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Written statement by Government of the State of Minas Gerais

Agenda Item 3: Governance and public administration aspects of the theme of the 2022 session of the Economic and Social Council and the 2022 highlevel political forum on sustainable development

RECONSTRUCTING GOVERNANCE AND CHANGING PARADIGMS IN THE SOCIO ENVIRONMENTAL DISASTERS REPARATION: LEARNINGS FROM THE CASES OF RIO DOCE AND BRUMADINHO

ABSTRACT:

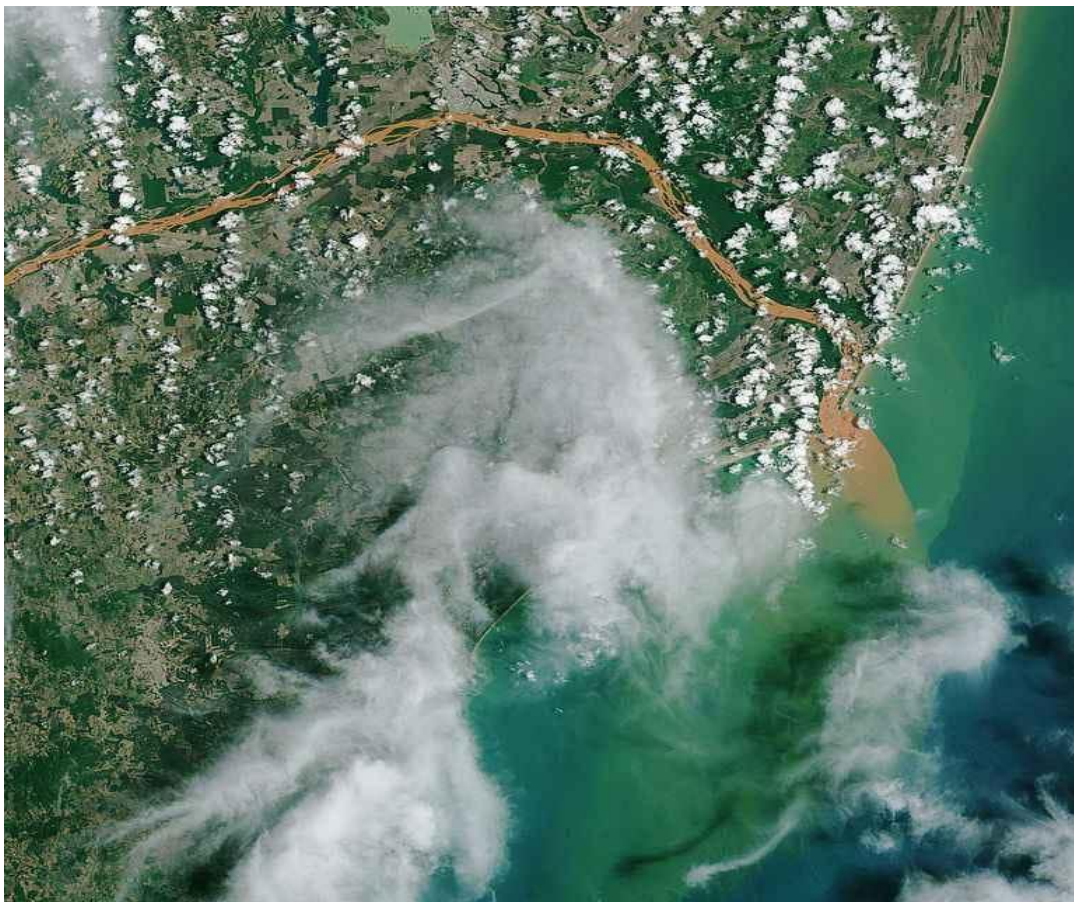
The State of Minas Gerais, Brazil, has suffered two of the biggest environmental disasters ever registered: the rupture of mining dams in Mariana, 2015, and in Brumadinho, 2019. Apart from the irreparable human losses, these disasters have caused unprecedented socio environmental and socioeconomic damages. In order to ensure the integral reparation of such damages, as well as to hold the polluting companies accountable for the reparation, judicial agreements were celebrated, which had specific characteristics regarding not only governance, but also the logics for carrying out measures. This article reports the learnings from the execution of these judicial agreements and the way one instrument influenced the other, leading to changes in governance and paradigms, aiming at enhancing effectiveness on the process of integral reparation.

1. Rio Doce Disaster (2015)

The rupture of the Fundão dam, in Mariana, which occurred on 15th November, was undoubtedly an environmental disaster. The occurrence caused the deaths of 19 people –

besides socio environmental and socioeconomic harms in, at least, 35 municipalities in Minas Gerais and 4 in the State of Espírito Santo.

The reservoir originally held an amount of 56 million m³ in mining waste, from which 43 million spilled over, reaching, at first, the Gualuxo do Norte and Carmo rivers, and then Rio Doce, even pouring into the ocean, a few days later. The sludge got to numerous public and private properties, including three rural communities. The waste also struck, along the way, the city of Barra Longa downtown and the Candonga Hydroelectric Power Plant, which still finds its works paralyzed, due to the 10 million m³ of waste that has not been cleaned yet.



2. Brumadinho Disaster (2019)

In January 2019, there was the rupture of the first Dam (D1), which led to the rupture of dams D-IV and D-IV-A in the Córrego do Feijão mine, located in Brumadinho (Minas Gerais). Due to the rupture, approximately 12 million m³ of waste was carried down. In the channel of the Ribeirão Ferro-Carvão up to its confluence with Paraopeba River, 7.8

Mm³ were deposited, and the remaining part (2.2 Mm³) reached the channel of Rio Paraopeba.

