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International Federation for Human Rights



Justiça nos Trilhos

BRAZIL

How much are human rights worth in the Brazilian mining and steel industry?

EXECUTIVE SUMMARY

Article 1: All human beings are born free and equal

in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3: Everyone has

the right to life, liberty and security



Executive Summary

For several decades the Brazilian Amazon has been subjected to government economic and fiscal policies designed to stimulate migration flows and encourage the integration of the Amazon into the national market. In the seventies, due to the external debt crisis in Brazil, the government implemented a new strategy for the region, seeking to transform it into an export platform of primary or intermediate products, including mining products.

Economic policies of the federal government to attract foreign currency to the country and thereby facilitate payment of the external debt, to finance imports and support remittances of international profit were accompanied by a process of liberalization of the legal framework by which businesses operate. The PAC (Program of Acceleration of Growth) – a development project implemented in Brazil since 2007 – consists of a wide set of infrastructure investment and incentive measures, and private investment facilities.¹ The PAC is based on a model that favors large corporations and



the export of goods, such as soy, meat, and minerals, among others. In 2010, the mining sector earned \$157 billion in profits and generated foreign currency that reached \$51 billion, which corresponds to 25% of total Brazilian exports.² Currently, there is a liberalization of environment law and regulation, a reduction in the legal protection of rural lands, and a regulatory framework of mining characterized by low royalty rates, and fragile environmental norms.³

The principal player benefitting from this political-economic context in the mining-metals sector in the Amazon is Company Vale do Rio Doce (CVRD), which began and was operated as a state company for 55 years. CVRD played an essential role coordinating the development of the Grand Carajás Program (PGC), launched in 1982. The PGC was planned for the implementation of a logistical complex – comprised by an open-pit mine, a 890 km-long railway, and a port – for the exportation, at the beginning, of 35 million tonnes of iron each year.

CVRD was privatized in 1997 and renamed Vale S.A. in 2007.⁴ Vale, the second largest mining company in the world, operates in 38 countries. Vale's activities represent close to 82% of total iron ore exports in Brazil.⁵ Vale's operations comprise 15% of total global iron extraction,⁶ expected to reach by 2015 close to 230 million tonnes exported annually from the Carajás region alone, with the implementation of new industrial projects, such as the opening of new mines, the doubling of the railway, and expansion of the port.⁷

The growth of mining and metals activities in Brazil was accompanied by the mobilization of various civil society groups around allegations of human rights violations linked to these operations. **This report focuses on the description and analysis of the impacts and harm caused by activities of the mining and steel industry in the municipality of Açailândia in the state of Maranhão, Brazil, in particular to the residents of the Piquiá de Baixo community and of the rural settlement of California.**

1. Brasil, Ministry of Finance, Programa de Aceleração do Crescimento, <http://www.fazenda.gov.br/portugues/releases/2007/r220107-PAC-integra.pdf>

2. Ministry of Mining and Energy. National Mining Plan 2030, http://www.secom.gov.br/sobre-a-secom/nucleo-de-comunicacao-publica/copy_of_em-questao-1/edicoes-anteriores/fevereiro-2011/boletim-1220-09.02/plano-de-mineracao-preve-investimentos-de-us-350-bilhoes/impressao_view.

3. A legislative proposal on mining is currently in discussion in Brazil.

4. called "Vale" in this report.

5. SINFERBASE -- National Union of the Iron and Basic Metal Extraction Industry, Report 2010. www.sinferbase.com.br.

6. SINFERBASE -- National Union of the Iron and Basic Metal Extraction Industry.

7. Vale: Carajás Project– additional 30 Mtpa, Projeto Carajás – additional 10 Mtpa, Projeto Carajás Serra Sul (mina S11D).

Two hundred-sixty eight families live in the California settlement. In 1997, landless families occupied a farm in the region and received title to the land by the National Institute of Colonization and Agrarian Reform (INCRA). Since then, they work as family farmers. In 2005, however, 66 charcoal furnaces operated by Vale to fuel the iron-metals industries, were installed next to the nearby settlement, along with large areas of eucalyptus plantations.

More than 300 families live in Piquiá de Baixo. Since the arrival of the iron and steel industry in 1987, they have been affected by five plants operating along highway BR 222 very close to the homes of the community.

Raw mineral extracted by Vale in Carajás arrives by railway administered by Vale before being transformed into pig iron in ovens operated by five steel mills installed near the rural community of Piquiá de Baixo, which is devoted to agriculture and primarily rural. These metals companies use coal to transform large quantities of iron ore into pig iron, to be later transported by rail to the port for export.

Initially, the coal came from burning the pre-Amazonian native forest. Today there is a gradual substitution of the native woods through the exploitation of genetically modified eucalyptus, planted in large areas of monocultivation. One of these coal-producing units for iron production is Ferro Gusa Carajás, a Vale-owned enterprise established in Açailândia next to the California settlement.

Methodology

Undertaken together by the organizations Justiça Global (FIDH member organization in Brazil), Justice on the Rails with the support of the International Federation for Human Rights, this report is based on a methodology of evaluation of the impacts on human rights caused by investment projects,⁸ using human rights as a reference point and based on a process centered on the participation of the affected communities.

