliable, and sometimes fell into a state of disrepair. In Mwaladzi, Elena M. said, “Our biggest problem is water—sometimes we spend three days without water. Sometimes the tanks are empty that long.”<sup>128</sup> Ana S., resettled to Cateme, said, “Water doesn’t come regularly because it depends on electricity. [A shutdown] happens a lot. Two or three times a day or every two days.”<sup>129</sup>

Rio Tinto started to bring in water via trucks, but they do not always show up regularly, according to residents of Mwaladzi interviewed in May and October 2012. Cristina L. said, “When they miss a day, we have to walk far to find a pump. Normally it [the truck] will come after two days. This happened once last month. The other neighborhood tank is broken. The water is not enough for all of us.”<sup>130</sup> In 2012, Rio Tinto completed a water distribution system consisting of 11 bore holes, an intermediary tank, and principal water tank to address availability of water for drinking and domestic use.<sup>131</sup> These changes have helped remedy the problems with drinking water, but do not address the lack of adequate water for agriculture or livestock.

Households in Cateme faced similar problems in terms of reliability of supply and the breakdown of infrastructure. These problems pose additional hardships for the elderly and people with physical disabilities. Carolinda R., an elderly woman who was resettled to Mwaladzi, said, “The water pump near here is broken. So people are going down there [to

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<sup>127</sup> Human Rights Watch interview with Malosa C., resettled woman, Mwaladzi, October 3, 2012.

<sup>128</sup> Human Rights Watch interview with Elena M., resettled woman, Mwaladzi, May 11, 2012.

<sup>129</sup> Human Rights Watch interview with Ana and Ernesto S., May 10, 2012.

<sup>130</sup> Human Rights Watch interview with Cristina L., May 11, 2012.

<sup>131</sup> Written communication from Rio Tinto, January 30, 2013, p. 5.

a second pump] —but a lot of people are going there, there is not enough for all of us, so sometimes I go to a third pump. I am old.”<sup>132</sup>

As discussed above, many households have reduced their ownership of animals due to lack of water. Some resettled individuals who wished to cultivate vegetable gardens in their housing compound said they were unable to do so because of insufficient water. Salvador R. had a number of failed crops in his yard and said, “I was thinking of growing crops in the yard but can’t because there is no irrigation.”<sup>133</sup>

In 2012, Vale completed a number of repairs and enhancements to the water distribution system in Cateme and 25 de Setembro, including replacements of valves, pressurized pumps, and water taps.<sup>134</sup> Vale is now working to provide a new water distribution system in Cateme consisting of three new water tanks and expects it to be completed in October 2013.<sup>135</sup>

While Rio Tinto and Vale have been introducing new infrastructure to address problems with water supply for domestic use, the problems of limited water for agricultural use remains. The constraints of local water availability have led Rio Tinto, Vale, and the government to explore complex water supply strategies with uncertain outcomes, such as piping in water from the Zambezi river or encouraging farmers to switch from their traditional food crops to cash crops less dependent on water. Emmy Bosten, general manager for external affairs for Rio Tinto said, “We are aware of the criticality of water.... We are also in discussions with Vale about a dam or a more sustainable water provision proposal.”<sup>136</sup>

On top of infrastructure problems individuals resettled to 25 de Setembro also faced new costs for accessing water. Many who previously fetched water from rivers before resettlement said they now struggle to pay for water from their household taps. Elvira A., a resident of 25 de Setembro said, “We are suffering a lot because we are paying for water when we used to have water for free and because we are buying food which we used to produce ourselves.”<sup>137</sup>

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<sup>132</sup> Human Rights Watch interview with Carolinda R., May 11, 2012.

<sup>133</sup> Human Rights Watch interview with Salvador R., resettled farmer, Cateme, May 10, 2012.

<sup>134</sup> Written communication from Vale, January 9, 2013.

<sup>135</sup> Ibid.

<sup>136</sup> Human Rights Watch interview with Emmy Bosten, general manager, external affairs, Rio Tinto, Maputo, May 23, 2012.

<sup>137</sup> Human Rights Watch interview with Elvira A., resettled woman, 25 de Setembro, May 9, 2012.

## Housing with Cracks and Leaks

This house is not proper. There are lots of cracks and when it rains, the water comes inside. The door doesn't close properly. Every time it rains it leaks and we get a lot of water. People who are sleeping wake up until the rain stops.... When it is raining, we can't use the kitchen because water comes inside.

—Orlanda L., resettled woman living with her husband and five children, Cateme, May 10, 2012

Compensation packages for resettled households included a new house made with bricks, cement, a zinc roof, and separate structures for a kitchen, toilet, and storage for crops. In some cases, compensation included pens for livestock. While this arrangement theoretically represented an improvement for many households that were living in houses mostly made out of wood with thatch roofs, poor quality construction by the company contracted by Vale in Cateme and 25 de Setembro led to cracks in the walls of many houses and leaks from both the roof and floor when it rained. Residents of Mwaladzi were typically more satisfied with the housing built by Rio Tinto contractors.

Several individuals resettled to Cateme and 25 de Setembro complained about rain leaking into their homes and preventing them and their families from sleeping. Flávia J. said, "If it rains while we are sleeping we stand and we wait for the rain to stop and then we clean out the water so we can sleep."<sup>138</sup> Previously, many residents built their own houses and were independently able to repair them. Now they felt dependent on the coal companies to fix the houses. One woman told us, "Here we are suffering. First of all, [in our previous village] we had our brick houses with grass roofs—anyone there knows by himself how to protect it from leaking."<sup>139</sup>

A Cateme resident told Human Rights Watch that it was immediately apparent that their new house had cracks and other damage, and said, "We complained to the government from the beginning. We tried to tell them the moment they started giving us keys. But we had no other place to go."<sup>140</sup> Some government officials and companies acknowledged the

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<sup>138</sup> Human Rights Watch interview with Flávia J., resettled woman, Cateme, May 10, 2012.

<sup>139</sup> Human Rights Watch interview with Eugénia D., resettled elderly widow, Cateme, May 10, 2012.

<sup>140</sup> Human Rights Watch interview with Cordalia and Salvador R., resettled couple, Cateme, May 10, 2012.

problems and we witnessed construction teams conducting repairs in May and October 2012. However, other government officials downplayed the problems. The permanent secretary of Tete province said, “It’s true that the houses are not that good and are being repaired, but their houses are better than the houses they had before. They have electricity.”<sup>141</sup> In fact, many homes in Cateme do not have electricity, but Vale provided electricity on the main streets after complaints from the community in 2012.

Many resettled individuals interviewed by Human Rights Watch had complained to local authorities overseeing resettlement, but said they did not know whether the government planned to resolve their problems. They said there were long delays before they learned whether houses would be repaired, if their houses would be among those fixed, or when such repairs would take place. Elvira A., who complained that her house leaks when it is raining, said, “They [the company] came and said they will come to fix it but until now they have not come. They have been promising to fix it for a long time.”<sup>142</sup>

Vale acknowledged some problems with the houses, including a change in design that meant the houses were not built on foundations, but also noted that “when the cracks began in 2010 we hired an engineering company. They said it’s not a structural problem. We have the technical reports.”<sup>143</sup> Vale claimed the cracks in the houses were due to a natural “settling” of the house on uneven land and attributed the communities’ discontent to mismanaged expectations due to poor communication. A Vale official told Human Rights Watch that they had shown a model house with a particular type of foundation to each household in the resettled communities prior to the move. However, during the construction phase,

There was pressure for time, we came up with a new idea used in Brazil. [This is a foundation] used for public housing, it allows you to build faster, not cheaper. It is as safe. But faster.... We presented [this change to the foundation] to the government, and they approved it. This was our failure. We didn’t communicate [this change] well to the families. They didn’t think it was safe. The cracks happen in every house. It is part of settling the house. When they see a crack they think it is structural damage.<sup>144</sup>

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<sup>141</sup> Human Rights Watch interview with Samuel António Buanar, permanent secretary, Tete province, May 14, 2012.

<sup>142</sup> Human Rights Watch interview with Elvira A., May 9, 2012.

<sup>143</sup> Human Rights Watch interview with Carolina Coutinho, October 8, 2012.

<sup>144</sup> Human Rights Watch interview with Cássia Carvalho Pacheco, May 4, 2012.

Vale began repairing some houses in 2012 and has now decided to repair all houses in both Cateme and 25 de Setembro, including a change to the foundation. Vale estimates the repairs to the houses in Cateme will be completed by June 30, 2013 but at the time of writing had no estimate for the completion of repairs in 25 de Setembro.<sup>145</sup>

In Mwaladzi, resettled villagers' community networks were disrupted as their former neighborhoods were not kept intact after the move. This problem was avoided in Cateme, which was divided into neighborhoods named after and corresponding to neighborhoods in their previous villages. Maria C., a resident of Mwaladzi, said,

Here we didn't divide up by the communities we lived in before. People are mixed from different areas. If we were from the same place we would have named them the old names [as in Cateme.] I was coming from Nhang'anjo, Chipanga. There will always be segregation because we don't know each other. We would have been more comfortable with those we know from our neighborhood.<sup>146</sup>

## Educational Infrastructure

The school here is closer to home and I like it.

— Lourenço L., age 17, Cateme, May 10, 2012

Vale and Rio Tinto promised several new school buildings and upgrades to existing schools, and the government approved these plans as part of the resettlement. Both Vale and Rio Tinto are also developing vocational training opportunities for youth from the resettled communities. While the two companies provided the physical buildings and equipment for community schools, the local government is responsible for staffing and other operational services. These improvements have gone smoothly in Vale's resettlements. As of the end of January 2013, the school built by Rio Tinto in Mwaladzi had not begun operation.<sup>147</sup>

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<sup>145</sup> Written communication from Vale, January 9, 2013.

<sup>146</sup> Human Rights Watch interview with Maria C., May 11, 2012.

<sup>147</sup> Written communication from Rio Tinto, January 30, 2013, pp. 4-5.

According to the Resettlement Action Plan developed under Riversdale, Rio Tinto has a commitment to build a new primary school for resettled populations in Mwaladzi.<sup>148</sup> As noted in the background section, Rio Tinto's resettlement has taken place in phases, with 84 households already resettled and 388 households awaiting resettlement. Rio Tinto informed Human Rights Watch that the construction and equipment of the primary school is complete and, with the cooperation of the government, expect it to be operational by the time the next group of families is resettled to Mwaladzi.<sup>149</sup> According to Rio Tinto, "children already in Mwaladzi are studying in Cateme's primary and secondary schools. RTCM [Rio Tinto Coal Mozambique] provides a return transport for them from Mwaladzi to Cateme's schools."<sup>150</sup>

Vale pledged to expand and upgrade a primary and secondary school in Moatize (used by residents of 25 de Setembro) and to build a primary and secondary school in Cateme.<sup>151</sup> The schools in Cateme began operation in February 2010 and the secondary school attracts both students and teachers from surrounding areas. Residents of Cateme interviewed by Human Rights Watch expressed satisfaction with the schools in their community. Children from 25 de Setembro attend nearby primary and secondary schools in Moatize, where Vale built additional classrooms to accommodate them.<sup>152</sup>

## Delays with Health Infrastructure in Mwaladzi

It was a Saturday and I did not manage to go to the hospital. From here it is very far and there was no one to take me there. When it's by day you can reach there. But by night they keep the ambulance in town.... I would have preferred to give birth in the hospital but because there was no means, that's why it happened here at home. I was afraid because I knew the

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<sup>148</sup> Golder Associates, "10570 Benga Coal Project Resettlement Action Plan – Final Report," submitted to Riversdale Moçambique, Limitada, September 1, 2009, p. 181.

<sup>149</sup> Written communication from Rio Tinto, January 30, 2013, pp. 4-5.

<sup>150</sup> Ibid.

<sup>151</sup> Vale, "Projeto Carvão Moatize – Processo de Reassentamento," May 2012, p. 9.

<sup>152</sup> Human Rights Watch interview with Carolina Coutinho, October 8, 2012 and Human Rights Watch interviews with resettled residents of 25 de Setembro, May, 2012. Several residents of 25 de Setembro interviewed by Human Rights Watch said they expected to have a new primary school built in their neighborhood upon resettlement and have made complaints to Vale and the government. However, Human Rights Watch did not see any written commitment that a new primary school would be built in the resettlement and the number of children in 25 de Setembro and their close proximity to an existing school do not meet government requirements for building a new school.

hospital was very far from here—if I tried to go there, maybe I would have my child on the road.

—Bendita S., 18 years old, mother of a three-month-old baby, Mwaladzi,  
May 17, 2012

The resettlement plans for Cateme, 25 de Setembro, and Mwaladzi outline the creation or improvement of infrastructure to ensure communities' access to health care.<sup>153</sup> The health clinic constructed by Vale in Cateme has been in operation since November 2009. There has been a delay in the operation of a health clinic in Mwaladzi. This has meant a decline in access to quality health care at night and on weekends when transportation to Cateme's health clinic is not readily available.

The delay between resettling the initial 84 households in 2011 and the remaining 388 households in 2013 has meant that promised infrastructure, including a health care center and primary school, have also been delayed. After complaints to the government and Rio Tinto, the government placed a part-time health care worker in the village.<sup>154</sup> Rio Tinto also paid for an ambulance, although Human Rights Watch interviewed residents of Mwaladzi who said that the ambulance and its driver were only available during the day.

The increased distance to a health clinic combined with limited transport has led to several women in Mwaladzi between 2011 and 2012, delivering babies at home instead of healthcare settings with skilled attendants. Prior to resettlement, these women lived within a few kilometers of the district hospital and had much easier access to transport. Human Rights Watch interviewed women who had delivered their previous children in the hospital but had to deliver their babies at home after moving to Mwaladzi. This represents a retrogression in access to health care, especially in the context of Mozambique's efforts to lower its high maternal mortality ratio (490 deaths per 100,000 live births)<sup>155</sup> and infant mortality rate (72 deaths per 1,000 live births).<sup>156</sup> Human Rights Watch researchers were

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<sup>153</sup> Golder Associates, "10570 Benga Coal Project Resettlement Action Plan – Final Report," submitted to Riversdale Moçambique, Limitada, September 1, 2009 and Vale, "Projeto Carvão Moatize – Processo de Reassentamento," May 2012.

<sup>154</sup> Human Rights Watch was not able to confirm the exact date that health care services began to be provided in Mwaladzi, but estimates that part-time services became available in 2012.

<sup>155</sup> World Health Organization (WHO), UNICEF, UNFPA, and the World Bank, *Trends in Maternal Mortality: 1990 to 2010* (Geneva: WHO, 2012), [http://whqlibdoc.who.int/publications/2012/9789241503631\\_eng.pdf](http://whqlibdoc.who.int/publications/2012/9789241503631_eng.pdf) (accessed November 20, 2012), p. 34.