The disaster caused 272 deaths. Until March 2022, the Firefighters rescue team was still looking for six victims. Apart from the human losses, the disaster also caused environmental and socioeconomic harms. The vegetation, as well as the fauna and other rivers, was struck along hundreds of kilometers, crossing the territories of more than 20 municipalities.



3. Comparison between the signed agreements

Rio Doce Agreement (TTAC 2016, TTAC-Gov, 2018)	Brumadinho Agreement (2021)
<ul style="list-style-type: none"> - 9 signing public institutions - 800 million US dollars destined to socioeconomic and socio environmental compensation; - socioeconomic reparation, depending on causal link studies - socio environmental reparation without financial limit 	<ul style="list-style-type: none"> - 4 signing public institutions - 6,4 billion US dollars destined to socioeconomic reparation and compensation - environmental reparation without financial limit

MECHANISMS OF GOVERNANCE AND EXECUTION

<p>1. Undefined amount of socioeconomic reparation, depending on causal link studies</p>	<p>1. Immediate recognition of socioeconomic damage and impacts on the provision of public services in the affected region, with valuation of polluting companies payment obligations in the text of the Agreement itself</p>
<p>2. Establishment of a registry of affected people who, after registration, would have access to reparation programs</p>	<p>2. Universal access of the population to socioeconomic projects regardless of registration; focus on strengthening the public service (with the exception of the cash transfer program)</p>
<p>3. Governance and decision-making is dependent on a collegiate of 9 actors (CIF), with the need for prior opinion from technical chambers composed of up to 20 members.</p>	<p>3. Simplified governance, with a collegiate of the parties with 4 representatives. Executive secretary, performed by one of the members, coordinates the dialogue and governance.</p>
<p>4. Execution of the remediation actions by a Foundation created (Fundação Renova), with councils and governance mechanisms led by the polluting companies.</p>	<p>4. Remediation actions carried out directly by the polluting company; significant compensation actions carried out directly by the government.</p>
<p>5. Broad social participation, counting with the presence of affected people in the entire decision-making instances, including in technical matters</p>	<p>5. Focused social participation, with specific mechanisms and moments for the population to indicate priority areas of public policies for funding/implementation</p>

Results in 6 years of execution:

- low effectiveness of environmental and socioeconomic reparation, widely recognized even by the companies responsible
- the governance established produced more than 570 deliberations, most of which were not complied with by the Renova Foundation.
- only 8 percent of the executed compensatory resource
- repair programs with an average execution of 46 percent
- disagreements about the number of people and municipalities impacted, such as pending recognition petitions even today

Results in 1 year of execution

- fulfillment, to date, of the obligations foreseen
- Governance has produced about 50 deliberations, all of which have been acted upon
- obligations to pay in full according to schedule, with completed transfers of 3,6 billion US dollars to the government
- 853 municipalities in Minas Gerais have already received amounts of 1.05 billion
- Popular consultation in the affected region, to indicate priorities, mobilized communities and city halls with 3 thousand project proposals and 10 thousand participants
- Starting orders were given for 9 projects and detailing started for 103 projects in the affected region

4. Governance evolution and learnings

It is noteworthy that the experience of implementing the measures of the Brumadinho Agreement is still at an early stage, therefore, it is still too early for a more comprehensive assessment. However, it is already noted that simplified governance mechanisms and the way in which reparation actions are carried out seem more agile and effective.

Following this, the decision to not adopt causal nexus studies in the socioeconomic field is considered more effective, since the demonstration of the nexus is complex and generates future litigation, leading to slowness and judicialization. In the Brumadinho agreement, the socio-economic reparation began immediately after the Agreement was signed, since it did not depend on causal link studies.

The failure to comply from Fundação Renova and the non-execution of reparation actions in the Rio Doce Agreement led to a large part of the reparation process being taken to Brazilian justice. Today, there is a large number of lawsuits against companies and the Renova Foundation, charging fines for delays and great indignation from the people affected.

A second substantial change was the access of affected people, which in the first agreement (Rio Doce) depended on a registration. It is a difficult, costly and often unfair

registration step, since some people affected do not have documentation or cannot prove the damage suffered. Due to this fact, the paradigm used in the Brumadinho Agreement was the general strengthening of public service, without the need to register for access to socioeconomic compensation. Thus, the entire population of the affected region benefits from the strengthened public service and it remains as a legacy in the region.

A third change was the complete review of the governance system, with the creation, in Brumadinho, of a very simplified system with a decision-making committee with a reduced number of participants and definition, in the text of the agreement, that each participant has a specific governance with a well-defined decision-making body. Experience has shown that complex structures, with many collegiate bodies and a large number of members lead to decision-making paralysis. An agreement based on more simplified decision mechanisms is more effective.

A fourth point is that in the first agreement (Rio Doce) the executor is Fundação Renova, known for its low effectiveness. In the Brumadinho Agreement, execution is carried out directly by the mining company or by the government, which, so far, has proved to be more effective.

The fifth change is in social engagement. In the first agreement, all the deliberative committees have the presence of several members of the affected civil society. Popular participation in technical evaluation bodies generates slow decision-making and low deliberative effectiveness of participation. In addition, local and state committees of affected people were established, but never implemented. In the Brumadinho agreement, social participation is focused and defined at specific moments. One of the mechanisms is a popular consultation that has already been held to define investment priorities, with more than 10,000 participants. Another mechanism is the definition of a value – 600 million US dollars - where the population directly chooses the repair projects. These new mechanisms generate opportunities for participation without promoting decision-making paralysis. The Brumadinho Agreement recognizes the importance of participation, but establishes more precise and organized mechanisms for this participation to be implemented more effectively.