Conclusions

The process of investigation underscored grave health problems generated by the emission of pollutants on the part of the iron plants and coal furnaces. This pollution of the air, the water and the soil has brought respiratory prob-

lems, eye and skin problems, and various other afflictions. The proximity of waste products and pig iron production to the populated areas also caused accidents, with serious and fatal burns. In addition, difficulties with access to health services were discovered, another violation of the right of every person to enjoy the highest possible level of physical and mental health.

The incessant pollution, the continuous deterioration of water resources, along with the extremely precarious system of urban sanitation have impacted the living conditions of the residents as well as their lands, affected their livelihoods and increased the insecurity and poverty of the affected communities, in violation of their right to an adequate standard of living.

The mobilization of the communities seeking redress and reparation for the damages suffered has been characterized by **difficulties in access to information, irregularities in the approval process for environmental impact studies, and attacks on the honor and reputation and freedom of expression of the social actors mobilized in favor of the affected communities.** Lastly, judicial demands presented by the communities left suspended or without follow-up and **the absence of reparation measures and adequate guarantees of non-repetition** demonstrate a **violation of the right to due process and effective remedy.**

Recommendations

In its principal recommendations, and in analyzing the responsibility of all the actors involved, public as well as private, Justiça Global, Justiça nos Trilhos and FIDH **recommend that public administration and judicial institutions of the Union, of the State of Maranhão and of the Municipality of Açailândia:**

- Promote the immediate establishment of **impartial and independent investigations** and/or judicial action with the objective to determine the actors responsible for the violations committed, including a guarantee of integral legal assistance for the victims;
- Make sure the communities of Piquiá de Baixo and California settlement receive **reparation measures** according to national and international standards on the right to an effective remedy, including the collective and integral resettlement of all the families in Piquiá de Baixo.

8. See Rights & Democracy, *Investing in Human Rights: Volume 2* "A Step by Step Guide to Assess the Impact of Foreign Investment on Human Rights." 2008. <http://www.ichrdd.ca>. While this present report does not discuss foreign investment, the methodology in this guide was a useful tool in the realization of this report.

- **Immediately assess the level of compliance** to requirements in current **environmental permits** and that the **concession of new permits** for mining-metals enterprises and for the coal plants of Ferro Gusa Carajás in Açailândia **be suspended** until adequate assessments processes are established, in accordance with Brazilian law.
- **Reinforce the monitoring system for the environmental impact** of the mining-metals sector through closer coordination among distinct public agencies and measures, such as those that regulate the source of coal, pollution emission, and air quality, administered by public agencies of oversight. The immediate installation of equipment to monitor air quality and permanently prevent contaminant emissions by mining-metal companies and coal plants, their ore suppliers and transport companies;
- Make sure the population, in particular those people affected or potentially affected, are **duly informed of the impacts** of mining-metals companies in the territory of Açailândia, through **access to information** contained in the environmental permits and through yearly public meetings organized by the Public Ministry of the state of Maranhão.

Among other recommendations, it is recommended that Vale and its business partners in the mining-steel chain, coal plants and other involved businesses, and companies in the wood pulp and paper sector:

- Strictly follow **applicable Brazilian environmental, human rights, and labor law** at the national level and recognized standards at the international level, in accordance with their responsibility to respect all human rights within the framework of their activities;
- Exercise **due diligence**, which implies taking all **necessary measures to identify, prevent and redress potential negative impacts** on human rights and the environment;
- **Adopt internal preventive measures** to ensure their suppliers and clients effectively respect environmental and human rights norms according to national and international standards as well as to their internal policies;
- **Adopt measures to redress** impacts caused by pollution in the communities of Piquiá de Baixo and California settlement;

- **Act with transparency**, including through the dissemination of complete and correct information on social, environmental and corporate governance issues destined for shareholders, including problems encountered in the present report;
- **Abstain from any action** – including legal – with the objective to intimidate and denigrate persons who act in defense of the rights of the people affected by their activities, in accordance with international standards of protection for human rights defenders.

It is recommended that the **Brazilian Development Bank (BNDES)**, as investor and financier of Vale, as well as investors and clients of Vale

- **Act with due diligence** through a social and environmental audit of the environmental impacts caused by the chain of operations coordinated by Vale throughout the entire zone of influence of the Carajás Railway, with equal participation of organizations that represent the local population as well as those affected by the company's projects in these territories. This report could serve as a basis for the elaboration of Bank procedures on current and future BNDES financing of Vale and other companies involved in the mining-metals chain.
- **Suspend any support** contemplated for other Vale projects **until they have fulfilled all the recommendations** of this report, including legal and judicial proceedings related to investigated cases.

Finally, it is recommended that the **Brazilian government**:

- **Create an integrated study group** (state and federal legislative powers, social organizations and companies) to present a **new social development fund** for the entire impact area that comprises the municipalities along the Carajás corridor, which will recuperate the existing institutional fund from the time of the state-run “Vale do Rio Doce Company,” co-managed by public power and civil society.