<sup>156</sup> UNICEF, "Committing to Child Survival: A Promise Renewed Progress Report 2012," September 2012, [http://www.apromiserenewed.org/files/APR\\_Progress\\_Report\\_2012\\_final\\_web3.pdf](http://www.apromiserenewed.org/files/APR_Progress_Report_2012_final_web3.pdf) (accessed January 31, 2013), p.34.

unable to verify the number of women who had deliveries at home in Mwaladzi, although one woman said she knew of eight such deliveries in her neighborhood alone. We also interviewed recent mothers who recounted their experience. Amélia D. said,

Three [of my older children] were born in the hospital. If I had a choice I'd go to the hospital. There was no car to take us to Cateme. It was Sunday and he was born at night. God was with me and I did not have any difficulties. I know about a complicated case. The baby was born dead. They took the mother the same night by foot to Cateme. They were afraid she would be in a bad situation too. People were helping her because she was weak. They took her the same night because they were worried. Now she is fine.<sup>157</sup>

The delay in setting up health care infrastructure for resettled communities also puts individuals with chronic health conditions, such as HIV/AIDS, at risk. In a country like Mozambique, with 11 percent of the adult population living with HIV,<sup>158</sup> it is critical that vulnerable populations such as these resettled communities have access to health care to enable them to prevent or treat infection and get adequate care.

Maintaining access to health care services is a key element of the resettlement principles outlined by the Special Rapporteur on Health and in the standards adopted by many institutions.<sup>159</sup> For example, the African Development Bank's policy on resettlement states, "Provision of health care services, particularly for pregnant women, and infants, may be important during and after relocation to prevent increases in morbidity and mortality due to malnutrition, the psychological stress of being uprooted, and the increased risk of disease."<sup>160</sup>

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<sup>157</sup> Human Rights Watch interview with Amélia D., May 17, 2012.

<sup>158</sup> UNAIDS, "Mozambique," <http://www.unaids.org/en/regionscountries/countries/mozambique/> (accessed December 17, 2012).

<sup>159</sup> UN Human Rights Council, "Basic principles and guidelines on development-based evictions and displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living," Miloon Kothari, A/HRC/4/18; UN Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 45 (2003).

<sup>160</sup> African Development Bank (AfDB), "Involuntary Resettlement Policy," November 2003, <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/10000009-EN-BANK-GROUP-INVOLUNTARY-RESETTLEMENT-POLICY.PDF> (accessed August 23, 2012), pp. 10-11, III, 3.3 (c).

## IV. Flaws in the Pre-Resettlement Process

We do not want to move but it is an obligation—the company is forcing us to move so what can we do? We have to move. We tried to complain but they just say, you have to go.... This is my place. I was born here. It hurts me a lot to leave the place I was born and go to die in another place.

—Vina Q., age 80, resident of Capanga awaiting resettlement to Mwaladzi,  
May 12, 2012

Weak government oversight during a period of rapid change, the absence of detailed legal requirements for resettlements, and limited information and community participation in key decisions about relocation set the stage for grave shortcomings in the process, design, and implementation of the Vale and Riversdale/Rio Tinto resettlements.

### Evolving Government Oversight

The government's speed is slow. They are not matching our speed. We are running at 100, they are running at 30.

—Manoj Gupta, country head, Jindal Steel and Power Limited, Maputo,  
October 9, 2012

Extractive projects often possess an enormous potential for human and environmental damage if not carried out responsibly. For this reason it is vital that governments overseeing extractives firms have rigorous regulations in place and they enforce those regulations vigorously and effectively.<sup>161</sup> Yet the Mozambican government awarded the earliest and largest coal mining licenses before establishing a comprehensive regulatory framework. These gaps contributed to the problems documented in this report.

Under the Mozambican constitution, the government owns all the land and mineral resources under the ground. The government grants the right to use and benefit from the land to

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<sup>161</sup> Human Rights Watch, India - *Out of Control: Mining, Regulatory Failure, and Human Rights in India*, June 2012, <http://www.hrw.org/reports/2012/06/14/out-control>.

individuals or corporate entities.<sup>162</sup> The country's 1997 Land Law recognizes a wide array of land-use rights.<sup>163</sup> It incorporates robust processes of consultation, recognizes customary use, and promotes equity between men and women. However, the government may transfer land from its current users if it deems it to be in the national interest. The constitution and land law stipulate that affected populations should receive fair compensation that covers losses and lost profits, "and that such payments should precede revocation of land use."<sup>164</sup>

From 2004 to 2011, when Vale and Riversdale (later acquired by Rio Tinto) were developing the resettlements discussed in this report, there were no specific policies or minimum requirements on resettlement set out by the government aside from the general protections for land use and benefit enshrined in Mozambique's constitution and land law. On August 8, 2012, Mozambique's Council of Ministers adopted the Regulation for Resettlement Resulting from Economic Activities (*Regulamento sobre o Processo de Reassentamento Resultante de Actividades Económicas*) to guide future resettlements.<sup>165</sup> This decree is discussed in further detail in chapter V.

The multi-sectoral nature of resettlements involve many different sectors of government, including municipal and district officials, the provincial directorates for mining, agriculture, education, environment, and health care among others, and the central government. In the absence of a coherent government policy on resettlement, early resettlements proceeded in an ad hoc and to some extent haphazard manner.

The Mozambican government designated a *provincial resettlement commission*<sup>166</sup> as a coordinating entity for designing and monitoring resettlements due to mega-projects. The

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<sup>162</sup> Constitution of the Republic of Mozambique, 1990, arts. 109-110.

<sup>163</sup> Land Law, No. 19/97 of 1 October, arts. 3, 9, 10.

<sup>164</sup> Land Law, No. 19/97 of 1 October. art. 18(1)(b) on the Termination of the right of land use and benefits states, "1. The right of land use and benefit shall be extinguished.... b) By revocation of the right of land use and benefit for reasons of public interest, preceded by payment of fair indemnification and/or compensation, "Constitution of the Republic of Mozambique, 1990, art. 82(2): "[e]xpropriation may take place only for reasons of public necessity, utility, or interest, as defined in the terms of the law, and subject to payment of fair compensation."

<sup>165</sup> Conselho de Ministros. 2012. Regulamento sobre o Processo de Reassentamento Resultante de Actividades Económicas [Regulation for Resettlement Resulting from Economic Activities] Aprovado pelo Decreto No 31/2012 de 8 de agosto, da Assembleia da República. Publicado no Boletim da República No 32, 1.ª Série, Suplemento, Maputo: Imprensa Nacional de Moçambique.

<sup>166</sup> The permanent secretary of Tete province, an appointed official, heads the provincial resettlement commission, which includes members from several provincial government agencies (mining and energy, environmental action, public works and housing, and agriculture). The provincial resettlement commission may also include relevant district and municipal representatives, and a secretariat. It does not include nongovernmental representatives.

governor of Tete has handled many of the key negotiations and decisions.<sup>167</sup> Few people Human Rights Watch interviewed, whether local community members or officials, had a clear idea about the provincial resettlement commission's makeup or mandate or which matters were referred to the governor. The permanent secretary for Tete province refused to describe the commission to Human Rights Watch researchers, saying that it was "secret."<sup>168</sup>

Company representatives and civil society activists noted that the provincial resettlement commission met infrequently, slowing down decisions and responses to complaints. Ivo Lourenço, Rio Tinto's general manager for community relations, said, "Two years ago, the PRC [provincial resettlement commission] was made of about 20 people. Getting people into [the] same room was very challenging."<sup>169</sup> He added that the committee has become smaller and more responsive since the adoption of the August 2012 resettlement decree.

## Inadequate Planning for Cumulative Impacts of Mining Projects

If you look at the map, there are so many concessions around ours, there is no space [for resettlement].

—Stelio Matavel, liaison officer, Jindal Steel and Power Limited, Maputo, October 9, 2012

One area of concern is the number and pace of concessions granted to investors without appropriate safeguards. While companies must fulfill a growing number of government requirements to obtain individual environment and mining licenses, there is little management and planning for the cumulative impact of numerous mining projects on the environment, the local community, and the economy.

As far as Human Rights Watch has been able to determine, neither national nor provincial authorities have systematically assessed such cumulative impacts. This is a crucial issue given the high concentration of mining projects in Tete province. Two large projects adjoining

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<sup>167</sup> The governor of Tete province between 2010 and 2012, Alberto Vaquina, became the prime minister of Mozambique in October 2012.

<sup>168</sup> Human Rights Watch interview with Samuel António Buanar, permanent secretary, Tete province, May 14, 2012.

<sup>169</sup> Human Rights Watch telephone interview with Ivo Lourenço, general manager for community relations, Rio Tinto, Tete province, March 12, 2013.

the same community might each adhere to air quality standards, for example, but their cumulative impact could expose people to harmful levels of dust or other pollutants.

According to data from the Mozambican government's mining registry in October 2012, the government has approved at least 245 mining concessions and exploration licenses in Tete province, covering approximately 3.4 million hectares or 34 percent of its area.<sup>170</sup> Coal mining accounts for roughly one-third of these. When factoring in all applications pending approval, the amount of land involved jumps to roughly 6 million hectares, or approximately 60 percent of Tete province's area, and 80 percent of Moatize district.<sup>171</sup>

Not all exploration activity leads to the discovery of commercially viable deposits and to the development of mines, so these figures do not imply that up to 60 percent of Tete province will eventually be covered by mines, or that communities in all of these areas will eventually be displaced. But the crowded number and location of concessions contribute to problems involving resettlement of local communities, water resource management, and conflicts over claims to land use.

The maps in the summary of the report illustrate the number and location of approved and proposed mining licenses in Tete province and Moatize district. These maps are based on the data available at the government mining cadaster on October 9, 2012 and do not reflect any new, expired, or canceled licenses since then. The government data we obtained also had gaps in parts of western Tete province which may result in a slight underestimate of the area designated for mining licenses. There may be slight errors in the precise size, shape, and location of the mining licenses depicted.

A major constraint to the selection of the Vale, Rio Tinto, and Jindal Steel and Power Limited resettlement sites has been the vast areas of land already earmarked for mining licenses.

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<sup>170</sup> Cadastro Mineiro, Direção Nacional de Minas, Ministério dos Recursos Minerais (MIREM), República de Moçambique, "Licenças por Titular," October 9, 2012. A Human Rights Watch researcher visited the Mining Cadastre and obtained lists and maps of approved and pending mining licenses in Mozambique, and specifically Tete province as of October 9, 2012. Human Rights Watch reviewed and measured the blocks designated for mining concessions and exploration licenses from these maps. We extracted the geographic layers to provide an independent measurement of the total area allocated for approved and pending mining licenses in Tete province. These figures, based on available data, likely represent minimum estimates. There may be additional licenses not reflected in this map due to some gaps in the obtained data. The actual area allocated for approved and pending mining license is likely to be higher. An additional 138,000 hectares are allocated for "designated" or "reserved" areas by the government.

<sup>171</sup> Ibid. and Cadastro Mineiro, Direção Nacional de Minas, MIREM, República de Moçambique, "Lista de Licenças," October 9, 2012. A Human Rights Watch researcher visited the Mining Cadastre and obtained a list of applications for mining licenses under review in Mozambique as of October 9, 2012.

The Mozambican government has granted so many large concessions in Tete province that community leaders, company representatives, and government officials all noted there were few remaining options for desirable resettlement sites within the same district.

The provincial resettlement commission decided Vale's relocation sites based on multiple criteria including potential for farming and access to water.<sup>172</sup> One of the principal limitations was to find an adequately-sized area not already designated for other mining licenses and concessions. They evaluated eleven potential areas before choosing Cateme and 25 de Setembro. A Vale official said, "We would have wanted it [Cateme] closer [to town] if possible but had constraints. We can't put them on top of existing communities or areas with other concessions where they might be resettled again."<sup>173</sup> Vale had originally considered Capanga village as a preferred resettlement site but could not use it given its location in the Rio Tinto concession.<sup>174</sup> The residents of Capanga have since been resettled or designated for resettlement, mostly to the Rio Tinto resettlement site Mwaladzi.

Breznévia Gemo, Rio Tinto's resettlement superintendent, said, "There is not enough room to play with.... We have limited options."<sup>175</sup> Members of affected communities said they suggested several preferred resettlement sites but these were rejected because they fell on land designated for future projects. Dimas B., a resident of Cassoca, said, "We asked them to move us to that area called Thibu but they said another company is coming to operate there. That place [Thibu], the soil is similar to ours."<sup>176</sup>

## Limited Community Participation in Resettlement Decisions

The government chose Mwaladzi.... [When we visited Mwaladzi to assess the site] they had already started constructing houses. How could we say anything? The sample house was already built.

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<sup>172</sup> The criteria include location within the Moatize Administrative Area; lack of mining concessions in the area; the ability to access the area; lack of significant human occupation; proximity to urban centers; water availability; and favorable soil for arable farming and grazing.

<sup>173</sup> Human Rights Watch interview with Cássia Carvalho Pacheco, corporate affairs manager, Vale, S.A., Maputo, May 4, 2012.

<sup>174</sup> Ibid.

<sup>175</sup> Human Rights Watch interview with Breznévia Gemo, Rio Tinto, May 23, 2012.

<sup>176</sup> Human Rights Watch interview with Dimas B., resident, Cassoca, May 15, 2012.

Nothing can be done. The company and the government are the same. We are just like leaves, we go wherever they want, what can we say?

The only thing I can tell you is we are suffering. The companies came from where they came and agreed with the government, so we can say nothing.  
—Neighborhood leader, Capanga, May 12, 2012

Thousands of households living atop or near designated coal mining sites in Tete province are being resettled, resulting in displacement from their farmland, homes, and way of life. Local communities face many immediate, significant hardships due to the mining operations but uncertain future benefits.

The coal mining companies and many members of affected communities have sharply differing perspectives on the level of dialogue and consultation that took place prior to the resettlements. For example, Vale states it carried out “extensive public engagement and participation,” including public hearings, drama performances, more than a hundred meetings with the community and its leaders, and thousands of home visits.”<sup>177</sup>

Individuals resettled by Vale, Riversdale, and Rio Tinto told Human Rights Watch they had a very limited role in negotiating the terms and conditions of the compensation provided by the companies and brokered by the government, including key decisions such as the site selection for their new homes and fields. Community leaders visited potential relocation sites but complained of receiving incomplete information about their options and having little influence on the provincial resettlement commission’s ultimate decision. For example, Fernando L., a community leader in Capanga, who participated in part of the process, said, “We chose Samowa [as a relocation site]. We wanted to go there. The government said no. Only they can explain why they didn’t let us go there.”<sup>178</sup>

International human rights law experts, including the UN Special Rapporteur on the right to adequate housing, have examined the rights of people being resettled for the purpose of

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<sup>177</sup> “The process of producing the Resettlement Action Plan and Environmental Impact Study involved extensive public engagement and participation, consisting of three public hearings, 20 theater performances in the predominant local language (Nyungwe), 110 meetings with the community and its leaders using informative tools such as flipcharts, 4,927 home visits for mobilization and social welfare purposes (involving families and leaders), and 639 social service sessions before resettlement began.” See Appendix C.

<sup>178</sup> Human Rights Watch interview with Fernando L., resettled farmer, Cateme, May 10, 2012.

economic development projects such as mining, dams, and roads. The Special Rapporteur, an independent expert, issues authoritative interpretations of international standards on housing.<sup>179</sup> International financial institutions such as the World Bank, who finance or directly implement projects that may involve involuntary resettlement, have also developed protocols on the safeguards that should be in place for resettled populations.<sup>180</sup> While Mozambique is not a party to the International Covenant on Economic, Social, and Cultural Rights, which provides the basis for the Special Rapporteur's interpretations, the principles below provide useful examples of how international law and international financial institutions have addressed public consultation and participation in cases of involuntary resettlements.

