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**PIQUIÁ STOOD UP FOR THEIR RIGHTS:  
Assessing the fulfillment of recommendations to  
address human rights violations of the mining and  
steel industry in Acailândia, Brazil**

Cover photo: The residents celebrate a success after a demonstration of 30 hours in front of the entry of a steel factory. ©Marcelo Cruz

# ABSTRACT

This study updates the report 'Brazil: how much are human rights worth? - The impacts on human rights related to the mining and steel industry in Açailândia', published in 2011 by the International Federation for Human Rights (FIDH), in partnership with Justiça Global (JG) and Rede Justiça nos Trilhos (JnT).

This publication was produced using the Community-Based Human Rights Impact Assessment methodology, which directly involves the community in the identification, evaluation and denunciation of the human rights violations they suffer.

The analysis of the national and international debate on business and human rights constituted a departing point for the study, especially the ongoing process of weakening environmental legislation in Brazil, the efforts to implement the Guiding Principles of the United Nations and the elaboration of a Binding Treaty on Business and Human Rights. The report presents an update of the human rights violations suffered by the community of Piquiã de Baixo, directly affected by the production of pig iron in the municipality of Açailândia, located in the state of Maranhão, Brazil. This community actively participated in the elaboration of the 2011 report.

Finally, the present report elaborates an appraisal of the effectiveness of the 39 recommendations addressed to the public and private institutions in 2011. To carry out this analysis, we used information obtained from the community of Piquiã de Baixo and its advisory bodies, responses of public and private institutions to previous requests for information, face-to-face interviews conducted between March and April 2018 in Açailândia, São Luís, Brasília and Rio de Janeiro, as well as research on other primary and secondary sources. From this analysis, a new series of recommendations, elaborated collaboratively with community representatives, is presented at the end of this report.

Use the QR code to access the report 'Brazil: how much are human rights worth? - The impacts on human rights related to the mining and steel industry in Açailândia'



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## Acronyms

ACMP	Associação Comunitária dos Moradores de Piquiá
AVB	Aço Verde do Brasil
BNDES	Banco Nacional de Desenvolvimento Econômico e Social
CEF	Caixa Econômica Federal
CIDH	Comissão Interamericana de Direitos Humanos
CLN	Programa Capacitação Logística Norte
CVB	Cimento Verde Brasil
CVM	Comissão de Valores Mobiliários
Dhesca	Direitos Humanos, Econômicos, Sociais, Culturais e Ambientais
DP-MA	Defensoria Pública do Estado do Maranhão
EIA	Estudo de Impacto Ambiental
EFC	Estrada de Ferro Carajás
Fergumar	Ferro Gusa do Maranhão Ltda
FIDH	Federação Internacional dos Direitos Humanos
FDS	Fundo de Desenvolvimento Social
Ibama	Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis
ICMBio	Instituto Chico Mendes de Conservação da Biodiversidade
ICMM	International Council on Mining & Metals
IGWG	Interagency Gender Working Group
JNT	Rede Justiça nos Trilhos
MCMV	Minha Casa Minha Vida
MPF	Ministério Público Federal
MP-MA	Ministério Público do Estado do Maranhão
MTE	Ministério do Trabalho e Emprego
OIT	Organização Internacional do Trabalho
ONU	Organização das Nações Unidas
PBA	Plano Básico Ambiental
PGRS	Plano de Gerenciamento de Resíduos Sólidos
Ploa	Projeto de Lei Orçamentária Anual
Rima	Relatório de Impacto Ambiental
Sema	Secretaria de Estado do Meio Ambiente e Recursos Naturais
Semma	Secretaria Municipal de Meio Ambiente de Açailândia
Sifema	Sindicato das Indústrias de Ferro Gusa do Maranhão

# 1. Presentation

The Justiça nos Trilhos (JnT) network is a coalition of organizations, social movements, religious organizations, trade unions and university research centres, which supports local communities affected by the *Carajás* mining project in the Brazilian states of Pará and Maranhão. JnT works nationally and internationally on the denunciation of human rights violations and environmental damage caused by mining and steel operations. It advocates for less aggressive and locally-oriented models of development and management of the territory. JnT's team uses creative popular education techniques and collaborative advocacy to empower local communities to defend their rights. In 2018, the work of Justiça nos Trilhos was recognized when it became the first ever recipient of the "Human Rights and Business" award. The award was presented at the United Nations Forum on Business and Human Rights.

FIDH (the International Federation for Human Rights) is a non-governmental international human rights organisation federating 184 organisations from 112 countries. For FIDH, works with local actors at national, regional and international levels to address human rights abuses. To do so, FIDH advocates for community-based Human Rights Impact Assessments (COBHRAs), a methodology that relies on the affected communities to assess and document the human rights impacts that investment projects may generate or have generated.

