

## **An open letter to the International Community & Australian Parliament on the ongoing crisis in Brazil**

The violence not seen:  
social and environmental damage, institutional fragilities and reparation duty

We, the undersigned members of Brazilian civil society, appeal to the Australian parliament to recognise the social, environmental and technological disaster caused by the collapse of BHP/Vale Samarco dam that released polluted mining tailings and destroyed townships and livelihoods in Brazil

The disaster that occurred in Brazil on 5 November 2015 in the town of Mariana, Minas Gerais, is ongoing.

The Samarco mining company, 50% owned by Anglo-Australian BHP Billiton<sup>1</sup> and 50% by Brazilian Vale S.A., has been exploring iron ore in Brazil since 1977. The tailings from this exploration were stored in 3 dams, namely: Fundão, Germano and Santarém. The collapse of Fundão, which contained contaminated tailings, triggered the biggest social and environmental catastrophe ever faced by Brazilian society.

The fear of imminent dam collapse was already widespread amongst the inhabitants of the surrounding community, as shown in the 2012 doctorate thesis of the Brazilian sociologist Viana.<sup>2</sup> As the fears of this community became reality, it is estimated that 62 thousand million cubic metres of polluting mining debris – the equivalent of 25 thousand Olympic sized pools – was spilled, destroying and contaminating everything in its path.<sup>3</sup>

This disaster transformed affected people into victims in many ways, compromising health, causing loss of life, the destruction of property and contamination of land that forms the basis of social, cultural and economic life. The damage sprawled for over 850 km, directly affecting hundreds of thousands of people.

The river Doce – a central component of the main river basin of the Brazilian south eastern region, whose population reaches 85 million people – as well as the Atlantic Ocean, have both been affected as a result of the dam collapse. Environmental studies of the flood of mining debris invading the river Doce has caused damage that will take hundreds of years to recuperate; some parts will never revert to their previous state.

Samples of the mining tailings have been collected as far as 300 km from the dam, and contain high concentrations of metals such as iron, manganese and aluminium. The water analysed by the Water and Sewage Service of Governador Valadares, one of the affected towns declared state of public calamity, has shown levels of iron that are 1.366.666% above tolerable standards. The levels of manganese go beyond the tolerable in 118.000%, while the concentration of aluminium was 645.000% higher than what would be possible for treatment and distribution to inhabitants.<sup>4</sup>

Analysis performed by a group of scientists from the universities of Brasília (UnB) and Federal of São Carlos in São Paulo<sup>5</sup> contradict the official version disclosed by the Geological Service from Brazil, and indicate that river water contains heavy and hazardous metals such as mercury, arsenic, pl

<sup>1</sup> [http://www.bbc.com/portuguese/noticias/2015/11/151111\\_mariana\\_desastre\\_bhp\\_jc\\_cc](http://www.bbc.com/portuguese/noticias/2015/11/151111_mariana_desastre_bhp_jc_cc)

<sup>2</sup> IANA, M.B. Avaliando Minas: índice de sustentabilidade da mineração (ISM). Centro de Desenvolvimento Sustentável, Universidade de Brasília, 2012): 68% dos entrevistados em Bento Rodrigues relataram medo em relação ao rompimento das barragens, 94 % reclamaram quanto à poluição das águas causadas pelas operações da Samarco e 64% temiam que suas propriedades pudessem ser desapropriadas pela empresa.

<sup>3</sup> <http://conflitosambientaismg.lcc.ufmg.br/noticias/sociedade-botanica-do-brasil-emite-nota-publica-sobre-o-desastre-na-bacia-do-rio-doce/>

<sup>4</sup> <https://atingidospelavale.wordpress.com/2014/06/23/comite-nacional-em-defesa-dos-territorios-frente-a-mineracao-alega-que-leonardo-quintao-pmdb-mg-teve-parte-de-sua-campanha-financiada-por-mineradoras/>