According to the UN Special Rapporteur on adequate housing, a resettlement process that fully respects human rights should ensure public consultation and participation at all stages of the process, including in the design, implementation, and post-move phases of resettlement. Affected groups and individuals should give their full and prior informed consent as regards the relocation site.<sup>181</sup> The state should consider alternate plans proposed by affected persons and communities and establish accessible channels for providing feedback outside the framework of planned consultations.<sup>182</sup> The resettlement protocols of the World Bank and the African Development Bank stipulate that affected communities should remain fully informed and closely consulted at all stages of the process, including the development of resettlement documents.<sup>183</sup>

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<sup>179</sup> UN Human Rights Council, "Basic principles and guidelines on development-based evictions and displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living," Miloon Kothari, A/HRC/4/18 and Commission on Human Rights, Comprehensive Human Rights Guidelines On Development-Based Displacement, adopted by the Expert Seminar on the Practice of Forced Evictions Geneva, 11-13 June 1997, E/CN.4/Sub.2/1997/7 [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.Sub.2.1997.7.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.Sub.2.1997.7.En?Opendocument) (accessed August 14, 2012).

<sup>180</sup> World Bank, "BP 4.12 – Operational Policy on Involuntary Resettlement," December 2001 (revised February 2011), <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/o,,contentMDK:20064610~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>, (accessed August 23, 2012).

<sup>181</sup> UN Human Rights Council, "Basic principles and guidelines on development-based evictions and displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living," Miloon Kothari, A/HRC/4/18, [http://www2.ohchr.org/english/issues/housing/docs/guidelines\\_en.pdf](http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf), and Commission on Human Rights, "Comprehensive Human Rights Guidelines On Development-Based Displacement, adopted by the Expert Seminar on the Practice of Forced Evictions Geneva," 11-13 June 1997, E/CN.4/Sub.2/1997/7 [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.Sub.2.1997.7.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.Sub.2.1997.7.En?Opendocument) (accessed August 14, 2012).

<sup>182</sup> Ibid.

<sup>183</sup> African Development Bank (AfDB), "Involuntary Resettlement Policy," Abidjan, November 2003 [http://www.afdb.org/psdu/involuntary\\_resettlement](http://www.afdb.org/psdu/involuntary_resettlement) (accessed August 23, 2012) and World Bank, "BP 4.12 – Operational Policy on Involuntary Resettlement," Washington DC, December 2001 (revised February 2011), <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/o,,contentMDK:20064610~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>, (accessed August 23, 2012). The World Bank and AfDB are in the process of reviewing and updating their involuntary resettlement policies together with other social and environmental safeguards. Civil society organizations are advocating for the World Bank to enhance its standards and

## Disruptions Linked to Timing and Information about the Move

This year we are not farming. Rio Tinto told us to stop.... They said they would move us this year. They have been telling us for three years that we have to move.

—Alberto N., man waiting to be resettled by Rio Tinto, Capanga, May 12, 2012

Human Rights Watch interviewed several individuals affected by the Rio Tinto and Jindal Steel and Power Limited resettlements who had little information about the timing of their eventual move, causing great uncertainty in terms of farming cycles and whether to invest in repairs or improvements to their housing and land. Families awaiting a move who plant new crops risk the devastating loss of that entire investment if they are moved before harvest time. Families who do not plant are at risk of going hungry if they do not move and are still on their original land with empty fields at harvesting time.

Although Riversdale resettled 71 households and Rio Tinto resettled an additional batch of 13 households in 2011, the process has stalled as Rio Tinto develops the infrastructure and living conditions in Mwaladzi. This has caused great uncertainty. When Human Rights Watch researchers visited Capanga in May and October 2012, every person we spoke to was under the impression they were going to move imminently and expressed frustration about whether to continue cultivating their land and vegetable plots.

Those already resettled suffered a huge disruption in their food production and did not receive the compensation they expected.<sup>184</sup> In May 2012, Human Rights Watch researchers interviewed individuals from a group of 13 households recently resettled to Mwaladzi from Benga who were moved in the middle of a farming cycle. They said Rio Tinto officials and local government officials told them not to farm their plots in their original villages because of the move and that they would be provided food upon resettlement. Carolinda R. said,

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procedures to comply with international human rights law, of which they currently fall short. See, Initial Comments by Civil Society Organizations on the World Bank's Safeguard Policies Review and Update, December 2012, [http://www.hrw.org/sites/default/files/related\\_material/Initial%20Comments%20by%20Civil%20Society%20Organization%20on%20the%20World%20Bank%20Safeguards%20Review.pdf](http://www.hrw.org/sites/default/files/related_material/Initial%20Comments%20by%20Civil%20Society%20Organization%20on%20the%20World%20Bank%20Safeguards%20Review.pdf) (accessed February 12, 2013).

<sup>184</sup> As discussed earlier, resettled individuals and company representatives often had widely varying understandings of the agreed upon compensation package.

Before we came here, they told us not to farm our land because they would give us food. But when we moved, they said they would only provide three months of food. I am worried about what I will do the rest of the year. They should give us food for the whole year. They told us not to farm last year, if I had, I would have food.<sup>185</sup>

Human Rights Watch researchers visited several households that complained of this problem and visually inspected their empty food warehouses, which contrasted to other households in Mwaladzi that had been resettled earlier. When Human Rights Watch visited the same set of households in October 2012, Malosa C. said that in the period of uncertainty after their move and before they started receiving food assistance in September, “we used to eat our food sparingly, eating less than we should so that we could save food for a long time until we knew we would be able to get more food. We would sometimes have one meal a day.”<sup>186</sup>

When Human Rights Watch presented this complaint to Rio Tinto officials, they did not respond directly to this allegation. However, in a written communication, Rio Tinto told Human Rights Watch that based on the experience of the 84 households already resettled, it would be adjusting its plans when resettling the remaining 388 households to take into, “consideration the agricultural calendar of the area, soil types and land use options as well as the extension of food assistance.”<sup>187</sup> Ivo Lourenço, Rio Tinto’s general manager for community relations, elaborated the lessons learned, saying,

There is a wet season and a dry season. In the wet season people farm for food for consumption. In the dry season they farm vegetables for selling and getting money. Because the relocation took place in the middle of the wet season in which food is produced for consumption, the food assistance was there to replace what they weren’t able to farm. It wasn’t sufficient. This is one of the key lessons we learned. In the planning for the remaining households, we took this into consideration.<sup>188</sup>

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<sup>185</sup> Human Rights Watch interview with Carolinda R., a divorced woman living with three children, Mwaladzi, May 11, 2012.

<sup>186</sup> Human Rights Watch interview with Malosa C., resettled woman, Mwaladzi, October 3, 2012.

<sup>187</sup> Written communication from Rio Tinto to Human Rights Watch, “Feedback to Human Rights Watch,” January 30, 2013, p. 6.

<sup>188</sup> Human Rights Watch telephone interview with Ivo Lourenço, general manager for community relations, Rio Tinto, Tete, March 12, 2013.

## V. Government and Company Responses

We made mistakes. We believe the next projects will be better.... We have to not only move people, but to give them ways to survive. And not only ways to survive, but ways to live.

—Esperança Bias, minister, Ministry of Mineral Resources, Maputo,  
May 22, 2012

Although Vale and Rio Tinto have been taking increasing action to address the wide-ranging number of problems with the resettlements in Cateme and Mwaladzi, they were initially slow to respond to many of the problems with housing, land, and water described above. District and provincial officials in charge of monitoring the process also failed to take effective action. Most remedial actions gathered steam in the second half of 2012 although some families in Cateme moved as early as 2009, and those in Mwaladzi moved in 2011.

Through 2011 and 2012, dialogue between resettled communities, government officials, and company representatives remained patchy, and many resettled individuals had little information about whether and when the companies and the government would address their complaints. Community members interviewed by Human Rights Watch said they grew increasingly anxious about becoming self-sufficient and having adequate access to food, water, and work.

### Demonstration in Cateme

When we tell all of our complaints to the permanent secretary, we know there is no answer. If we close the railway, they will come to us. They came for sure, they gave us some food one month later.... We have not seen changes with the ... other things that we are complaining about.

—Maria. L., resettled woman, Cateme, May 10, 2012

Deeply frustrated and anxious about their living conditions since resettlement in 2009 and 2010, residents of Cateme sent a letter to Vale and local government officials on December 20, 2011 demanding a response to their concerns about land, houses, water, transport,

health facilities, and job opportunities. On January 10, 2012, approximately 500 people staged a demonstration, blocking the railway transporting Vale's shipments of coal from their mine in Moatize.<sup>189</sup>

According to protestors and local civil society activists, a few hours into the demonstration, riot police arrived. Eugénia D., a resident of Cateme, told Human Rights Watch,

I was at the protest. We blocked the railway and they called some police officers and they could not stop the people so they had to call another law enforcement to stop the people. They chased the people with guns.... [The next day] Police went to each house afterwards and were beating people.<sup>190</sup>

Another demonstrator said, "I was there. The police came on the day of the protest and the day after they came looking for people and then they took them and beat them. Everybody who they found outside their home, they beat. We ran away. My brother-in-law stayed one month sitting at home [recovering from injuries] because of being beaten."<sup>191</sup> *Liga dos Direitos Humanos*, a national human rights organization, filed a complaint with the district prosecutor to initiate criminal proceedings against the district police for the arbitrary arrest and detention of 14 men, beating five of them at the demonstration, and beating nine of them while in police custody.<sup>192</sup> The case was ongoing at the time of writing.

Human Rights Watch spoke to several Vale representatives who insisted that the day of the protest was the same date they had already been planning to begin addressing and investigating the community's complaints further.<sup>193</sup> They suggested the catalyst for the demonstration may have been linked to Cateme residents facing uncertain economic prospects after losing their temporary jobs with Vale during initial construction of the mine. Cassia Carvalho-Pacheco, Vale's corporate affairs manager told Human Rights Watch, "We

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<sup>189</sup> "Mozambique protest blocks coal train line," *Agence France-Presse*, January 12, 2012.

<sup>190</sup> Human Rights Watch interview with Eugénia D., resettled elderly widow, Cateme, May 10, 2012.

<sup>191</sup> Human Rights Watch interview with Izabel M., resettled woman, Cateme, May 10, 2012.

<sup>192</sup> Liga dos Direitos Humanos, "Solicitação de Instauração de Procedimento Criminal," Procurador da República do Distrito de Moatize, Província de Tete, February 2012.

<sup>193</sup> Human Rights Watch interview with Cássia Carvalho Pacheco, corporate affairs manager, Vale, S.A, May 4, 2012 and Carolina Coutinho, senior sustainability analyst, Vale, October 8, 2012.

don't have any studies, just guessing, they were working, well-fed, and then they had no more formal work, they were back to the land—and different land.”<sup>194</sup>

The demonstration received widespread attention in Mozambican media, channeling attention to the plight of villagers resettled not only in Cateme, but also in Vale's other resettlement, 25 de Setembro, and Rio Tinto's resettlement, Mwaladzi. An article by Southern Africa Resource Watch (SARW), a nongovernmental organization based in South Africa also highlighted problems across the three resettlements, including housing, poor land, and the limited response by Vale, Rio Tinto, and the government.<sup>195</sup> Vale and Rio Tinto both issued formal responses to the SARW article, acknowledging some of the problems and highlighting their previous and ongoing efforts to make the resettlements successful (see appendices for these responses).

After the demonstration, company representatives and central, provincial, and district government officials acknowledged, to varying extents, flaws in the resettlement process and hardships faced by resettled communities and committed to fixing them. On February 2, 2012, the head of the governmental provincial resettlement commission told local media it had changed the housing specifications, dropping the option of building smaller “type 1” houses and requiring at least two-room “type 2” houses in future moves.<sup>196</sup>

## Responding to Poor-Quality Land and Loss of Livelihoods

The only situation that is better is now we have transport which is a little cheaper. They gave us food. But the main problem is still our land....

People here need food and they don't care. We are suffering. People need land to produce.

—Senolia S., resettled farmer, Cateme, May 17, 2012

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<sup>194</sup> Human Rights Watch interview with Cássia Carvalho Pacheco, May 4, 2012.

<sup>195</sup> Claude Kabemba, “Coal versus Communities in Mozambique: Exposing poor practices by Vale and Rio Tinto,” *Southern Africa Resource Watch*, February 2, 2012, <http://www.sarwatch.org/publications/research-reports/36-research-reports/1627-coal-versus-communities-in-mozambique-exposing-poor-practices-by-vale-and-rio-tinto.html> (accessed February 20, 2012).

<sup>196</sup> “Mozambique: Tete Govt Changes Resettlement Strategy,” *AllAfrica.com*, February 2, 2012, <http://allafrica.com/stories/201202030484.html> (accessed April 2, 2012).

In my opinion the main problem was not houses but to have programs to allow the people from Cateme to produce goods, to employ themselves, in order to continue to have a normal life.

—Manuel José Sithole, director, Provincial Directorate of Mining and Energy, Maputo, May 23, 2012

The government representatives interviewed by Human Rights Watch agreed that quality of farmland is an important component of a successful resettlement package. The minister of mining, Esperança Bias, said, “We need to make sure that the land is productive. If not, we should substitute bad land with something else. Before, if people had bad land [they had other economic options since] they lived five minutes from the market, now they are thirty minutes away.”<sup>197</sup> They did not respond directly to Human Rights Watch’s concern about the quality of farmland in Cateme and Mwaladzi or the reasons for the delay in allocating the full promised quantity of compensation land in the case of Cateme.

Representatives of Rio Tinto have acknowledged that the quality of farmland is uneven, and in many cases, poor. For example, in a written communication to Human Rights Watch, Rio Tinto wrote, “RTCM [Rio Tinto Coal Mozambique] is aware that the carrying capacity of the land in Mwaladzi is very marginal without irrigation schemes, particularly in years with limited rain fall, and given the limited water availability for agriculture.”<sup>198</sup> As of January 30, 2013, they also reported receiving 342 grievances related to access to farmland, of which they said they resolved 296.<sup>199</sup>

The Vale representatives that Human Rights Watch spoke with agreed there were problems with the water availability in Cateme that affected agriculture.<sup>200</sup> Vania Somavilla, a member of the five-person executive committee overseeing Vale’s global operations said, “We fully agree that the location is not the best location. We learned that after [the

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<sup>197</sup> Human Rights Watch interview with Esperança Bias, minister, Ministry of Mineral Resources, Maputo, May 22, 2012.

<sup>198</sup> Written communication from Rio Tinto to Human Rights Watch, “Feedback to Human Rights Watch,” January 30, 2013, p. 5.

<sup>199</sup> Ibid., p. 7.