FIDH and JnT have been working together since 2010 on the human rights abuses of the steel industry in the state of Maranhão, in Brazil. In May 2011, FIDH and JnT, with Justiça Global, published the report *"Brazil: How much are human rights worth? - The impacts on human rights related to the mining and steel industry in Açailândia"*, produced using the COBHRA method. The report has documented the impacts of the steel industry on the human rights to health, a healthy environment, adequate housing, life, physical integrity, information and participation, and access to justice; it formulated recommendations to all stakeholders.

## 2. Introduction

In May 2011, FIDH, Justiça nos Trilhos (JnT) and Justiça Global (FIDH member organization) published the report **'Brazil: how much are human rights worth? - The impacts on human rights related to the mining and steel industry in Açailândia'**. The aim was to describe and analyse the impacts and damages caused by the activities of the mining-steel chain in the municipality of Açailândia, in the state of Maranhão, in Brazil, particularly for the inhabitants of the Piquiá de Baixo district and the California Rural Settlement. Eight years later, the persistence of the problems reported in 2011 and the impasses in the process of redressing violations of individual and collective rights led FIDH and Justiça nos Trilhos (JnT) to update the analysis of the human rights violations scenario in Açailândia and to take stock of the effectiveness of the recommendations made in 2011.

The analysis of the situation reveals that despite the progress achieved in the process of relocating more than 300 families of the Piquiá community (approximately 1.110 people), the over 7.500 inhabitants of all Piquiá (IBGE 2010) continue to live in a polluted environment and suffer other associated risks on a day-to-day basis. The State, at its different levels, has failed to work out a strategy - and has not shown any will to do so - aimed at addressing health problems arising from environmental contamination produced by the steel factories and Vale S.A. - the company supplying iron ore and freighting pig iron produced by the abovementioned factories. The actions of the State have mainly been limited to reactions to community demonstrations and protests.

For 6 years, steel factories installed in the city have unsuccessfully tried to renew their operating licenses due to a lack of compliance with the requirements imposed by the environmental agency. **Nevertheless the factories have continued operating without any significant changes in production standards and in the levels of pollution**, due to the existence of legal vacuums and the fear of local authorities that the closure of those factories would aggravate the "social crisis". Demonstrating thereby that economic concerns continue to prevail over human rights considerations.

The 2011 report should be considered as the main reference to understand the case. The present report complements and updates the information on some aspects, such as the context and history of the cases reported, the presentation of the actors involved and the in-depth analysis of the violations of rights presented in 2011. Eight years later, this report **evaluates the actions taken by the actors responsible for the violations reported since 2011 and keeps a record of the progress made by the affected communities in their struggle for acknowledgment of the human rights abuses, accountability of the perpetrators and adoption of subsequent remedial measures.**

More precisely, it aims to assess the enforcement of such recommendations and consider the actions that have been undertaken during the past years by the community, the Brazilian government and the companies, to determine whether these recommendations have been fully or partially implemented, or not. The balance eight years later will provide a full picture of the efforts undertaken by the community and our organisations, as well as draw the panorama of progress, identifying the issues where some redress has been provided and those where further efforts need to be undertaken urgently to address the human rights impacts faced by the affected communities.

The starting point for this work was the analysis of the degree of implementation of the 39 recommendations made in the 2011 report. For this purpose, the following sources of information were considered: a) the community of Piquiá and its advisory bodies, b) public and private institutions, recipients of the recommendations, through requests for information and meetings carried out in March and April of 2018, c) a field visit in Açailândia in April 2018 and d) a search for complementary sources of information. The data found is representative of the reality in Açailândia in 2018.

It should be noted that, unlike the 2011 report, this study focuses only on the case of the Piquiá de Baixo community. This focus is related to the fact that the residents of Piquiá have used, during these eight years, the report **'Brazil: how much are human rights worth? - The impacts on human rights related to the mining and steel industry in Açailândia'** as a strategic incidence tool. By doing so, they achieved relative national and international visibility for their situation and some important actions aimed at redressing violations of rights. In relation to the California Rural Settlement, Vale S.A. informed FIDH that it contracted a specialized health consultancy in 2013 and that the study concluded that it was impossible to establish a causal link between the supposed illness of the population and the emissions

from the *Monte Libano* farm, a mining company that manufactured charcoal to produce pig iron. Despite this, according to Vale S.A., on a voluntary basis, the company included residents of the California Settlement in projects to support community health. Among other programs, the firm contributed to the reactivation of the health post of the locality, by providing equipment and training to the medical team.