<sup>5</sup> <http://brasileiros.com.br/2015/12/relatorio-sobre-contaminacao-da-agua-em-mariana-contradiz-versao-oficial/>

umb, aluminium, nickel, chrome and antimony at above levels acceptable to the National Council for the Environment.<sup>6</sup>

The attached interim report of an independent group of scientists highlights that arsenic in the water is found to be above the criteria for drinkability.<sup>7</sup> According to the United Nations Human Rights Council, there is evidence that the dams contained high levels of heavy metals and other polluting chemicals, which were spilled in the river Doce.<sup>8</sup> In addition, a group of UN observers visited the area and heard the testimony of those affected, also meeting with the Public Power and members of Samarco (BHP/Vale). While their report is pending,<sup>9</sup> the UN Special Rapporteur for Human Rights and the Environment, denounced this social and environmental disaster, and called on the Brazilian authorities and those responsible at Samarco (BHP/Vale) to take immediate measures in order to protect the environment and the health of the communities at risk of being exposed to contaminating chemicals.

While water is contaminated by heavy metals from the tailings, the sheer strength of the flow of debris also damaged the biodiversity of the river, to the extent that whole endemic species may have been buried according to some environmentalists.<sup>10</sup> Several terrestrial animals have been affected; especially those that seek shelter in the 3,000 hectares of bushland flanking the river.

Apart from the many South American tapir or anta that were killed, wild felines, such as onça-pintada, gato-mourisco, jaguatirica, gato-do-mato, and onça-parda were found dead, since the mud reached the biggest region of Atlantic Forest of Minas Gerais. For the biologist Dino Xavier Zammataro, who closely follows the disaster, the food chain has been severely affected, from plankton to large-sized animals.<sup>11</sup> As far as 850 km from the disaster, fish and sea birds have been found dead at the mouth of the river Doce in Regência beach, a municipality of the state of Espírito Santo.<sup>12</sup> There is risk of hindrance of the reproductive cycle of several species that frequent the coast, especially one of the most endangered species of turtle in the world, the giant turtle.

Besides the extensive environmental damage arising from contamination of the river, approximately five hundred thousand people had their water supply affected,<sup>13</sup> as collection of the water of the river Doce had to be suspended for an indefinite period. To date, the need to supply drinkable water to the populations that find themselves in a situation of public calamity still remains.

As a consequence of the dam collapse, the district of Bento Rodrigues, in Mariana, situated at the foot of the mountain, was completely destroyed and hundreds of families were displaced. At the time of the technological disaster, no type of alert whatsoever was put in place by Samarco (BHP/Vale) for the communities surrounding the dam, which in turn resulted in 17 deaths and 2 missing, according to official numbers (as of January 2016).<sup>14</sup> In addition, the company did not have an emergency plan for evacuation in the event of any tragedy, which is always an inherent risk to the mining activity.<sup>15</sup>

From close follow-up with the victims, several infringements of human rights can be observed, including the harassment by Samarco (BHP/Vale) of the victims and the infliction of social suffering. From the considerations made to the State Public Prosecutor by the Group of Studies in Environmental Themes of Universidade Federal de Minas Gerais, it can be inferred that: "The GESTA-UFMG (

<sup>6</sup> <http://brasileiros.com.br/2015/12/relatorio-sobre-contaminacao-da-agua-em-mariana-contradiz-versao-oficial/>

<sup>7</sup> [http://giaia.eco.br/wp-content/uploads/2015/12/Resultados-11\\_12-Agua-GIAIA.pdf](http://giaia.eco.br/wp-content/uploads/2015/12/Resultados-11_12-Agua-GIAIA.pdf)

<sup>8</sup> <https://nacoesunidas.org/desastre-de-mariana-mg-medidas-do-governo-vale-e-bhp-billiton-foram-claramente-insuficientes/>

<sup>9</sup> <http://g1.globo.com/minas-gerais/desastre-ambiental-em-mariana/noticia/2015/12/grupo-de-trabalho-da-onu-visita-mariana-e-mg-afetada-por-desastre.html>