<sup>200</sup> Human Rights Watch interview with Paulo Horta, operations director - Moatize, Vale, Moatize, Tete province, May 16, 2012; Human Rights Watch interview with Abdul Adamo, social development manager, Vale, Moatize, May 16, 2012; and Human Rights Watch interview with Carolina Coutinho, October 8, 2012.

resettlement].... We agree that the land where they were resettled is worse.”<sup>201</sup> Carolina Coutinho, another Vale representative, said the land is of uneven quality but has potential with greater access to water: “Some families had land with plenty of rocks, but that is not the general situation. Some have very good land. Maybe we can achieve some more productivity with irrigation.”<sup>202</sup>

The survey conducted for the preparation of Mwaladzi’s resettlement plan provided indications that the government and Riversdale could have anticipated potential problems with water supply.<sup>203</sup> The Riversdale RAP’s analysis of the Mwaladzi relocation site says, “The surface water resources are poorly developed in the area with no perennial water course running within or in nearby the development area. The existing seasonal streams are highly dependent on the wet season for their flow pattern and therefore cannot be considered a continuous water source.”<sup>204</sup>

Furthermore, the Riversdale RAP highlights the limited number of relocation sites available due to the number of mining concessions. Ultimately, the selection of Mwaladzi failed to meet several of the top demands and priorities expressed by community members during the consultations. These included, 1) to be located near a river bank so they could continue to grow crops in two seasons, 2) ensuring good soil for their fields and for grazing, 3) access to the islands in the Zambezi and Revuboé rivers where some community members have fields, and 4) adequate structures for housing and livestock.<sup>205</sup>

Vale and Rio Tinto have attempted to deal with the uneven quality of farmland and limited supply of water for agricultural use by trying to improve the quality of the land through enhancing water supply in order to enable irrigation; and training farmers on agricultural techniques and encouraging them to change to less water-intensive cash crops. Abdul Adamo,

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<sup>201</sup> Human Rights Watch meeting with Vania Somavilla, executive director, human resources, health and safety, sustainability and energy, and Marcio Senne de Moraes, corporate affairs head, Europe-North America, Vale, New York City, April 9, 2013.

<sup>202</sup> Human Rights Watch interview with Carolina Coutinho and Ricardo Saad, project director Africa, Asia, and Australia, Vale Moçambique, Lda, Maputo, May 22, 2012.

<sup>203</sup> Golder Associates, “10570 Benga Coal Project Resettlement Action Plan – Final Report,” submitted to Riversdale Moçambique, Limitada, September 1, 2009, p.vii; Vale, “Projeto Carvão Moatize – Processo de Reassentamento,” May 2012, and Diagonal, “Plano de Ação para o Reassentamento,” submitted to Rio Doce Moçambique [Vale], undated.

<sup>204</sup> Golder Associates, “10570 Benga Coal Project Resettlement Action Plan – Final Report,” submitted to Riversdale Moçambique, Limitada, September 1, 2009.

<sup>205</sup> Ibid., p. 126.

Vale's social development manager told Human Rights Watch, "There is good soil at Cateme—it's just a problem of water. The best idea is to try and increase yields with better seeds and cash crops. This year we will roll out two crops—sesame seeds and beans."<sup>206</sup>

Given the problems with productivity and prior occupants reclaiming land after the first set of plots were allocated, having a second plot of better fertility could significantly improve the livelihoods of resettled farmers. However, three years after the move, the provincial resettlement commission and the governor of Tete have failed to provide the promised second hectare of farmland to Cateme residents and, according to Vale, are considering changing the compensation to cash.<sup>207</sup>

The vast majority of villagers we spoke to had no idea about any attempts to secure a second hectare of land for them. Ernesto S., a Cateme resident, said, "When we complained about the land, [Vale] said they would give us another plot. We have not received it and we do not believe they will give it to us."<sup>208</sup> In Human Rights Watch's interviews with provincial government officials and representatives of Vale and Rio Tinto, they all cited the biggest barrier to designating a second hectare of land to be the limited land available due to crowding from numerous mining licenses. Vale representative Carolina Coutinho told Human Rights Watch, "It is very hard to find land in Tete. Everything is a concession now."<sup>209</sup>

Vale has also been planning, and in some cases implementing, smaller-scale interventions to assist households in Cateme to strengthen their livelihoods. This includes providing 80 families with a quarter hectare of irrigated land for vegetables and assisting 100 families to rear and slaughter chickens for Vale's workforce.<sup>210</sup> So far they have worked with 16 households to build aviaries and trained 20 families on improved poultry production techniques.<sup>211</sup> While potentially productive, these projects only address the needs of a small fraction of resettled households. Furthermore there is uncertainty about the success of chicken-rearing initiatives and the intermediary steps that must first be met for

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<sup>206</sup> Ibid.

<sup>207</sup> Human Rights Watch interview with Carolina Coutinho, October 8, 2012.

<sup>208</sup> Human Rights Watch interview with Ana and Ernesto S., resettled farmers, Cateme, May 10, 2012.

<sup>209</sup> Human Rights Watch interview with Carolina Coutinho, October 8, 2012.

<sup>210</sup> Written communication from Vale to Human Rights Watch, "Relatório de Acompanhamento das Acções em Desenvolvimento em Cateme e 25 de setembro, Dezembro 2012," January 9, 2013.

<sup>211</sup> Ibid.

processing and packaging chickens to an adequate quality for Vale to purchase it and provide a sufficient income to the producers. Abdul Adamo, Vale's social manager, said, "Vale consumes 30 tons of chicken a month. We want to guarantee a market for Cateme's vegetables, chickens, goats—but the challenge is, Vale needs certain standards of quality, hygiene, and timely delivery."<sup>212</sup>

Such projects may ultimately improve resettled individuals' standard of living, but they are experimental. Instead of being restored to their former standard of living at the time of resettlement, these communities are instead participating in development projects that may take years to come to fruition, have uncertain outcomes, and increase vulnerability through an increased reliance on markets for food.

Ultimately, a key strategy for the government, Vale, and Rio Tinto to meet its obligations to help resettled families attain an adequate standard of living is to make it possible for them to grow food, either on the land they have already been given or on other, more productive land.

## Communication and Access to Information

When we were moving here they said they would give us houses, money for land, and food. But they only gave us food for three months. They also said there would be a hospital and school, but these are still under construction. They did not give us the money and the kind of land they promised.

—Cristina L., resettled woman, Mwaladzi, May 11, 2012

What we have to clarify ... is dialogue with community at all times. So they know what is going on. The issue is information. If they are not informed, they will not accept anything.

—Manuel José Sithole, director, provincial directorate of mining and energy, Maputo, May 23, 2012

There is little evidence that the information flow to the resettled communities improved after the Cateme demonstration. Although Vale and relevant government officials increased their

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<sup>212</sup> Human Rights Watch interview with Abdul Adamo, May 16, 2012.

attention to the communities' complaints, including through the development and implementation of remedial projects, most of the community residents we interviewed had little information about any plans to address their problems and said that they did not have meaningful opportunities to contribute their inputs into the design of remedies. Members of resettled communities appear to have little information about their rights and the respective obligations of the companies, local government, and central government.

None of the members of 25 de Setembro, Cateme, and Mwaladzi interviewed by Human Rights Watch had access to official documents—or accessible summaries of these documents—outlining the overall resettlement plans in order to verify what commitments were made to them by Vale or Rio Tinto and the provincial resettlement commission or to measure the progress made. Human Rights Watch obtained the government-approved Resettlement Action Plans from both Rio Tinto and Vale upon request, but many community members do not know these documents exist, do not read Portuguese or English, and would not find the lengthy, technical documents accessible. The same is true for environmental monitoring reports, the Environmental Impact Assessments, the mining law, and other project documents and laws and regulations that affect their lives.

Instead, resettled individuals primarily relied upon sporadic, large community meetings for information or messages channeled through community leaders, some of whom represented their constituencies well, others who exacerbated the problems. Speaking to Human Rights Watch in May 2012, a community leader from 25 de Setembro said, “There were some meetings between the government, company, and community. The last time was August 2011. June of last year was the last time I [personally] had a meeting with the company.”<sup>213</sup> Isabel R. said, “They don’t come here and see what is happening.”<sup>214</sup>

After the January 2012 demonstration in Cateme, local government officials have worsened the situation by restricting channels of communication instead of expanding them. They instructed community leaders not to speak to individuals or organizations without a “credentials” letter authorized by district authorities, including representatives of civil society organizations and international agencies such as UNICEF. A civil society activist said,

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<sup>213</sup> Human Rights Watch interview with Eduardo A., May 13, 2012.

<sup>214</sup> Human Rights Watch interview with Isabel R., resettled woman, 25 de Setembro, May 9, 2012.

The requirement for “credentials” is new. It started from the demonstrations in Cateme. We went to Changara to work on the Jindal construction. We returned because we were told we need a letter.... Without it, the leaders of the community won’t attend you. They are instructed not to speak. Individual people are afraid to speak without their leaders’ authorization.<sup>215</sup>

Tete province’s permanent secretary defended the system of requiring credentials as a mechanism to protect resettled community members from misinformation or deception from outsiders.<sup>216</sup> However, in practice, it has created obstacles for legitimate civil society organizations and development agencies to engage with resettled communities.

Citing similar reasons of protecting the community, the government instructed companies to communicate with the affected communities only via the government. Community members must also communicate their concerns to the companies via the government. This practice has delayed dialogue and stilted the relationship between the companies and the affected communities. Eduardo A., a community leader said, “We are not allowed to have direct communication with the company. We have to go through the government.”<sup>217</sup> While informal interactions between community members and the companies take place, no large meetings or decision-making are supposed to take place without a government representative present.

Company officials from both Vale and Rio Tinto expressed agreement with the policy of communicating with communities through the government, although they also admitted to frustration with its implementation. Fernando Nhamtumbo of Rio Tinto said, “We know that no one of us should talk to the affected communities without the presence of government—that is the policy and so it is our policy also. We like it. If your government is there, it means it is protecting you. We do talk to the community but if we go to make commitments we need the presence of government there.”<sup>218</sup>

Paulo Horta, operations director in Moatize for Vale, said, “It is important for the government to participate because what’s happening here, it’s important to put things in the right position. The expectations for this project are very high. It brings good things and

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<sup>215</sup> Human Rights Watch interview with Rui Caetano, AAAJC, May 14, 2012.

<sup>216</sup> Human Rights Watch interview with Samuel António Buanar, permanent secretary, Tete province, May 14, 2012.

<sup>217</sup> Human Rights Watch interview with Eduardo A., community leader, 25 de Setembro, May 13, 2012.

<sup>218</sup> Human Rights Watch interview with Fernando Nhamtumbo, Rio Tinto, May 14, 2012.

not so good things but the good things are much more than the negative things. But it is important for the people of Mozambique to understand, it is only a mining project and will not solve all of their problems.”<sup>219</sup>

Despite their support for the government’s role as a mediator, company officials also acknowledged that this policy also impeded effective, timely dialogue with the affected communities. Paulo Horta of Vale told Human Rights Watch, “We communicate with the government and it takes a long time to reach the village leadership.”<sup>220</sup> He added,

In Tete, the government wants to lead the process of communications with the community and company but lack the capacity. They are eager to take over the process, but they come back to us for help. The trend is the government would like to be in a driving seat, they don’t want companies to take on and take over the relationship with communities.<sup>221</sup>

## Broken Promises

We are not happy with the companies, we are not happy with the government. They are not keeping their promises. The government doesn’t help. They are not helping us solve our problems dealing with the companies.

—Maria C., resettled woman, Mwaladzi, October 5, 2012

Many of the resettled villagers we spoke to felt misled and cheated by resettlement outcomes, which diverged significantly from what they understood they had been promised. For example, Elena M. of Mwaladzi said, “Riversdale told us we should move because there is coal here, we will give you another place with houses, money, and food. They told us they would give three years of food until we could get our own food from our farms. Since I’ve been here, I haven’t seen those things happening. They gave us food twice for one month.”<sup>222</sup>

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<sup>219</sup> Human Rights Watch interview with Paulo Horta, May 16, 2012.

<sup>220</sup> Ibid.

<sup>221</sup> Ibid.

<sup>222</sup> Human Rights Watch interview with Elena M., resettled woman, Mwaladzi, May 11, 2012.

Farmers moved to Mwaladzi by Rio Tinto said they were promised that their new farmland would already be cleared and plowed and ready for them to cultivate. However, upon their move, they found the work still had to be done. Representatives from Rio Tinto confirmed to Human Rights Watch that they had made this commitment but had run out of time to comply with it before the move.<sup>223</sup> A community leader in Mwaladzi said, “The company promised they would clear the land for us but when we came it was just given to us as it was. I was just now preparing the land myself.”<sup>224</sup>

Similarly, there were differing expectations and information about financial compensation. Breznévia Gemo from Rio Tinto, and who was formerly an employee of Riversdale, said, “Relocation was something new for the communities. No matter what was explained they did not know what it would be like until they got there—they did not really understand. I do believe that somehow, we may have created some expectation that people would be compensated [with money].”<sup>225</sup> Fernando Nhantumbo of Rio Tinto also explained there was a change in government rates for financial compensation for loss of land or other assets that resulted in deeply unequal financial packages for resettled individuals depending on when they moved. Describing the need for more consistent government policies, he explained,

The amount of compensation two or three years ago was small. Companies [tried to] provide 100 percent more but the government said no. If someone lost one hectare of land two years ago, they received little. Today they would receive 100,000 MZN and compensation for lost crops. Six months ago you would receive 5,000 MZN [for the same losses.]<sup>226</sup>

Eugénia D. of Cateme said,

We asked them to give us a different plot of land but they refused. We said maybe if you give us money we could find land by ourselves but also, they refused. We have complained about the land from the first season we came here until now. They used to go there to take some pictures and then they

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<sup>223</sup> Human Rights Watch interview with Breznévia Gemo, May 14, 2012.

<sup>224</sup> Human Rights Watch interview with Julio C., community leader, Mwaladzi, May 11, 2012.

<sup>225</sup> Human Rights Watch interview with Breznévia Gemo, May 14, 2012.

<sup>226</sup> Human Rights Watch interview with Fernando Nhantumbo, May 14, 2012.

would go away with them—people from Vale and from the government. But they tell us nothing. When we ask the company, the company says, this is the government’s responsibility. And when we talk to the government they say, okay, we will talk to the company.<sup>227</sup>

## Lack of Coherent Complaint Mechanisms

We tell them the rights and needs of the people and then they just go away and never return with a response. Last month we had a meeting ... they just write down the things that we complain about ... but they never come back with the answer to our complaints. So it means that we keep suffering the same problems that we have. We don’t have food, we don’t have any money to buy food, our situation remains the same.

—Malosa C., resettled woman, Mwaladzi, October 3, 2012

None of the resettled individuals that Human Rights Watch interviewed were aware of any grievance redress mechanism specifically devoted to handling resettlement-specific complaints. Instead, they relied on reporting to their village secretary, visiting the district administrator, or raising concerns in intermittent community-wide meetings with visiting government and company representatives. More than half said they felt too disempowered to pursue formal complaints. Elsa S., one of the elderly widows from 25 de Setembro who is living in her kitchen and renting her house to pay for food and water said, “What can I do? If I complain, is there something that will change?... The government knows our situation because they put us here.”<sup>228</sup>

Since they live in the communities themselves, government-appointed village-level secretaries are the most accessible intermediaries for most village residents. The secretaries’ role includes collecting and channeling information from the community to district officials and vice versa. However, most villagers interviewed by Human Rights Watch in Cateme, 25 de Setembro, and Mwaladzi were frustrated and cynical about their leadership, and said that the secretaries had limited power to make decisions. We spoke

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<sup>227</sup> Human Rights Watch interview with Eugénia D., May 10, 2012.