The report is structured as follows: in addition to this introduction, it begins with an analysis of the national and international debate on business and human rights (in particular, the intensification of the weakening of environmental legislation in Brazil), the implementation of the United Nations Guiding Principles and the process of elaboration of the Binding Treaty on Business and Human Rights. Next, an update is made on the context of human rights violations in the Piquiá community, highlighting the persistence of violations, the community's struggle to demand responses and a balance of the actions of the public and private agents involved. Section 5 presents an update on the main public and private actors involved in the conflict and on new actors that emerged after 2011. An appraisal on the implementation of the 39 recommendations for public and private institutions in the 2011 report is presented below. From this analysis, a new set of recommendations is proposed.



### 3. The national and international context on business and human rights

The increasing amount of complaints against companies for human rights violations, such as killings of human rights defenders, espionage, land grabbing, co-optation of leadership and disrespect for the political, social, economic and environmental rights of communities and trade unions in different countries, as well as the lack of accountability and redress following these violations, have caused the international debate on corporate accountability to significantly intensify in recent years. Different proposals to address this issue have been developed, especially within the framework of the United Nations (UN). On the one hand, the adoption of the UN Guiding Principles on Business and Human Rights in 2011 established a series of voluntary guidelines regarding States and companies respective obligations and responsibilities to respect human rights<sup>1</sup>, and the creation of a Working Group to monitor its implementation. On the other hand, negotiations for the creation of a Binding Treaty on Business and Human Rights were initiated in 2014 and are ongoing in the framework of an Intergovernmental Working Group.

The intensification of this debate on an international scale contrasts with the national context in Brazil, where, over the last years, a series of weakening measures of the current legislation have been implemented, contributing to the deregulation of companies, in detriment of the rights of minorities, particularly those of traditional peoples who were natives of the territories of interest to transnational corporations. Key milestones in the international and national debate on corporate accountability for human rights violations will be presented below.

#### **A. The UN Guiding Principles on Business and Human Rights:**

The UN guiding Principles on Business and Human Rights are a set of 31 guidelines approved in June 2011 by the United Nations Human Rights Council and prepared by Professor John Ruggie<sup>2</sup>. The Guiding Principles are non-binding and the company's adherence to them is voluntary, but they further specify the content of existing international obligations of the State. They clarify the obligation of States to protect human rights, the responsibility of companies to respect them, and the need to apply adequate and effective remediation measures in case of violations of these rights by companies. The approval of the Guiding Principles was accompanied by the creation of a Working Group whose task is to monitor the dissemination and implementation of the Principles, through the approval of National Action Plans on Business and Human Rights. The Working Group does not have the power to receive complaints, prosecute cases or refer them to international or regional bodies with jurisdictional competence<sup>3</sup>. The Guiding Principles focus on the State's ability to strengthen corporate commitment to the protection of human rights. Its soft and voluntary character has made the Guiding Principles subject to criticism from important international human rights bodies.<sup>4</sup>

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1. The UN Guiding Principles Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises developed this principles which were adopted as an annex to (A/HRC/17/31). Although this instrument is not binding and cannot create direct obligations for business, as far as States are concerned, they compile and specify existing obligations under international law.

2. Professor John Ruggie of Harvard University was the UN Special Representative for Business and Human Rights from 2005 to 2011

3. LOPES, Raphaela. Caso do desastre socioambiental da Samarco: Os desafios para a responsabilização de empresas por violações de direitos humanos. **Desastre no Vale do Rio Doce: antecedentes, impactos e ações sobre a destruição**. Organizadores: Bruno Milanez e Cristiana Losekann – Rio de Janeiro: Folio Digital: Letra e Imagem, 2016.

4. FIDH – **Joint Civil Society Statement on the draft Guiding Principles on Business and Human Rights** – 2011 – Available at: <https://goo.gl/h483pd> Accessed on 16/5/2018.

## **B. Binding Treaty on Business and Human Rights**

In June 2014, following the adoption of resolution 26/9 by the United Nations Human Rights Council, an Intergovernmental Working Group (IGWG) on transnational corporations and other business enterprises and human rights was created.<sup>5</sup> The final objective of the IGWG is the elaboration of a binding international instrument to regulate, from the perspective of international human rights, in a more robust and effective way, the activities of transnational corporations.

The elaboration of this binding instrument should complement and transcend the Guiding Principles on Business and Human Rights, which, despite being a step forward, are insufficient to ensure the effective protection of human rights against corporate abuses.