<sup>10</sup> <http://revistagalileu.globo.com/Ciencia/Meio-Ambiente/noticia/2015/11/e-oficial-o-rio-doce-esta-completamente-morto.html>

<sup>11</sup> <http://brasileiros.com.br/2015/11/lama-da-samarco-mata-felinos-como-onca-e-compromete-80-das-especies-de-peixe/>

<sup>12</sup> <http://g1.globo.com/espírito-santo/noticia/2015/11/peixes-do-rio-doce-em-linhares-no-es-comecam-ser-resgatados.htm>

<sup>13</sup> <http://g1.globo.com/espírito-santo/noticia/2015/11/peixes-do-rio-doce-em-linhares-no-es-comecam-ser-resgatados.html>

<sup>14</sup> <http://g1.globo.com/minas-gerais/desastre-ambiental-em-mariana/noticia/2016/01/dois-meses-apos-desastre-em-mariana-dois-seguem-desaparecidos.html>

<sup>15</sup> <http://www1.folha.uol.com.br/cotidiano/2015/11/1709264-plano-de-emergencia-de-mineradora-samarco-ignora-alerta-a-moradores.shtml>

the group) has been receiving reports from researchers, social movements, public defendants, besides following journalistic essays on the lack of freedom to come and go, the control of the transit of the victims by the company SAMARCO, the hindrance of the freedom of reunion, as well as the access to information. People lodged in hotels would be living in a boarding-school regime, with controlled times to go into and out of hotels, as well as limited visits and times, an aspect widely broadcast by the big television media. (tvuol.uol.com.br/video/15679565). The victims would be living in a boarding or semi-boarding regime, under the control of the company.”<sup>16</sup>

The victims of this critical and traumatic event are in a situation of social and psychological vulnerability. The houses of families of the communities of Bento Rodrigues and Paracatu de Cima e de Baixo, Pedras and Barra Longa, a total of 700 displaced people, were totally destroyed by the flow of mining debris,<sup>17</sup>

Since the disaster, many irregularities have been found. One of them refers to the licence for Samarco (BHP/Vale) to operate the dam that collapsed. This licence was renewed in 2013, albeit without the approval of the Public Prosecutor, as this authority had ordered, that same year, the elaboration of a report, which had shown problems in the area. This document showed that two areas of the dam were overlapping, which could “potentialise erosive processes” and cause “collapse of the structure”. Another problem relates to the company’s dam register with the government department responsible for dams control. This register also dates from the same year of 2013 and was outdated at the time of the disaster. At that time already, it was found that the residue stock was above the capacity of the structure.

Notwithstanding the renewal of the environmental licence approved by the State Environmental Policy Council, it is imperative to recognise that this was not a natural disaster but one due to human negligence and omission

Up until the last poll in Brazil, electoral campaigns were allowed to be financed by privates and companies, with mining companies the biggest donors for parties and politicians. Vale alone, which owns 50% of Samarco donated 22,6 million reais to the last election, contributing to half of the members of the Interstate Parliamentary Commission (CIPE), which was created to analyse matters related to the disaster of the basin of the river Doce. Twenty days after the tragedy, instead of guaranteeing more surveillance and control of risky economic activities, the legislative power of Minas Gerais approved a law project which flexibilizes environmental licencing.<sup>18</sup> In addition, a new Mining Code is before the national parliament? Since many of the politicians involved in this lawmaking process have benefitted, one way or another, by donations of mining companies, it is feared that the contents of this new Code is bound to be biased.