<sup>228</sup> Human Rights Watch interview with Elsa S., resettled woman living alone, 25 de Setembro, May 13, 2012.

to villagers who complained about poor communication between the secretaries and the rest of the community or alleged that some secretaries exploited their positions to benefit themselves or their families.

Trust in and satisfaction with the leadership of the secretaries varied greatly by community, and appeared to be particularly low in Cateme and Mwaladzi. Maria L. of Cateme said, “They said we should make our complaints to the [village] secretary, the representative of the government. But we didn’t see results, so we don’t complain anymore.... We suggest they create an office to attend to our problems. We could go to that office instead of going to the secretary because we don’t know if he communicates our concerns.”<sup>229</sup> Although Human Rights Watch obtained the requisite credentials to speak to village secretaries, the Cateme village secretary refused to speak with us.

Community leaders also said they felt frustrated. Eduardo A., secretary for 25 de Setembro, said, “The government is delaying. The work hasn’t happened. There are no solutions. As secretary, I am tired of this. When I talk to the government or the company, the community doesn’t believe that I am doing it.”<sup>230</sup>

The significant delays in addressing resettled communities’ complaints about land, water, and housing as well as the frustration that led to protests in January 2012 suggest Vale has not done an adequate job of setting up effective grievance mechanisms to capture and respond to complaints by members of resettled communities. Vale representative Carolina Coutinho said, “We had grievance mechanisms, we would go certain days to the community to get the complaints. They also came to our offices in Carbomoc, we had Diagonal in the field, a consultancy hired from us to get these impressions from the community.”<sup>231</sup> However, none of the resettled individuals that Human Rights Watch spoke to referenced these options and most felt they had nowhere to complain.

Rio Tinto also acknowledged that, “This is an area where improvements are required and RTCM is working in developing robust grievance resolution mechanisms prior to the

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<sup>229</sup> Human Rights Watch interview with Maria L., resettled woman, Cateme, May 10, 2012.

<sup>230</sup> Human Rights Watch interview with Eduardo A., May 13, 2012.

<sup>231</sup> Human Rights Watch telephone interview with Liesel Filgueiras, general manager, corporate social responsibility and Carolina Coutinho, senior sustainability analyst, Vale, April 4, 2013.

physical relocation of the remaining households to Mwaladzi.”<sup>232</sup> Provision of effective grievance mechanisms as a key element of a company’s human rights due diligence is discussed further in chapter VII.

## 2012 Resettlement Decree

The government of Mozambique took an important step to strengthen protections during resettlement processes by issuing a resettlement decree in August 2012. The decree is an improvement given the previous lack of regulations specific to resettlement. However, the government did not consult widely during the decree’s development and it has critical gaps.

The decree clarifies both government oversight mechanisms and companies’ legal obligations. It calls for companies whose operations require community resettlement to prepare a resettlement plan in line with requirements under land use planning laws.<sup>233</sup> The relevant district government has the authority to approve or reject resettlement plans and is required to make space available for resettled communities.<sup>234</sup> The decree also sets up a Technical Resettlement Monitoring and Supervision Committee comprised of representatives from the district and provincial governments, members from the land use, public workers and administration, housing, and agriculture sectors, and a community member. The committee is responsible for monitoring the entire process, issuing technical opinions, and preparing evaluation reports.<sup>235</sup>

The government drafted and adopted the resettlement decree so quickly that it took most stakeholders, including civil society representatives, companies, international donors, and technical advisors such as the World Bank, by surprise. Carolina Coutinho, Vale’s senior sustainability analyst, said, “there was zero consultation,” and that a business association representing gas and mining companies has filed a legal challenge on the basis that the decree did not meet requirements to hold public consultations.<sup>236</sup> Stelio Matavel, Jindal Steel and Power Limited’s resettlement manager said, “The regulation is

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<sup>232</sup> Written communication from Rio Tinto, January 30, 2013, p. 7.

<sup>233</sup> Regulamento sobre o Processo de Reassentamento Resultante de Actividades Económicas, art. 15.

<sup>234</sup> Ibid., art. 9.

<sup>235</sup> Ibid., arts. 6-7.

<sup>236</sup> Human Rights Watch interview with Carolina Coutinho, October 8, 2012.

not practical. They just took regulations from other places like Mongolia.... It contradicts itself within the same document.”<sup>237</sup>

The decree misses vital protections related to land and livelihoods, access to health care, grievance mechanisms, and meaningful consultation and participation of affected communities.<sup>238</sup> The current decree interprets public participation narrowly by primarily relying upon public meetings and by designating community representatives to be involved in dissemination of information about the resettlement process. There are also few dedicated measures to facilitate the participation of groups that may face specific impacts or that are marginalized, such as women, children, the elderly, and people with disabilities.

While the decree incorporates some requirements for housing and access to schools, health posts, and infrastructure, it does not make the important specification that these be established prior to the move. Other gaps include detailed standards on the availability, affordability, accessibility, and quality of health care, housing, and education. Additional missing elements are clear requirements for establishing channels for various stakeholders to make complaints or resolve disputes related to the resettlement process, and centralizing the principle that resettlements should be carried out only in exceptional circumstances, after exploring all possible alternatives, and that their scope and impact should be minimized where no viable alternatives exist.<sup>239</sup>

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<sup>237</sup> Human Rights Watch interview with Stelio Matavel, liaison officer, Jindal Steel and Power Limited, Maputo, October 9, 2012.

<sup>238</sup> The “2012 Resettlement Decree” section has in parts been paraphrased and in other parts been replicated from Human Rights Watch, *Human Rights Watch Recommendations for Mozambique’s Resettlement Decree*, (New York: Human Rights Watch, September, 17 2012), <http://www.hrw.org/news/2012/09/17/human-rights-watch-recommendations-mozambique-s-resettlement-decree>.

<sup>239</sup> Ibid.

## VI. Jindal Steel and Power Limited's Resettlement

Jindal Steel and Power Limited (JSPL) will be undertaking the next major resettlement of local communities due to coal mining in Tete province which will be an important test of changes in the regulation and oversight over the resettlement process brought about by the new decree and increased government engagement. At the time of Human Rights Watch's field research in 2012, the company was still working to identify an appropriate relocation site, determine the terms of compensation, and obtain approval for its Resettlement Action Plan. In April 2013, the company said that it was awaiting final government approval to detach a part of its original concession land to use for a resettlement area.<sup>240</sup>

When Human Rights Watch researchers visited Cassoca and Xissica in May 2012, most community members interviewed had profound concerns about their ability to reestablish their livelihoods and standard of living in the proposed resettlement site of Chabonga, approximately 20 kilometers from Cassoca. Anabela R., said,

We said we want to live at the edge of the concession. They said there is already another concession there. One of the other places we suggested was Nhamphondolo. But they said Chabonga. We don't want to go to Chabonga because the people who live there are always coming to this area to try to produce food because there is no water there.<sup>241</sup>

All of the residents of Cassoca and Xissica interviewed by Human Rights Watch said they currently supplemented their income by panning for gold and selling fruits. They were deeply concerned about both the possibility of being moved to a place with poor agricultural potential and by losing their access to a steady source of secondary income. Virgilio R. said,

When there is a problem with rain we survive with gold.... In this place there is a kind of fruit [masanika]. We have gold and baobab fruits. In the place where they want to move us there are none of these things, so how will we

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<sup>240</sup> Email from Stelio Matavel, liaison officer, Jindal Moçambique, to Human Rights Watch, April 18, 2013. The 2013 resettlement action plan was not approved and publicly available in time for Human Rights Watch to include an updated analysis in this report.

<sup>241</sup> Human Rights Watch interview with Anabela R., resident, Cassoca, May 15, 2012.

survive? We asked them for a guarantee. They just said they will build new houses and water pumps.<sup>242</sup>

Another area of debate has been employment of community members. Although the resettlements have yet to occur, JSPL has already begun some of its operations in adjoining areas and hired workers. Virgilio R., a community leader in Cassoca, said, “First they said, ‘The people we want to move [resettle] will be the ones we will employ in our company.’ And when work started they brought people from other places.”<sup>243</sup> Emilio S. said, “They will make a lot of money but we will not get anything. They should at least give us work.”<sup>244</sup>

When Human Rights Watch visited in October 2012, residents of Cassoca still felt anxious about the resettlement, but said they had accepted the new proposed site of Nyasskana, near Nyansanja village. After strong, sustained community rejection of the proposed site in Chabonga, the local authorities and JSPL sought an alternative resettlement site. Stelio Matavel, liaison officer for JSPL, said,

We started the [site selection] process two years back.... We disagreed on the relocation area. We started again and now we have agreed. The governor did not provide an area for relocation so we had to find an area within our concession.<sup>245</sup>

Although community members continued to express some reservations, they were able to negotiate improvements to the offered compensation. A community leader said, “Things are changing. They did repair the road and last week made water wells. Some people have gotten jobs ... I am still worried about the fields. Here we grow maize and sorghum, and where we are going we can only grow sorghum. [In response] they have promised to build some tanks and to build a small dam on the Nyansanja river so we can grow vegetables.”<sup>246</sup>

An improvement in the JSPL resettlement process compared to the Vale and Rio Tinto resettlements is the government’s demand that companies establish appropriate

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<sup>242</sup> Human Rights Watch interview with Virgilio R., community leader, Cassoca, May 15, 2012.

<sup>243</sup> Ibid.

<sup>244</sup> Human Rights Watch interview with Emilio and Margarida S., residents, Cassoca, May 15, 2012.

<sup>245</sup> Human Rights Watch interview with Stelio Matavel, October 9, 2012.

<sup>246</sup> Human Rights Watch interview with Virgilio R., community leader, Cassoca, October 4, 2012.

infrastructure in the relocation site prior to the move. The provincial mining director, Manuel José Sithole said that JSPL will “have to first provide infrastructure, electricity, houses.... Otherwise we will face the same problems [as in Cateme].”<sup>247</sup> However, there are still gaps in information and communication that have left the residents of Cassoca uncertain about how to manage their fields and house repairs prior to the move and unclear about their exact compensation package.

The experiences of Cateme, 25 de Setembro, and Mwaladzi worry the communities in Cassoca and Xissica who are about to be resettled by JSPL. Clara S., a farmer in Cassoca, does not trust the company’s promises. She said, “They have promised new houses, electricity, water. But these are just promises until we see these things with our own eyes.”<sup>248</sup>

The delay in the development of resettlement action plans, their approval by the government, and subsequent implementation, also introduces great uncertainty for communities likely to be resettled. Many of the residents of Cassoca, expressed a high level of anxiety about the uncertainty of the timing of their move and how they should plan for their families. Suzana R., a resident of Cassoca, echoed the sentiment of other residents interviewed by Human Rights Watch when she said,

Last year they told us we would move this year. This year they said keep doing your activities it may be next year or the year after.... It’s very difficult because we don’t know what to do. [It is a risk] If we go to our fields or repair our houses and spend our money and they show up one day and say we have to move.<sup>249</sup>

The guidelines by the Special Rapporteur on Housing as well as the standard resettlement protocols used by the World Bank and the African Development Bank state that resettlement should take place with as minimum a disruption as possible to affected communities and should not involve a deterioration of their standard of living, which includes their right to food.<sup>250</sup>

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<sup>247</sup> Human Rights Watch interview with Manuel José Sithole, director, Provincial Directorate of Mining and Energy, Maputo, May 23, 2012.

<sup>248</sup> Human Rights Watch interview with Clara S., Cassoca, October 4, 2012.

<sup>249</sup> Human Rights Watch interview with Suzana R., resident Cassoca, May 15, 2012.

<sup>250</sup> Human Rights Council, Basic principles and guidelines on development-based evictions and displacement; AfDB, “Involuntary Resettlement Policy,” 2003; and World Bank, “BP 4.12 – Operational Policy on Involuntary Resettlement,” 2011.

## VII. National and International Standards

The Mozambican government has obligations under its national constitution and international human rights law to protect and promote the progressive realization of a range of rights, including to food, water, work, housing, and health.<sup>251</sup> Private companies also have a duty to respect these rights.

Emerging norms of international law also point to the affirmative obligations of the home governments of multinational companies—in this case Brazil, Australia, the United Kingdom, and India—to regulate and monitor the extraterritorial human rights practices of locally-based private companies. For example, the Maastricht Principles state that governments should take measures to ensure that transnational corporations and other businesses do not nullify or impair the enjoyment of economic, social and cultural rights, whether domestically or abroad.<sup>252</sup> The measures that States employ to fulfill these obligations can include administrative, legislative, investigative, adjudicatory and other mechanisms.

### Rights to Food, Water, Health, and Housing

The Mozambican constitution contains guarantees for the rights to health and housing.<sup>253</sup> Mozambique is also required to uphold its international human rights obligations under the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Convention on the

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<sup>251</sup> Constitution of the Republic of Mozambique, 1990; Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948); International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, acceded to by Mozambique July 21, 1993; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, acceded to by Mozambique April 16, 1997; Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, acceded to by Mozambique April 26, 1994; African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc.CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986, acceded to by Mozambique February 22, 1989. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, September 13, 2000, CAB/LEG/66.6, entered into force November 25, 2005.

<sup>252</sup> The Maastricht Principles elaborates the extraterritorial obligations of states in the area of economic, social, and cultural rights. These principles were endorsed in September 2011 by a group of leading international human rights experts, including current and former members of UN human rights treaty bodies, current and former special rapporteurs, and other prominent legal scholars at a meeting in September 2011, “Maastricht Principles on Extraterritorial Obligations in the area of Economic, Social and Cultural Rights,” September 2011, [http://www.ciel.org/Publications/Maastricht\\_ETO\\_Principles\\_21Oct11.pdf](http://www.ciel.org/Publications/Maastricht_ETO_Principles_21Oct11.pdf) (accessed January 29, 2013), arts. 24-27.

<sup>253</sup> Constitution of the Republic of Mozambique, 1990, arts. 82, 86-91.

Rights of the Child (CRC), the African Charter on Human and Peoples' Rights (African Charter), and the Protocol on the Rights of Women in Africa.<sup>254</sup>

Article 43 of Mozambique's constitution stipulates that the constitution be interpreted in harmony with the African Charter and the Universal Declaration of Human Rights, which includes article 25 (1) on, "the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services."<sup>255</sup> The government of Mozambique has an immediate obligation not to take any deliberately retrogressive measures that would adversely impact the fulfillment of economic, social, and cultural rights such as the right to an adequate standard of living.

The loss of capacity to produce sufficient food or to earn enough money to buy food off the market through activities such as selling firewood and charcoal, has led to interferences with the rights of the residents of Cateme, Mwaladzi, and 25 de Setembro to an adequate standard of living, including to food and water.<sup>256</sup> Their inability to produce their normal staple crops of maize and sorghum also negatively impacts their right to have sufficient food corresponding to their cultural traditions.

Mozambican law and international human rights law additionally provide protections for the right to "sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses" and notes that water is necessary to produce food and to ensure environmental hygiene and the right to health.<sup>257</sup> Individuals should have access to a continuous water supply sufficient for personal and domestic use, such as drinking, sanitation, bathing, washing clothes, and cooking.<sup>258</sup>

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<sup>254</sup> See footnote 252.

<sup>255</sup> Constitution of the Republic of Mozambique, 1990, art. 43 and UDHR, art. 25 (1).