The first two sessions of the IGWG took place in July 2015 and October 2016 and were devoted to consultations on the content, scope, nature and form of the future international binding instrument. The third session of the IGWG, held in Geneva in October 2017, was marked by an important participation of the member states of the UN Human Rights Council, demonstrating the growing interest and urgency of designing a treaty to regulate corporate activities in relation to human rights. The fourth meeting of the working group, in October 2018, allowed for States, experts and other stakeholders to hold discussions around the text of the zero draft proposed by the chairman.

## **C. The debate on business and human rights in Brazil has not yet settled**

The Brazilian government monitors from a distance the movements around the implementation of the UN Guiding Principles and the negotiations for the elaboration of the Binding Instrument on Business and Human Rights. In 2016, the Federal Public Prosecutor's Office for Citizen's Rights (*Procuradoria Federal dos Direitos do Cidadão*), a body linked to the Brazilian Federal Public Prosecutor's Office (*Ministério Público Federal - MPF*), created a working group on Human Rights and business to monitor the debates regarding the preparation of the National Action Plan on Business and Human Rights and prepare for the negotiations of the UN Treaty, to foster the internal debate on this issue within the Public Prosecutor's Office itself, and to support the Public Attorney in investigating allegations of human rights violation by corporate actors.<sup>6</sup>

However, in the domestic context, the trend is towards greater permissiveness of public authorities regarding companies respect for human rights and national legislation. **Contrary to expectations, what followed of one of the biggest environmental disasters in Brazilian history<sup>7</sup>, were initiatives to increase the flexibility of environmental licensing processes and weaken instruments for monitoring business activity. A recent survey revealed that in Brazil, less than 3% of the fines applied on companies that commit environmental crimes are effectively paid.<sup>8</sup>** Several projects that threaten the guarantee of the human rights of traditional communities and the protection of the environment are being processed these days at the National Congress. Some examples are: the authorization of infrastructure and mining projects in indigenous lands, the transfer of competence from the Federal Government to States and municipalities regarding the definition of environmental licenses' requirements and the exemption from conducting an assessment of the indirect socio-environmental impacts resulting from a project.<sup>9</sup>

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5. LOPES, Raphaella. Caso do desastre socioambiental da Samarco: Os desafios para a responsabilização de empresas por violações de direitos humanos. **Desastre no Vale do Rio Doce: antecedentes, impactos e ações sobre a destruição**. Organizadores: Bruno Milanez e Cristiana Losekann – Rio de Janeiro: Folio Digital: Letra e Imagem, 2016.

6. PFDC/MPF - Ordinance No. 14/2016-PFDC/MPF, of May 5, 2016 – Available at: <https://goo.gl/ZwPaFA>, accessed on 5/5/2018.

7. On November 5, 2015, the Fundão Dam, in Mariana (MG), broke and caused a tsunami of 43.8 million cubic meters of mud and tailings. The leak destroyed villages, killed 19 people, left hundreds of homeless and contaminated the Rio Doce Basin. The rupture of the dam is considered the greatest environmental tragedy in the country and left a trail of environmental, economic and social devastation in the states of Minas Gerais and Espírito Santo. At least 40 municipalities have been affected, which has had a major impact on the lives of thousands of people. The most affected communities lost homes, public buildings, churches, infrastructure and leisure facilities, as well as access to natural assets. Domestic and farm animals were dragged and disappeared; residents were left without their means of subsistence and income, facing various difficulties after the disaster, including illnesses, economic difficulties and even discrimination by people who blame them for the paralysis of the mining activities of the companies responsible. Source: Fundo Brasil de Direitos Humanos at <https://goo.gl/PrV9DH>

8. EL PAÍS BRASIL - Less than 3% of environmental fines charged in Brazil are paid - 11/24/2015 – Available at: <https://goo.gl/kUuNRn>, accessed on 5/15/2018

9. HEINRICH-BÖLL-STIFTUNG BRAZIL. **Dossier Flexibilization of Brazilian Socio-environmental Legislation** – Available at: <https://goo.gl/wCx4B4>, accessed on 10/5/2018

In November 2018, the Brazilian government published Decree n 9.571/2018, through which the “National Guidelines on Business and Human Rights” were adopted and the “Business and Human Rights” Label was created, as a recognition of good business practices. The process of elaboration of such normative act did not include prior dialogue with civil society. Although it imposes obligations on the State in human rights issues, the adherence by companies is voluntary, including with regard to the respect “of human rights protected under international treaties of which the company’s State of incorporation or control is signatory” (Article I) and “the rights and fundamental guarantees protected under the Constitution” (article II)

## 4. The struggle of Piquiá community to live with health and dignity

What follows is an updated presentation of the framework of violations of rights related to health that the community of Piquiá is undergoing. It is important to remember that in 2011, the following violations of rights were reported:

- Health problems generated by the emission of pollutants by steel and charcoal companies. Particularly respiratory, ophthalmological and dermatological problems and several other diseases caused by this pollution;
- The occurrence of accidents, such as severe and fatal burns, due to the exposure of the population to the risks associated with pollution, such as the deposition of waste from the production process of pig iron (coal fines) in populated areas;
- Difficulties of access to health services, violating their right to the highest attainable standard of physical and mental health;
- Impacts on the living conditions of the community due to the incessant pollution combined with the absence of basic infrastructure, violating their right to an adequate standard of living;
- Lack of access to information and risk to freedom of expression;
- Violation of the right to a due process and an effective appeal, due to the lack of compliance with the judicial requests presented by the communities and the absence of adequate remedial measures and guarantees of non-repetition;

In 2018 it is possible to acknowledge that the community of Piquiá has obtained important achievements in its struggles to live with dignity and health. It is worth mentioning that at the end of 2018 the resettlement process of the community finally entered its final stage, with the start of construction of the new district of *Piquiá da Conquista*.

The signing of the contract for the relocation project was held on May 6, 2016, by representatives of Piquiá Community Residents Association (*Associação Comunitária dos Moradores de Piquiá - ACMP*), in the presence of then-President Dilma Rousseff, at the presidential building *Palácio do Planalto* in Brasília. In October 2016, with the technical advice from the Usina - Work Centre for the Inhabited Environment, ACMP presented the executive project of resettlement to *Caixa Econômica Federal*, beginning thereby the last stage of the necessary steps before the start of the construction works. Since then, the project was subject of a strenuous and uncompromising process of analysis by the technicians of the financial institution, completed on September 17, 2018, with the signing of the financing agreement. The construction of the new neighbourhood of *Piquiá da Conquista* effectively began on November 23, 2018, with an ecumenical celebration in the area of the construction before the machines began the earthmoving phase.

However, **the long wait for the relocation and resettlement of the families has been very long and has perpetuated the violations described in 2011**. The community's health conditions continued deteriorating during the last eight years, as they still endure the pollution produced by the Açailândia steel factory complex. Omissions by the competent public bodies and the lack of recognition of responsibility by the companies contribute to the perpetuation of the situation.

### A. Who is responsible for the violations committed?

For the Judiciary, the responsibility of the steel factories is evident. In 2005, **21 inhabitants from Piquiá de Baixo filed lawsuits claiming moral and material damages against Gusa Nordeste S.A., for the health problems caused by pollution**. In 2013 the company was condemned in first instance. In 2015, unanimously, the decision was upheld in the second instance, and it was decided that the company should compensate the victims for the pollution caused. The Judiciary also considered that the devaluation of the properties of the families victims of the pollution "*was intense to the point that it led to the loss of the usefulness of the good*".<sup>10</sup>

10. JUSTIÇA NOS TRILHOS – Empresa Siderúrgica é responsabilizada por poluição em Piquiá de Baixo – 25/2/2015. Available at: <https://goo.gl/mXG7Tj>, accessed on 16/5/2018

The decision, which considered the judicial investigation carried out by the biologist Ulisses Brigatto Albino in 2007, concluded that the evidence presented during the process was sufficient to prove the pollution of the site and the damages to the residents. **The concept of objective responsibility of the steel factories, according to which the activity performed by a company implies risks to the environment and third parties, was used to hold them accountable.** The judiciary considered that when there is a damaging factor, in this case pollution, there is a duty to repair, without need to prove guilt. The “polluter-payer” principle, which defines that any damage resulting from pollution, even if within the parameters tolerated by environmental rules, must be repaired, was also considered. **Gusa Nordeste S.A. appealed the decisions, but 13 of the 21 judicial rulings in favour of the residents have now become final and are awaiting execution.**

For allocating responsibility and providing redress measures to the community, judicial decisions are not the only mechanism, supporting the project of resettlement to a new location is also relevant. The decision to seek a new place to live in dignity was taken by the inhabitants of Piquiá de Baixo in 2008. That year, 95% of its residents understood that the only way to survive would be to move to another location, far from the steel factories and from the production of pig iron. Sifema and Vale S.A. both agreed to participate in the agreement and to finance part of the resettlement process and the construction work for the new district to be called *Piquiá da Conquista*.