The attached report of the Universidade Federal de Minas Gerais about the conduct of the Brazilian institutions states, “the sociological literature on the disasters of Brazil has shown that the public departments which act upon the emergencies - especially of civil defence and social assistance in conjunction with other organs, such as those of housing, sanitation and similar ones are progressively adopting a dehumanizing technical praxis in their interactions with individuals, families and communities, drawing their attention to an overvaluation of technical tools. Studies such as the one of Siena (2014), of Mendes (2015) and of Oliveira and Portella (2015) have demonstrated that the bad quality of the interaction between groups affected in disasters and the social assistance services is bringing about the forwarding of housing solutions which are precarious (buildings of doubtful safety, without the necessary public infra-structure, far from the place of origin of the dislodged, breaking of neighbourhood bonds and so on) which cause loss of family dignity, their identity deterioration and may create new conflicts within or between attended families. Such situations are prone to foster an atmosphere of fear and, in a decision context where the principle of precaution in environment

<sup>16</sup> [https://www.ufmg.br/online/arquivos/anexos/rede%20cidades\\_mariana.pdf](https://www.ufmg.br/online/arquivos/anexos/rede%20cidades_mariana.pdf)

<sup>17</sup> <https://atingidospelavale.wordpress.com/2014/06/23/comite-nacional-em-defesa-dos-territorios-frente-a-mineracao-alega-que-leonardo-quintao-pmdb-mg-teve-parte-de-sua-campanha-financiada-por-mineradoras/>

<sup>18</sup> <http://g1.globo.com/minas-gerais/noticia/2015/10/entidades-questionam-legalidade-de-pl-para-conceder-licenca-ambiental.html>

ental themes is faded and not taken as seriously as it should be, new evils are feared, as is the return of previously experienced ones (Machado, 2007).”

Samarco (BHP/Vale) has an obligation to provide emergency subsistence measures to the victims who have lost all of their material property. As recommended by the Public Prosecutor, the company has committed to guarantee a monthly remuneration of a minimum salary (in 2015, R\$788- seven hundred eighty eight reais - approximately US\$200) for each unsheltered family from December 2015. However, this commitment has not been totally fulfilled; several families have not had access to funds. This sum is also not a reasonable amount to grant families for the reconstitution of their living conditions prior to the disaster, since the great majority of them possessed plantations or cattle as a means of complementing their family budget.<sup>19</sup>

As the information and evidence provided above has shown:

- This disaster is the biggest in Brazilian history and has created immeasurable damage to the environment and to hundreds of thousands of people in Brazil;
- Billionaire companies have treated the effected families with contempt, and the environment with negligence;
- Public institutions have proven inefficient, perpetuating the psycho-social grief imposed upon the impacted families;

Given one of the controller companies of Samarco is Australian, we urge the Australian Parliament, to call on BHP Billiton to take responsibility for the damage their operations and decisions have caused.

We urge the Australian parliament to ensure that BHP provides reparations to the populations they have displaced and whose livelihoods are now destroyed.

We call on the Australian parliament to urgently require BHP Billiton to rehabilitate the environment that has been contaminated and destroyed.

Respectfully sign,

Joelson Dias - Senior partner at Barbosa e Dias Advogados Associados

Isabela Corby - Lawyer at Margarida Alves - Popular Assistance Office and activist in Brigadas Populares Organization

Juliana Dutra Braz da Cruz - Law Graduate/Foreign Languages Professor

Marcelo Gonzaga de Oliveira Júnior - Environmental Engineering Student

Gustavo Pessali - Lawyer at Valente Reis Pessali Office

Bruno Demétrio Pereira da Luz – Lawyer

Fernanda Cristina Moura - Lawyer

Ana Paula Borges de Souza - Biological Sciences Student

Also support this initiative,

Homero Junger Mafra - President of the Brazilian Bar Association (OAB), State of Espírito Santo Chapter

Maristela Lugon - President of the Commission on the Rights of Persons with Disability of the Brazilian Bar Association (OAB), State of Espírito Santo Chapter

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<sup>19</sup> [http://www.correiobraziliense.com.br/app/noticia/brasil/2015/12/05/internas\\_polbraeco,509413/um-mes-apos-tragedia-em-mariana-causas-e-impactos-ainda-sao-investiga.shtml](http://www.correiobraziliense.com.br/app/noticia/brasil/2015/12/05/internas_polbraeco,509413/um-mes-apos-tragedia-em-mariana-causas-e-impactos-ainda-sao-investiga.shtml)