<sup>256</sup> The right to adequate food is recognized under Article 25 of the Universal Declaration of Human Rights (G.A. Res. 217 A (III), U.N.Doc. A/810, at 71 (1948)), and under Article 11 of the International Covenant on Economic, Social and Cultural Rights (adopted on 16 December 1966, G.A. Res. 2200(XXII), U.N. GAOR, 21st sess., Supp. No. 16, U.S. Doc. A/6316 (1966), 993 UNTS 3), as interpreted by the Committee on Economic, Social and Cultural Rights. U.N. Econ. & Soc. Council (ECOSOC), Comm. on Econ., Soc. & Cultural Rts. (CESCR), General Comment No. 12: The Right to Adequate Food, U.N. Doc. E/C.12/1999/5 (May 12, 1999) (hereinafter General Comment No. 12), <http://www.unhchr.ch/tbs/doc.nsf/o/3d02758c707031d58025677f003b73b9>.

<sup>257</sup> UN Committee on Economic, Social and Cultural Rights (ESCR Committee), General Comment No. 15, The Right to Water, E/C.12/2002/11 (2003).

<sup>258</sup> UN Committee on Economic, Social and Cultural Rights (ESCR Committee), General Comment No. 15, The Right to Water, UN Doc. No. E/C.12/2002/11 (2002), para. 3.

Similarly, the right to an adequate standard of living includes the right to adequate housing. Several factors determine whether shelter can be considered adequate, including legal security of tenure, availability, affordability, accessibility, location, cultural adequacy, and habitability. While the houses of resettled families meet many of the standards, those that leak could be deemed uninhabitable, as they fail to protect occupants from cold, damp, heat, rain, and wind.<sup>259</sup>

The right to health is closely intertwined with the rights to food, water, and housing. For example, the Committee on Economic, Social, and Cultural Rights notes that, “The right to health ... extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.”<sup>260</sup>

Where resettled communities in Tete province have experienced diminished access to food and water, and standard of housing, this in turn undermines the right to health. In Mwaladzi, the problems with physical access to health facilities and skilled health care, is another infringement of the right to health, with particularly negative impacts for access to obstetric care in a setting with a high number of maternal deaths.<sup>261</sup>

As Mozambique adjusts its laws, policies, and monitoring mechanisms to manage its natural resource boom and the increased number of companies operating in its territory, it should coordinate these with its national poverty reduction strategies and its human rights obligations. The 2012 Guiding Principles on Extreme Poverty and Human Rights state that governments, “should take into account their international human rights obligations when designing and implementing all policies, including international trade, taxation, fiscal, monetary, environmental and investment policies.”<sup>262</sup> These guidelines also elaborate that,

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<sup>259</sup> UN Committee on Economic, Social and Cultural Rights (ESCR Committee), General Comment No. 14, The Right to Adequate Housing, UN Doc. No E/1992/23 (1991), art. 12.

<sup>260</sup> UN Committee on Economic, Social and Cultural Rights, General Comment No. 14, The right to the highest attainable standard of health, U.N. Doc. E/C.12/2000/4 (2000), para. 4.

<sup>261</sup> *Ibid.*, art. 12.

<sup>262</sup> UN Human Rights Council, “Final draft of the guiding principles on extreme poverty and human rights, submitted by the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona,” A/HRC/21/39, July 18, 2012, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/154/60/PDF/G1215460.pdf?OpenElement> (accessed April 22, 2013), art. 61.

States have a duty, in accordance with their international obligations, to prevent and protect against human rights abuse committed by non-State actors, including business enterprises, which they are in a position to regulate. Where transnational corporations are involved, all relevant States should cooperate to ensure that businesses respect human rights abroad, including the human rights of persons and communities living in poverty.<sup>263</sup>

## Corporate Responsibility to Respect Human Rights

In 2008, then Special Representative of the UN Secretary-General on Business and Human Rights John Ruggie elaborated the “Protect, Respect and Remedy” framework for business and human rights, which were further supplemented by a set of “Guiding Principles on Business and Human Rights” (Guiding Principles) endorsed by the United National Human Rights Council in 2011.<sup>264</sup> The “Ruggie” framework sets out 1) the state duty to *protect* human rights, 2) the corporate responsibility to *respect* human rights, and 3) the need for a *remedy* for victims of business-related human rights abuses.<sup>265</sup>

The Guiding Principles detail basic steps companies should take to respect human rights including conducting due diligence to avoid causing or contributing to human rights abuses through their operations, avoiding complicity in abuses, and taking steps to mitigate them if they occur.<sup>266</sup>

Had Vale and Riversdale worked with the government more closely to assess the quality of farmland and availability of water supply in the resettlement sites prior to the move, it would likely have led to a more successful process and in particular helped to protect the standard of living enjoyed by individuals and families. The absence of timely provision of infrastructure, such as public transportation and in the case of Mwaladzi, a health clinic, led to months and sometimes years-long gaps in access to services. To ensure respect for human rights, greater efforts should have been made to guarantee that resettled

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<sup>263</sup> Ibid., art. 99.

<sup>264</sup> UN Human Rights Council, “Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises,” John Ruggie, A/HRC/17/31, March 21, 2011, <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf> (accessed December 10, 2012).

<sup>265</sup> UN Commission on Human Rights, “Report of the Special Representative of the Secretary-General, Annex, I.A.1,” March 2011, [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) (accessed December 10, 2012).

<sup>266</sup> Ibid.

community members would not suffer adverse impacts on their ability to enjoy a range of economic, social and cultural rights.

Poor communication, accentuated by the inefficient mediation of the government, characterized Vale's initial response to the problems raised by residents of Cateme and 25 de Setembro. However, in 2012, both Vale and Rio Tinto have shown commitment to identifying and taking steps to mitigate the problems that have occurred. To fully meet their responsibilities, they should work with the government to identify and implement effective short-term and long-term solutions to poor soil and water supply in Cateme and Mwaladzi, and take measures to avoid similar problems in any future resettlements.

The Ruggie framework outlines integral components of human rights due diligence that businesses should undertake, including assessment of potential human rights impacts with explicit reference to internationally-recognized human rights, integration of respect for human rights throughout the company, and monitoring as well as communicating performance.<sup>267</sup>

## Right to a Remedy

The Guiding Principles elaborate a government's responsibility to protect against human rights abuses linked to business activities by ensuring that those affected have access to effective remedies.<sup>268</sup> These may include judicial, administrative, and legislative remedies as well as apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions.<sup>269</sup> State responsibility extends to ensuring public awareness and access to such remedies.

The Guiding Principles include the consideration of non-state-based grievance mechanisms, encompassing those administered by businesses, industry associations, or multi-stakeholder groups.<sup>270</sup> Such grievance mechanisms can play a critical role in a company's human rights due diligence. In particular, principle 29 states that,

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<sup>267</sup> Ruggie Framework, arts. 56-64.

<sup>268</sup> UN Commission on Human Rights, "Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises," John Ruggie, A/HRC/17/31, March 21, 2011, <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf> (accessed December 10, 2012), p. 22.

<sup>269</sup> Ibid.

<sup>270</sup> Ibid., p. 24. "They are non-judicial, but may use adjudicative, dialogue-based or other culturally appropriate and rights-compatible processes. These mechanisms may offer particular benefits such as speed of access and remediation, reduced costs and/or transnational reach."

To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.<sup>271</sup>

The Special Rapporteur on Housing has developed guidance regarding resettlements due to development-related projects that stipulate the right of affected populations to have easily accessible opportunities to make complaints and receive a timely response and the right to assistance prior to, during, and after the relocation until they have achieved the standard of living set out in the resettlement plan. They also have the right to access to legal advice prior to, during, and after the relocation.<sup>272</sup>

The Mozambican constitution provides several guarantees for citizens to freedom of expression, to claim compensation, and to present complaints to the authorities.<sup>273</sup> This includes article 58(1) of the Constitution, which provides that, “Everyone shall have the right to claim compensation in accordance with the law, for damages caused by a violation of their fundamental rights.”<sup>274</sup>

To meet its obligations under national and international law, the Mozambican government should strengthen protections for people resettled due to mining projects, coordinate management of extractive industries with national poverty reduction strategies, and provide fair, timely remedies for those negatively impacted.

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<sup>271</sup> Ibid., p. 25.

<sup>272</sup> UN Human Rights Council, “Basic principles and guidelines on development-based evictions and displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living,” Miloon Kothari, A/HRC/4/18; UN Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 45 (2003).

<sup>273</sup> Constitution of the Republic of Mozambique, art. 48 (1): All citizens shall have the right to freedom of expression and to freedom of the press, as well as the right to information. Article 79: Right of Petition, Complaint and Claim, All citizens shall have the right to present petitions, complaints and claims to the competent authority in order to demand the restitution of their rights violated or in defence of the public interest. Article 80: Right of resistance. All citizens shall have the right not to comply with orders that are unlawful or that infringe on their rights, freedoms and guarantees.

<sup>274</sup> Constitution of the Republic of Mozambique, art. 58 (1).

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# Appendices

## Appendix 1: Major Coal Concessions and Prospecting Licenses in Tete Province

| COMPANY NAME | NATIONALITY                  | PROJECT NAME(S)                                              | LICENSES (HECTARES)                                                                                                                                                                                                                                                 | PROJECT STAGE                                                                                                                                                                                     | PROJECTED OUTPUT (MTPA)                                                                                                                                                                                                                                                           |
|--------------|------------------------------|--------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Vale S.A.    | Brazil                       | Moatize                                                      | Vale's Moatize project has a mining concession covering approx. 23,780 hectares. <sup>275</sup> In total, Vale has 2 mining concessions totaling approx. 44,040 hectares in the Moatize and Maravia districts. <sup>276</sup>                                       | Producing coal since July 2011, <sup>277</sup> began exporting coal in December 2011. <sup>278</sup>                                                                                              | The Moatize Mine is Vale's biggest investment in the coal sector. <sup>279</sup><br>The total production capacity of the mine is 11 million tons per year (Mtpa) of thermal and metallurgical coal. <sup>280</sup> Plans are underway to double the mine's output. <sup>281</sup> |
| Rio Tinto    | United Kingdom/<br>Australia | Benga <sup>282</sup> ,<br>Zambeze,<br>Tete East &<br>Minjova | Rio Tinto has a mining concession for approx. 4,560 hectares in the Cidade de Tete and Moatize districts; the combined license area held by Rio Tinto is estimated to total 117,420 hectares in the Moatize, Changara, and Cidade de Tete districts. <sup>283</sup> | Benga Mine officially opened May 2012, <sup>284</sup> and began exporting coking coal in June 2012. <sup>285</sup> First coal exports from the Zambeze mine expected at late 2016. <sup>286</sup> | N/A                                                                                                                                                                                                                                                                               |

<sup>275</sup> "CVRD wins concession to explore coal in Mozambique," Vale S.A., press release, December 12, 2004, <http://www.vale.com/EN/investors/home-press-releases/Press-Releases/Pages/cvrd-vence-concorrenca-para-explorar-carvao-em-mocambique.aspx> (accessed March 5, 2013).

<sup>276</sup> Vale, "Vale in the World, Mozambique," undated, <http://www.vale.com/EN/aboutvale/across-world/Pages/default.aspx>, (accessed March 29, 2013). This approximate figure for the land area of Vale's mining licenses was calculated by Human Rights Watch using data obtained from the Government of Mozambique's Ministry of Mineral Resources. República de Moçambique, Ministério Nacional de Minas, "Direcção Nacional de Minas, Cadastro Mineiro, Licenças por Titular," October 9, 2012, on file with Human Rights Watch, p. 16.

<sup>277</sup> Vale S.A., "Mining," undated, <http://www.vale.com/EN/business/mining/coal/Pages/default.aspx> (accessed March 5, 2013)

<sup>278</sup> Ibid.

<sup>279</sup> Ibid.

<sup>280</sup> "Vale reveals progress in Moatize expansion and Nacala corridor development," Mining Weekly, March 8, 2013, <http://www.miningweekly.com/article/vale-reveals-progress-in-moatize-expansion-and-nacala-corridor-development-2013-03-08> (accessed March 29, 2013).

<sup>281</sup> Ibid.

<sup>282</sup> Benga is a joint venture with an Indian company, Tata Steel (65% Rio Tinto, 35% Tata Steel).

Rio Tinto, "Benga," undated, [http://www.riotinto.com/ourproducts/21018\\_benga.asp](http://www.riotinto.com/ourproducts/21018_benga.asp) (accessed March 5, 2013).

<sup>283</sup> Direcção Nacional de Minas, Cadastro Mineiro, "Licenças por Titular," October 9, 2012, p. 13.

| COMPANY NAME                       | NATIONALITY    | PROJECT NAME(S)                                                             | LICENSES (HECTARES)                                                                                                                                                                                                    | PROJECT STAGE                                                                                                                               | PROJECTED OUTPUT (MTPA)                                                                                                                                                                                 |
|------------------------------------|----------------|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Beacon Hill Resources Plc.</b>  | United Kingdom | Minas Moatize Coking Coal Project, <sup>287</sup> ; Changara <sup>288</sup> | The company has a mining concession for 260 hectares in Moatize district. <sup>289</sup> The Changara project covers a license area of 18,400 hectares, 70 times the size of the Minas Moatize project. <sup>290</sup> | Minas Moatize has been exporting since December 2011. <sup>291</sup> Exploration currently underway at the Changara project. <sup>292</sup> | The Minas Moatize project produced 0.1 Mt of coal in 2012 <sup>293</sup> ; the company has plans to increase production to 2.8 Mtpa. <sup>294</sup> Resources total 86.8 million tonnes. <sup>295</sup> |
| <b>Ncondezi Coal<sup>296</sup></b> | South Africa   | Ncondezi                                                                    | Moatize district, total area of 38,700 hectares.                                                                                                                                                                       | Currently in exploration stage, first production expected 2015. <sup>297</sup>                                                              | Has estimated coal resource of 4.7 billion tonnes. <sup>298</sup> Expects to produce 10 Mtpa with first coal in 2015. 1.7 Bt in resources. <sup>299</sup>                                               |

<sup>284</sup> Rio Tinto, "Rio Tinto Results for the Year Ended 31 December 2012," February 2013, [http://www.riotinto.com/documents/PR801g\\_Rio\\_Tinto\\_results\\_for\\_the\\_year\\_ended\\_31\\_December\\_2012.pdf](http://www.riotinto.com/documents/PR801g_Rio_Tinto_results_for_the_year_ended_31_December_2012.pdf) (accessed February 5, 2013).

<sup>285</sup> "Rio Tinto makes first coal shipment from Mozambique," Rio Tinto, press release, June 25, 2012, [http://www.riotinto.com/library/18435\\_media\\_releases\\_22126.asp](http://www.riotinto.com/library/18435_media_releases_22126.asp), (accessed March 5, 2013).

<sup>286</sup> Ibid.

<sup>287</sup> Minas Moatize Limitada is a subsidiary of Beacon Hill Resources Plc. Beacon Hill Resources Plc., "Monas Moatize Mine," undated, <http://www.bhrplc.com/minasmoatize.aspx> (accessed March 29, 2013).