However, until now, companies **have not formally acknowledged their responsibility for the degradation of the environment, health and living conditions for surrounding communities which gravity, has left them no choice but to leave their place of origin.** Vale S.A., for example, in a document sent to the International Federation of Human Rights (FIDH) and *Rede Justiça nos Trilhos (JnT)*,<sup>11</sup> shows willingness “to participate in the solutions arising from the industrial activities developed in the pig iron chain” but classifies its action as “voluntary social investment action”. Steel factories, however, shy away from formally appearing under the terms of the agreement with the Public Prosecutor of Maranhão, that led to the protocols that made the resettlement feasible, transferring responsibility to its representative entity, Sifema. Sifema, in turn, had publicly minimised the responsibility of the steel factories after the recurring denunciations of the inhabitants of Piquiá, treating these denunciations as an attempt to “hold [the companies] responsible for the supposed pollution caused by the activities of storage, transportation of ore iron and coal, and in particular the production of pig iron, cement and thermoelectric power, as well as the packaging of toxic and incandescent waste”<sup>12</sup>.

## **B. International recognition of the case**

Allegations of violations of human rights in the Piquiá community have already been presented and recognized by international human rights bodies, particularly at a thematic hearing at the Inter-American Commission on Human Rights (IACHR) during its 156<sup>th</sup> regular session at its headquarters in Washington D.C.,<sup>13</sup> as well as by UN special rapporteurs on the right of everyone to the highest attainable standard of mental and physical health, the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, the human right to sanitation and clean water and by the Working Group on Human Rights, Transnational Corporations and Other Business Enterprises.

In fact, the Brazilian State was asked in January 2014, through a UN communication about the measures taken to protect, respect and enforce the rights of residents of the community of Piquiá, especially regarding pollution control, accountability of business actors for the damages caused, access to health care services and effective implementation of the resettlement. The Brazilian State was asked specially to provide answers to ten questions ranging from requests of factual information to inquiries about the preventive measures used by the State to prevent companies from continuing to have an impact on the human rights of the community, as well as measures to hold companies accountable and redress the damages.<sup>14</sup>

11. VALE S.A. [Letter] Dec. 28, 2017, Rio de Janeiro [to] FIDH. Answers regarding the information requested for updating the report *Brazil: How much are human rights worth in the Brazilian mining and steel industry? – The human rights impacts of the steel and mining industry in Açailândia*.

12. O PROGRESSO – *Açailândia: Processo de Realocação das Famílias do Pequiá de Baixo continua se arrastando – 18/1/2018*. Available at: <https://goo.gl/Dxk1WE>, accessed on 16/5/2018

13. The video with the full recording of the thematic audience held at the Inter-American Commission on Human Rights (IACHR) may be watched at: <https://youtu.be/JqxBmwLyB0> Official photographs of the audience are available at: <https://www.flickr.com/photos/cidh/sets/72157659697935778>

14. Available at: [//spdb.ohchr.org/hrdb/25th/public\\_-\\_AL\\_Brazil\\_09.01.14\\_%286.2013%29.pdf](https://spdb.ohchr.org/hrdb/25th/public_-_AL_Brazil_09.01.14_%286.2013%29.pdf), accessed on 29/7/2015

The response of the Brazilian State, sent to the UN on November 11th, 2014, was considered unsatisfactory by the representatives of the international organization, which motivated a new communication of the same special rapporteurs and the working group on the right of all to the enjoyment of the highest level of mental and physical health, signed by Dainius Puras; on the implications for human rights of disposal and environmentally sound management of hazardous substances and waste, by Baskut Tuncak; for the human right to sanitation and drinking water, by Léo Heller; and the Working Group on Human Rights, Transnational Corporations and Other Business Enterprises, by Margaret Jungk. This communication is dated July 24, 2015.

According to the information gathered, the response of the Brazilian State, expected within a period of 60 days, has not yet been received by the UN. Representatives of the Ministry of Foreign Affairs informed the FIDH and Justiça nos Trilhos team during a meeting held on March 8, 2018 at the headquarters of the Ministry in Brasília that they were not aware of any initiatives that may have been taken by representatives of the Brazilian State to provide answers those last inquiries.

### ***C. Environmental licensing and environmental crimes legislation weakened: when the exception becomes the rule***

The human rights impact assessment conducted in 2011 noted an increasing tension between human rights and development in Brazil. According to this assessment Vale, along with other companies, benefited from the liberalisation of environmental legislation granting companies a certain freedom to operate outside existing legal and administrative laws, including through the redefinition of the Amazon, the reduction of the legal reserve of rural land, liberalisation of restrictions to credit for actors responsible of environmental crimes and the new mining regulatory framework.