<sup>288</sup> Nongo Limitada is a joint venture between BHR Ventures Mauritius Limited, a subsidiary of Beacon Hill, and local partner Midwest Africa Limited. Beacon Hill Resources Plc., "JV to Develop Significant New Coal Licence," December 21, 2011, <http://bhrplc.com/News.aspx?ArticleId=13054462> (accessed March 5, 2013).

<sup>289</sup> Direção Nacional de Minas, Cadastro Mineiro, "Licenças por Titular, October 9, 2012, p. 10.

<sup>290</sup> Beacon Hill Resources Plc., "Changara Coal Project," undated, <http://www.bhrplc.com/changara.aspx> (accessed March 28, 2013).

<sup>291</sup> Beacon Hill Resources Plc., "First Export Shipment of Coal Seaborne from Port of Beira, Mozambique," December 19, 2013, <http://hsprod.investis.com/ir/bhr/ir.jsp?page=news-item&item=883747503210652> (accessed March 29, 2013).

<sup>292</sup> Beacon Hill Resources Plc., "Coal: Changara Coal Project," undated, <http://www.bhrplc.com/changara.aspx> (March 5, 2013).

<sup>293</sup> "Quarterly Activities Report" Beacon Hill Resources Plc., press release, February 16, 2012, <http://www.bhrplc.com/News.aspx?ArticleId=19884782> (accessed January 30, 2013).

<sup>294</sup> Beacon Hill Resources Plc., "Minas Moatize the Mozambican Coal Producer," July 5, 2011, <http://www.bhrplc.com/documents/Mozambique%20Coal%20Conference%20Presentation%20050711.pdf> (accessed March 5, 2013); "Resource Upgrade for Minas Moatize Coking Coal," Beacon Hill Resources Plc., press release, January 28, 2013 <http://www.bhrplc.com/News.aspx?ArticleId=20649394> (accessed February 4, 2013); Beacon Hill Resources Plc., "About us," undated, <http://www.bhrplc.com/aboutus.aspx> (accessed March 29, 2013).

<sup>295</sup> Ibid.

<sup>296</sup> Ncondezi Coal Company, "Investor Presentation: Supplying the World's Growing Energy Markets," September 2012, [http://www.ncondezicoal.com/uploads/nccinvestorpresentation\\_september2012.pdf](http://www.ncondezicoal.com/uploads/nccinvestorpresentation_september2012.pdf) (accessed March 28, 2013).

<sup>297</sup> Ibid.

<sup>298</sup> Ibid, slide 6, "4.7 Billion Tonne JORC Resource."

<sup>299</sup> Ncondezi Coal Company, "Investor Presentation," January 2012, <http://www.ncondezicoal.com/uploads/ncondezicoal-investorpresentationjan2012-final2.pdf> (March 5, 2013).

| COMPANY NAME                                         | NATIONALITY | PROJECT NAME(S) | LICENSES (HECTARES)                                                                                                                                                                                                                                                           | PROJECT STAGE                                                                                  | PROJECTED OUTPUT (MTPA)                                                                 |
|------------------------------------------------------|-------------|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| <b>Minas de Revuboe Limitada</b> <sup>300</sup>      | Mozambique  | Revuboe Mine    | Holds exploration licenses in Moatize district. <sup>301</sup>                                                                                                                                                                                                                | First production is expected in September 2013. <sup>302</sup>                                 | N/A                                                                                     |
| <b>Jindal Africa</b>                                 | India       | Chirodzi        | The combined license area held by the company is 72,040 hectares in the Cahora Bassa, Changara, Chiuta, Zumbu districts; including a mining concession for approx. 16,700 hectares in the Cahora Bassa and Changara districts. <sup>303</sup>                                 | Production begun at Chirodzi open cast mine, first exports expected early 2013. <sup>304</sup> | Expects to produce 1.3 Mtpa initially and up to 10 Mtpa after 3-4 years. <sup>305</sup> |
| <b>Eurasian Natural Resources Corporation (ENRC)</b> | Kazakhstan  | Estima          | The Estima project holds an exploration license for 24,514 hectares. <sup>306</sup><br>The combined exploration license area held by the company is approx. 227,080 hectares in Magoe, Maravia, Zumbu, Cahora Bassa, Changara, Mutarara and Moatize districts. <sup>307</sup> | Projects are currently in exploration stage. <sup>308</sup>                                    | The Estima project has an estimated 1,340 Mt in resources. <sup>309</sup>               |

<sup>300</sup> Minas de Revuboe Limitada is a registered Mozambican company. Shareholders of Minas de Revuboe are subsidiaries of Talbot Group Investments Pty Ltd (Australia), Nippon Steel & Sumitomo Metal Corporation (Japan) and POSCO (South Korea). Minas de Revuboe, "Talbot Group," undated, <http://www.revuboe.com/partners-1/talbot-group> (accessed March 5, 2013); Minas de Revuboe, "Nippon Steel & Sumitomo Metal Corporation," undated, <http://www.revuboe.com/partners-1/nippon-steel> (accessed March 5, 2013)

POSCO, "2011 CEO Forum," January 13, 2011, [http://www.posco.co.kr/homepage/docs/eng2/dn/2011\\_CEOForum\\_eng.pdf](http://www.posco.co.kr/homepage/docs/eng2/dn/2011_CEOForum_eng.pdf) (accessed March 5, 2013).

<sup>301</sup> Minas de Revuboe, "Overview of Revuboe," undated, <http://www.revuboe.com/about> (Accessed March 29, 2013).

<sup>302</sup> Minas de Revuboe, "Project Details," undated, <http://www.revuboe.com/project> (accessed March 5, 2013). Minas de Revuboe, "Project Details," undated, <http://www.revuboe.com/project> (accessed March 28, 2013).

<sup>303</sup> Direcção Nacional de Minas, Cadastro Mineiro, "Licenças por Titular," October 9, 2012, p. 9.

<sup>304</sup> Jindal Africa, "Mozambique," undated, <http://www.jindal africa.com/mozambique> (accessed December 5, 2012); "Jindal sees first Mozambique coal exports by Jan," Reuters, November 20, 2012, <http://in.reuters.com/article/2012/11/20/mozambique-coal-jindal-idINDEE8AJ0C120121120> (accessed March 29, 2013).

<sup>305</sup> Ibid.

<sup>306</sup> Eurasian Natural Resources Corporation (ENRC), "Mozambique Coal – Indaba 2012" 2012, <http://enrc.g3dbuild.com/sites/enrc.g3dbuild.com/files/presentations/o8-o2-12%20Mining%20Indaba%20presentation%20-%20FINAL.pdf> (accessed March 28, 2013), slide 12.

<sup>307</sup> Direcção Nacional de Minas, Cadastro Mineiro, "Licenças por Titular," October 9, 2012, p. 5-6.

<sup>308</sup> Eurasian Natural Resources Corporation (ENRC), "Announcement of 2012 Preliminary Results," March 20, 2013, [http://www.enrc.com/regulatory\\_news\\_article/3078](http://www.enrc.com/regulatory_news_article/3078) (accessed March 28, 2013).

| COMPANY NAME                                       | NATIONALITY | PROJECT NAME(S)                                                           | LICENSES (HECTARES)                                                                                             | PROJECT STAGE                                                                               | PROJECTED OUTPUT (MTPA)                                                                                                                            |
|----------------------------------------------------|-------------|---------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Mozambi Coal Limited</b> <sup>310</sup>         | Australia   | Tete West <sup>311</sup> , Muturara <sup>312</sup> & Songo <sup>313</sup> | Holds exploration licenses for approx. 60,900 hectares. <sup>314</sup>                                          | Tete West, Muturara, and Songo mines are currently in the exploration phase. <sup>315</sup> | N/A                                                                                                                                                |
| <b>Coal India Africana Limitada</b> <sup>316</sup> | India       | N/A                                                                       | Holds exploration licenses for approx. 22,400 hectares of land in Moatize district. <sup>317</sup>              | Exploration underway, plans to start production by 2016. <sup>318</sup>                     | Has estimated coal reserves of approx. 1 billion tonnes. <sup>319</sup> Plans to export 10 million tonnes of coal to India in the next 10 years.   |
| <b>Essar</b> <sup>320</sup>                        | India       | Mozambique Coal Mine                                                      | Holds exploration licenses for approx. 3,218 hectares <sup>321</sup> of land in Muturara and Moatize districts. | Mine is currently under development. <sup>322</sup>                                         | Has estimated coal reserves of 35 Mt. The coal extracted from this mine will be used in the Salaya I power plant in Gujarat, India. <sup>323</sup> |

<sup>309</sup> Eurasian Natural Resources Corporation (ENRC), “Mozambique Coal – Indaba 2012” 2012, <http://enrc.g3dbuild.com/sites/enrc.g3dbuild.com/files/presentations/o8-o2-12%20Mining%20Indaba%20presentation%20-%20FINAL.pdf> (accessed March 28, 2013), slide 16.

<sup>310</sup> See, Mozambi Coal Limited, “Company Presentation,” August 2012, <http://www.mozambicoal.com/docs/asx/2012/MOZPres20120829.pdf> (accessed March 28, 2013).

<sup>311</sup> Tete West is a joint venture with local partners (70% Mozambi Coal, 30% Camal & Companhia Lda and other local partners).

Mozambi Coal, “Tete West,” undated, <http://www.mozambicoal.com/projects/tete-west-3245/> (accessed March 5, 2013).

<sup>312</sup> Muturara is a joint venture with local partners (70% Mozambi Coal, 30% Camal & Companhia Lda and other local partners).

Mozambi Coal, “Muturara,” undated, <http://www.mozambicoal.com/projects/muturara-3246/> (accessed March 5, 2013).

<sup>313</sup> Songo is a joint venture with local partner Xiluva Minerals Resources Lda (80% Mozambi Coal, 20% Xiluva Minerals Resources Lda.).

Mozambi Coal, “Songo,” undated, <http://www.mozambicoal.com/projects/songo-2738/> (accessed March 5, 2013).

<sup>314</sup> See, Mozambi Coal Limited, “Company Presentation,” August 2012, <http://www.mozambicoal.com/docs/asx/2012/MOZPres20120829.pdf> (accessed March 28, 2013). The area spans three tenements, 2738L (“Songo” Project) 3245L (“Tete West” Project) and 3246L (“Muturara” Project). See, Mozambi Coal, “Projects Overview,” undated, <http://www.mozambicoal.com/projects/projects-overview/> (accessed March 28, 2013).

<sup>315</sup> Ibid.

<sup>316</sup> Established in 2009-2010, Coal India Africana Limitada is owned by Coal India Limited (CIL), a state-owned company. See, Coal India, “Coal India Limited at a glance,” undated, <http://www.coalindia.in/Company.aspx?tab=0> (accessed March 28, 2013) and Coal India, “Corporate Structure,” undated, <http://www.coalindia.in/Company.aspx?tab=5> (accessed March 28, 2013).

<sup>317</sup> Direção Nacional de Minas, Cadastro Mineiro, “Licenças por Titular,” October 9, 2012, p. 5.

<sup>318</sup> The Economic Times (India), “Coal India arm finds coal during exploration in Mozambique,” December 11, 2012, [http://articles.economictimes.indiatimes.com/2012-12-11/news/35749875\\_1\\_coal-india-africana-limitada-coal-block-mozambique-block](http://articles.economictimes.indiatimes.com/2012-12-11/news/35749875_1_coal-india-africana-limitada-coal-block-mozambique-block) (assessed March 28, 2013).

<sup>319</sup> Shivom Seth, “Coal India finds new coal seams in Mozambique,” Mineweb, Dec 12, 2012, <http://www.mineweb.com/mineweb/content/en/mineweb-africa?oid=166131&sn=Detail> (accessed March 1, 2013).

<sup>320</sup> Essar, “”[http://www.essar.com/section\\_level1.aspx?cont\\_id=SD7sjPUVBkw=](http://www.essar.com/section_level1.aspx?cont_id=SD7sjPUVBkw=) (accessed March 3, 2013).

<sup>321</sup> Direção Nacional de Minas, Cadastro Mineiro, “Licenças por Titular,” October 9, 2012, p. 6.

<sup>322</sup> Essar, “Operations – Power,” undated, <http://www.essarenergy.com/operations/power.aspx> (accessed March 28, 2013).

<sup>323</sup> Ibid.

## Appendix 2: Vale Response to Southern Africa Resource Watch

*In 2012, Southern Africa Resource Watch published a critique of the Vale and Rio Tinto resettlements in Tete province.<sup>324</sup> Human Rights Watch has reproduced the Vale response below.*

Rio de Janeiro, Brazil June 5th, 2012

Maputo, Mozambique

### Vale's Response to Southern Africa Resource Watch

#### Transparency

Ethics and transparency are core values for Vale. Last June, the company launched its fourth annual Sustainability Report, which refers to 2010. For the second consecutive year, Vale achieved an A+ “application level,” indicating the highest level of transparency. The company reports its performance in economic, environmental and social dimensions in line with the Global Reporting Initiative (GRI) methodology.

The A+ application level requires the reporting of 90 indicators, including all profile items, management data and essential performance and Mining & Metals Sector Supplement indicators. The document has been checked by an external independent entity and verified for compliance with guidelines produced by the International Council on Mining and Metals (ICMM), to which Vale is a signatory. It has also been checked by GRI itself.

As a result of this continuous improvement with regard to transparency, Vale recently took a major step forward, as the first mining company to join the São Paulo Stock Exchange's ISE Business Sustainability Index, a portfolio that came into effect in 2010.

Vale is in compliance with all its tax requirements, and follows the applicable legislation for its activities in Mozambique. It is also subject to the commitments taken on its concession agreement.

Vale is audited on a quarterly and annual basis by top level audit companies, in compliance with the Sarbanes-Oxley Act. The company's financial statements are audited

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<sup>324</sup> Claude Kabemba, “Coal versus Communities in Mozambique: Exposing poor practices by Vale and Rio Tinto,” *Southern Africa Resource Watch*, February 2, 2012, <http://www.sarwatch.org/publications/research-reports/36-research-reports/1627-coal-versus-communities-in-mozambique-exposing-poor-practices-by-vale-and-rio-tinto.html> (accessed February 20, 2012).

and disclosed in accordance with the accounting principles generally accepted in the USA (US GAAP) and Brazil (BR GAAP), as well as the International Financial Reporting Standards (IFRS). Vale has won the Investor Relations Program Award and the Transparency in Financial Statements Award.

### **Suppliers and Local Manpower**

When implementing a project, Vale concerns itself with leaving a legacy for the community and country that will last longer than a mine's lifespan. More than just generating jobs, the company works to develop mechanisms to permit the local economy to sustain itself after the end of mineral extraction.

All recruitment, training and development actions designed for the Moatize Coal Mine Project prioritize local workers and suppliers. Vale's objective is to favor Mozambican companies when hiring suppliers of goods and services, and the company gives priority to job candidates from regions close to production areas. Vale is also running partnerships to help develop institutions and service providers, and is promoting formal and vocational education across the country through agreements with institutes and universities.

At the moment, around 84% of employees at Moatize Coal Mine are Mozambicans. The company has invested in training operators, maintenance technicians and locomotive engineers, and has run internship programs in areas such as geology, infrastructure, energy, the environment, port construction, engineering and maintenance work, mine operations, and exploration. Mozambican employees have participated in trainings at Vale's operations in Brazil.