During a field visit held in the municipality of Açailândia in April 2018 for the preparation of this report, FIDH team found that, despite the 21 favorable judicial decisions, the greater national and international visibility of the case over the past years and the fact that three of the five steel factories that existed in 2011 had ceased to function, **the inhabitants of Piquiá, as well as those of other localities of the municipality, are still obliged to cohabitate with the pollution and other risks associated with the production of pig iron. In fact, of the 312 families who lived in the community in 2011 and who were granted the right to resettlement, only 182 remain in Piquiá de Baixo.** The others were forced to leave their homes and eventually bear extra costs, such as the payment of rent in other places because they weren't able to coexist with pollution and the constant risk of accidents.

On the first day of the visit to Açailândia, on April 4, 2018, FIDH team witnessed the hurdles caused by a truck belonging to the *Gusa Nordeste* company that overturned in a public road when transporting liquid pig iron at a temperature of approximately 1,300°C. The huge container filled with incandescent pig iron had a hole and the material drained onto the BR-222 highway, in front of several houses and local small businesses. Then, the truck caught fire.<sup>15</sup> In this incident no one was injured or killed, there were only material and environmental damages. The transportation of incandescent pig iron between the facilities of *Gusa Nordeste* and *Aço Verde Brasil (AVB)* through BR-222 highway has been a source of concern for the inhabitants of Piquiá since 2015, when the steel factories started to operate. On this route, trucks pass very close to the houses of the residents, causing fear of accidents. Residents estimate that every 20 minutes a truck carrying incandescent pig iron passes through the highway that is located nearby the Piquiá community.

Following a petition of the Community Association of Residents of Piquiá (ACMP) to start an investigation procedure, the Public Prosecutor of Maranhão established a Public Civil Inquiry 02/2016 to investigate the practice in 2016. **The investigation found that the company's emergency plan for this type of transport was "general and superficial" and did not identify in detail the procedures that should be adopted in the event of an accident.**<sup>16</sup>

At the request of the Public Prosecutor's Office of Maranhão, on April 5, 2018, the day after the accident, experts from the Civil Police went to the site for an expertise accompanied by technicians from the Municipal Environment Secretariat of Açailândia (Semma) and FIDH's team. However, they did not find

15. Watch the video at: [https://youtu.be/lnla\\_eLkD3M](https://youtu.be/lnla_eLkD3M)

16. CENTRE FOR OPERATIONAL SUPPORT OF THE ENVIRONMENT, URBANISM AND CULTURAL HERITAGE/PUBLIC MINISTRY OF MARANHÃO - Letter no. 065/2016 - São Luís, December 9, 2016. Received by e-mail on May 3, 2018.



the scene of the accident or evidence to document the events. The main parts of the truck had already been transported to *Aço Verde Brasil (AVB)*'s yard and the hole through which the incandescent pig iron leaked had already been repaired, as shown in the photos taken by Semma's experts.<sup>17</sup>

Use the QR code to watch the moment the truck of Gusa Nordeste explodes on BR222 highway at the district of Piquiá de Cima on 04/04/2018:



Gusa Nordeste's truck carrying incandescent pig iron catches fire on the road side of BR-222 highway in the community of Piquiá de Cima.  
©Justiça nos Trilhos

Technician from Açailândia Municipal Environment Department shows the repair done in the hole that caused the accident before performing the expertise.  
©Semma



17. Federal Complementary Law No. 140/2011, among other aspects, regulates the competence among the entities of the different instances of the Executive branch, which contributed to the decentralization and strengthening of the environmental oversight function in the municipalities. According to the government of the state of Maranhão, the Municipal Department of Environment of Açailândia is authorized to carry out environmental monitoring. The possibility of applying infraction notices and cancelling operating licenses continues to be the exclusive responsibility of the state environmental secretary.

This was the second accident in 2018 involving Gusa Nordeste's vehicles. On January 27, a tipper truck that was transporting industrial waste (toxic tailings from the production of pig iron known as 'mud') from the steel mill to the company, had its tilting platform (the moving part of the vehicle that lowers and inclines to discharge the load) lifted and spilled all the material it was transporting, when it was passing through the highway in front of the School of Piquiá de Baixo. **Semma's environmental technical report number 000/2018 characterizes the episode as an environmental crime "occurred in the context of unauthorised transportation of hazardous waste, threatening the population and the environment".**<sup>18</sup>

The Community Association of Residents of Piquiá (ACMP) filed a petition to start an investigation procedure to the Public Prosecutor's Office of Maranhão requesting an investigation of the case and demanding the company to take measures to clean the soil and the waters polluted by the spill of toxicwaste, in addition to monitoring the contaminated area.