Between 2008 and 2011, Vale hired 439 companies registered in Mozambique, awarding contracts worth a total of approximately US\$900 million. Our aim is to increase the number of contracts with local suppliers, and to that end we are implementing a Linkage Program focusing on small and medium companies, building capacity among local entrepreneurs.

### **About the Resettlement Process**

While carrying out feasibility studies for the Moatize Coal Project, Vale identified all families living in areas earmarked for industrial activities within the mining concession area. Together with a Resettlement Commission, and supported by a specialist consultancy, Vale spent three years engaged in extensive discussions with communities and conducting

specific studies to produce a Resettlement Action Plan. The Resettlement Commission was led by the permanent secretary of Tete Provincial Government. Other members included representatives of provincial authorities (responsible for mineral resources, environmental action coordination, public works and housing, and agriculture), the administrator of Moatize District, and the president of the Moatize Town Municipal Council.

Dialogue with the community began in the program's preliminary phase. A community participation plan was created, based on studies of the territory and the resident population.

From 2005 to 2007, Vale conducted primary and secondary data surveys, qualitative and quantitative research, a socioeconomic diagnosis, an urban and environmental categorization study, and a survey to identify and register stakeholders. This research provided a detailed diagnosis of the project's different areas of territorial focus.

The process of producing the Resettlement Action Plan and Environmental Impact Study involved extensive public engagement and participation, consisting of three public hearings, 20 theater performances in the predominant local language (Nyungwe), 110 meetings with the community and its leaders using informative tools such as flipcharts, 4,927 home visits for mobilization and social welfare purposes (involving families and leaders), and 639 social service sessions before resettlement began.

To select the host areas, certain criteria were established by the Commission. They included the following: location within the Moatize Administrative Area; lack of mining concessions in the area; the ability to access the area; lack of significant human occupation; proximity to urban centers; water availability; and favorable soil for arable farming and grazing. Eleven potential areas were evaluated, and two of them were selected: Cateme and 25 de Setembro.

The 25 de Setembro area has more urban characteristics and is located within a neighborhood in the town of Moatize. The Cateme area has a more rural nature and is located 36 km from the town of Moatize.

Families that made a living from farming, and whose habits were more associated with rural life, were given preference to relocate to Cateme.

Conversely, families with a more urban economic profile, working in activities connected with the town of Moatize, were given preference to move to the 25 de Setembro neighborhood in Moatize.

For families that were not resettled, we provided the option of “assisted compensation” (106 families chose this modality), which consisted of buying another home in line with valuation and inspection criteria, chosen by the family, which then moved there. Finally, 254 families that owned homes, farms and commercial buildings in the Resettlement Action Plan area, but did not live there themselves, were given simple compensation.

In September 2009, after negotiations and agreements had been finalized, work on resettling the families began.

The Cateme area received 716 families.

In Cateme, Vale provided the following facilities for the community:

- An elementary school: six blocks each containing three classrooms, and a library;
- Eight teachers’ houses and one house for the school principal;
- A high school: four blocks each containing three classrooms, an administrative block, a library, and an information technology room;
- A health and maternity clinic and two houses for health professionals;
- A police station;
- Laying out of streets;
- Electric power in the main street and at public facilities;
- A water supply system;
- A cereal kit and vegetable kit delivered to each family;
- A 0.6-hectare yard for each house, for growing vegetables or other activities;
- 1 hectare of plowed land prepared for growing crops;
- Another 1 hectare of land will also be provided.

The 25 de Setembro neighborhood received 289 families.

In 25 de Setembro, Vale provided the following:

- Refurbishment of Samora Machel Elementary School, remodeling and expanding six classrooms and building new restrooms;
- Refurbishment of Heróis Moçambicanos High School, constructing three new blocks each containing three classrooms and new restrooms;

- Refurbishment of the health center in the town of Moatize;
- Construction of a new police station;
- Electric power in all streets;
- Water connections in all homes.

The resettlement process was completed in August 2010. A post-settlement program was then initiated and a social program implemented. Vale Mozambique acknowledges that there are still improvements to be made to the resettled people's community infrastructure, and is working hard to develop actions to support these families, together with government entities, to meet the demands of the resettled communities.

The following improvement actions are under way:

- Repairs to houses;
- Increase in the supply of water for productive activities, and irrigation of 20 hectares for growing crops;
- Income generation programs run in conjunction with the Provincial Agricultural Agency, including chicken breeding and other initiatives;
- Expansion of electrification to all parts of the resettled people's communities;
- Support for the Food for Work program coordinated by the National Disaster Management Institute;
- Implementation of a transportation system in coordination with the District Administration of Cateme/Moatize;
- Improvement to access roads, including paving;
- Training in farming techniques, coordinated by the Provincial Agricultural Agency;
- Donation of an ambulance;
- A community radio station;
- Installation of a market in Cateme.

Besides the aforementioned actions, Vale is running the following voluntary social projects and actions through its Foundation, to promote the socioeconomic development of the communities in the areas where the company operates:

- Construction of a plant to manufacture antiretroviral drugs and other medications;
- A Water Management Plan for Tete;
- A project to support the building of low-cost housing in Tete;
- Construction of Moatize Sports Center;

- Rehabilitation of Tunduru Gardens;
- A project in partnership with the University of Amsterdam and Eduardo Mondlane University to train students and design an energy supply system for Mozambique;
- A preliminary plan for conserving the Boroma ruins in Tete;
- A project to encourage reading by distributing books and training teachers;
- Construction of an overnight clinic;
- Cultural and sporting festivals in Moatize;
- Cateme Model Farm.

Since it came to Mozambique, Vale has implemented various other social initiatives in the country, as listed below.

#### **Social Actions Completed during the Feasibility Study Phase:**

- Remodeling and equipping of the Moatize Intermediate Institute of Geology and Mines;
- Rehabilitation of Moatize Health Center;
- Rehabilitation and expansion of Tete Provincial Hospital;
- Donation of four ambulances to Moatize District (Mobile Emergency Aid System);
- Training of health professionals;
- Construction and refurbishment of three orphanages;
- Rehabilitation of the Moatize Intermediate Institute of Geology and Mines and installation of the Educational Coal Laboratory;
- Adult literacy program;
- Family farming and rural development support for the Mafupa Ya Ndzou Rural People's Association;
- Technical training in fashion, carpentry, vehicle maintenance, metalwork, construction and electrical work.

#### **Social Actions Conducted during the Mine Implementation Phase:**

- Survey of the nutritional profile of children in the resettled communities;
- Training on nutrition for health professionals and the community;
- Anti-parasite campaigns for members of the resettled communities;
- Nutrition workshops;
- Formation of and training for model mothers' groups;
- Talks and monitoring for pregnant women;

- Health awareness-raising campaigns (Heart Day, Anti-Malaria Day, an HIV campaign, etc.);
- Distribution of mosquito nets for all members of the resettled communities;
- Education system human resources training seminars;
- Essay-writing contest involving schools in Moatize;
- Teacher-training seminar in Moatize;
- Support for the implementation of a radio program in Cateme;
- Training seminar on developing, producing and managing cultural projects;
- Course for basketball and soccer coaches;
- Athletics training course;
- Refresher training for sports teachers and agents;
- Vacation soccer championship;
- Traditional games;
- Training for young soccer referees; 7
- Annual Cultural and Sports Festival (since 2008);
- Support for governmental sports programs (Second Half, Fut21, and School Games);
- Sponsorship of the Mozambique Cooking Program;
- Digital Inclusion Project: three information technology rooms installed and an information technology course conducted;
- Support workshops for farming activities in Cateme and the donation of enhanced inputs;
- Workshop on planting fruit trees and vegetables;
- Planting of fruit trees and trees to provide shade in the resettled people's communities;
- The "Read More" project.

**Social Actions Under Way – Model Farm Program (Sponsored by the Vale Foundation):**

- Creation of demonstration fields;
- Creation of multiplication fields for cassava and orange-fleshed sweet potato;
- Purchase and distribution of short-cycle cassava stems;
- Training for cassava and sweet potato farmers;
- Allocation and distribution of short-cycle sorghum and corn seeds;
- Creation of an experimentation and multiplication field for yams;
- Project to build chicken coops;
- Training on animal traction techniques for farmers;

- Production and donation of fruit tree saplings for the people of Cateme (banana, orange, lime, papaya and cashew). Study on beekeeping;
- Study on breeding of quails, rabbits and goats;
- Field days at the model farm;
- Training for producers on the manufacture and use of mineral blocks and stacks;
- Training for producers on the manufacture and use of organic compounds and pesticides;
- Installation of fodder banks;
- Training courses at the flour mill, on the composting process, and on soil preparation;
- Growing of vegetables (lettuce, kale, okra, zucchini, squash, pepper, cucumber and cabbage) and the growing of other crops on 77 hectares (peanuts, sweet potatoes, beans, cassava, corn and sorghum). The output is used to donate seeds for the next harvest and surplus production is donated to public institutions.

Our mission is to transform natural resources into prosperity and sustainable development, and we are committed to leaving a positive social, economic and environmental legacy in

Mozambique.

Vale S.A.

## Appendix 3: Rio Tinto Response to Southern Africa Resource Watch

*In 2012, Southern Africa Resource Watch published a critique of the Vale and Rio Tinto resettlements in Tete province.<sup>325</sup> Human Rights Watch has reproduced the Rio Tinto response below.*

### Rio Tinto's Response to Concerns about its Operations in Mozambique

May 29 2012

#### MOZAMBIQUE/SOUTHERN AFRICA RESOURCE WATCH - RESPONSE FROM RIO TINTO

Thank you for the invitation to respond to the article titled "Coal versus Communities in Mozambique: Exposing poor practices by VALE and Rio Tinto" by Claude Kabemba in Southern Africa Resource Watch, 2 Feb 2012 (SARW article) based on a paper of the same title by Claude Kabemba and Camilo Nhancale published in November 2011 (SARW paper).

Good community relations are as necessary for our business success as the effective management of our operations. This is why we seek to build good quality relationships with the people in the areas where we operate. Our communities work also occurs within our human rights framework, which reflects the UN Guiding Principles on Business and Human Rights and entails a commitment to respect human rights consistent with the Universal Declaration of Human Rights. Accordingly we take allegations such as those raised in the SARW article and paper seriously.

Rio Tinto recognizes that best practice land acquisition and resettlement is essential in building, operating and securing Rio Tinto's long-life mines and operations. Rather than regarding relocation as a short-term operational exercise to secure land access, we seek a long-term development approach. Resettlement programs offer an opportunity to contribute to sustainable livelihood improvement and economic development goals in the regions in which we work.

Rio Tinto shares best practice across its global business, expecting all sites to consistently follow Group-wide standards. Resettlement is no exception – all programs must be

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<sup>325</sup> Ibid.

governed by The way we work, our global code of business conduct; our Communities Policy and Standard; our Resettlement guidance note; and the IFC's land acquisition and resettlement guidelines appropriate to the jurisdictional context. Our Human Rights Policy also informs all resettlement programs.

The observations made by SARW in their article and paper, were read with interest by Rio Tinto and reflect at least to some degree the issues facing the Mwaladzi resettlement program at the time of Rio Tinto's acquisition of the Riversdale license in July 2011.

Some points in the article and paper do not, however, reflect the situation on the ground. The Government of Mozambique, through the Provincial Resettlement Committee (PRC), is the formal authority overseeing resettlement; this is acknowledged in the Resettlement Action Plan, which was approved by Government (Ministry of Environment). After consultation with the communities, written and signed records (with minutes and agreements) were kept of all interactions involving Riversdale, the Government and the communities. Efforts have been made to provide as much opportunity as possible for relocated families to continue farming activities with families resettled by Riversdale receiving a minimum of two hectares per family for farming, in addition to the land provided for habitation.

Moreover, Rio Tinto would like to reassure communities and other stakeholders that it remains committed to stimulating productive economic projects and employment in resettled communities as well as ensuring acceptable social infrastructure is in place, and procurement of local goods and services is enabled. The SARW article and paper is correct that challenges remain but these are being tackled using collaborative, long-term approaches. Rio Tinto would be happy to meet with SARW to update them on this and other issues they raise.

Since its acquisition of Riversdale, Rio Tinto has applied significant resources and our Group-wide experience and expertise to bringing the RTCM project up to standard, including with respect to communities work. In particular, appreciating existing challenges relating to resettlement including livelihood restoration and economic development, a series of assessments, gap analyses and diagnostics have been undertaken to identify the areas requiring attention and improvement in the immediate, medium and long-term.

Rio Tinto does not underestimate the negative and compounding impact that major social changes such as resettlement can have on vulnerable communities and households. Nor are we unaware of the importance of maintaining sustainable livelihoods. We are however intent on achieving success and, working alongside the Government of Mozambique, we hope to build capacity and establish positive precedents that will contribute to Mozambique's social and economic development across industries and over the years.

Rio Tinto is aware that its work with communities and around broader human rights issues in Mozambique is a continuing process and necessitates ongoing consultation with all relevant stakeholders. To that end it was pleased to meet with Human Rights Watch earlier this month to discuss existing challenges and opportunities. Rio Tinto welcomes such engagement and ongoing dialogue.

29 May 2012

Rio Tinto Mozambique



A surge of foreign investment into Mozambique's vast natural resources promises new financial wealth for a country long ranked one of the poorest in the world. But the government's speed in approving projects has outstripped its development of adequate safeguards to protect the rights of affected populations.

In coal-rich Tete province, local communities displaced and resettled from 2009 to 2011 due to coal operations owned by mining companies Vale and Rio Tinto have faced significant and sustained disruptions in their ability to access water and to produce or buy food. Many farming households previously lived along a river, could walk to markets in the district capital Moatize, and say they were self-sufficient. They are now living in sites roughly 40km away with agricultural land of deeply uneven quality, unreliable access to water, and diminished access to key sources of non-farming income. Many resettled households have experienced periods of food insecurity, or when available, dependence on food assistance financed by the companies that resettled them.

There has been insufficient communication between the government and the mining companies with resettled communities, as well as a lack of accessible and responsive mechanisms for community members' participation in decision-making, expression of complaints, and redress of grievances.

The Mozambican government has obligations to protect human rights, including to food, water, work, housing, and health. Private companies are required to respect these rights, including by exercising due diligence to prevent human rights abuses resulting from their operations and mitigating them if they occur.

The government has begun to institute a more comprehensive regulatory framework. Both Vale and Rio Tinto have made private and public commitments to improve resettled communities' standard of living. Despite these measures, resettled communities are still waiting for their full promised compensation and key infrastructure improvements.

The Vale and Rio Tinto projects in Tete province are just the first in many large mining projects and resettlements likely to take place over the coming decades in Mozambique, making the lessons identified in this report vitally important for the rights and well-being of many of Mozambique's communities going forward.

*(above) The farmland provided to Senolia S. upon her resettlement to Cateme was reclaimed by its original cultivators. She did not receive any replacement land and finally scraped enough money together to rent a plot of rocky, untilled land.*

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*(front cover) Female farmers resettled to Mwaladzi received land with poor access to water and limited productivity. The compensation package also included a new house. "The farming land we received is red, not black like we had before. I tried to grow corn and it died. Sorghum also failed.... I am not that satisfied. What I can say is, what is a house without food? I cannot eat my house," said Maria C. (left).*

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