Furthermore, steel factories in Açailândia do not have their operating licenses up to date. According to information from the government of the State of Maranhão, in response to the request for information sent by FIDH when conducting this research,<sup>19</sup> **companies do not fully meet the constraints demanded by the environmental agency, which is why they have not had their licenses renewed over the last eight years.**

Gusa Nordeste, for example, operates with an environmental license expired since July 24, 2012. Steel factories continue operating despite the expiration of their licenses, as a result of the automatic extension recognised by the State government, pursuant to Article 14, subsection 4 of the Complementary Federal Law nº 140/2011 : renewal of environmental permits must be requested at least 120 days before the expiration of its period of validity, which shall be automatically extended until the competent environmental body manifests itself. This rule should only be applied in exceptional situations, but has, in the case of Açailândia steel factories, become the general practice, due to the lack of decision from the State Department of the Environment.

In the State of Maranhão, environmental licensing and inspection of iron and steel activities are the responsibility of the Secretariat for the Environment and Natural Resources (*Secretaria de Estado do Meio Ambiente e Recursos Naturais - Sema*). Administrative Rule 111/2008 and Decree No. 29,669, dated 06/12/2013, on improvements in the production process of pig iron industries in the State constitute the applicable legal framework. Among other measures, these legal instruments impose the **installation of pollutant emission control equipment on steel factories and establish minimum standards for monitoring by pig iron companies.**

According to information provided by Sema,<sup>20</sup> the oversight of the agency on steel factories relies mainly on self-monitoring data provided by the companies themselves. Nonetheless, this does not prevent Sema from concluding that companies do not meet the conditions of the environmental license. The agency also stated that in many cases, the analysis of water and air emissions found pollution levels exceed the limit permitted by current legislation. It is clear that the requirements established by law are not being fully met by the steel factories.

Sema sustains that between 2010 and 2017, it has neither produced technical studies on the quality of air, water and soil, nor on its possible relation to the diseases suffered by the inhabitants of Piquiá and the activities of the steel mills and the charcoal industry located in the area.

Concerning its inspection and monitoring duties, the Secretariat admits that it has carried out only five inspections at steel factories and has issued around one hundred technical opinions from seventy self-monitoring reports sent individually by the companies. To prepare its inspection reports, Sema has the necessary structure to monitor only liquid wastes discharged by steel plants, present in surface waters (affluent receiving bodies) and groundwater sources, to investigate possible contamination. **Sema admits that it is not able to measure air pollution rates in communities, as it does not have air quality monitoring equipment and that based only on self-monitoring reports submitted by companies it is**

18. MUNICIPAL SECRETARY OF ENVIRONMENT OF AÇAILÂNDIA - Environmental technical report number 000/2018 of 13/13/2018. Received by email on 4/13/2018.

19. STATE OF MARANHÃO - [Letter] April 30, 2018, São Luís [to] FIDH. Responses to the questions raised by FIDH.

20. STATE OF MARANHÃO - [Letter] April 30, 2018, São Luís [to] FIDH. Answers to the questions raised by FIDH



**not possible to conduct a reliable evaluation.** Furthermore, FIDH and JnT network did not even have access to those reports.<sup>21</sup>

FIDH's team was only able to access to the report of the inspection that resulted from the last visit of Sema's technicians to the facilities of the steel factories and the iron ore storage yard of Vale S.A. in Açailândia in December 2017.<sup>22</sup> This inspection was done just two weeks after a meeting in which leaders of the residents of Piquiá pressured the government of Maranhão for solutions to reduce pollution levels.<sup>23</sup> **For the first time, the inspection of Sema technicians was accompanied by representatives of the Community Association of Residents of Piquiá.** Residents' knowledge regarding the existing problems brought forth some information that was not previously taken into account by Sema's technicians and allowed for new sites to be visited, such as the points of abstraction and disposal of liquid waste resulting from the process of cooling the blast furnaces of Gusa Nordeste installed next to houses of the community, outside the limit of the company's concession area.

Sema's inspection report notes that inactive<sup>24</sup> steel factories have not yet submitted their decommissioning plans. **Although they are out of order, the deterioration of the remaining structures of steel factories threatens the environment and the surrounding population.**<sup>25</sup>

Among the companies that remain in operation, Gusa Nordeste is precisely the main intended recipient of Sema's report notification. A few months before the company's truck accident of April 2018, Sema's inspection report highlighted the need to provide evidence of the safety protocol for the transportation of liquid pig iron. **Sema's technicians also observed differences between the water quality indicators used for the cooling of the blast furnaces of Gusa Nordeste at the collection and the disposal points.** The indices measured at the collection point appeared normal, whereas at the point of disposal, the untreated water was discharged directly into the Piquiá River, at a temperature of 37° C and with the presence of low density limestone residues from the steel process.

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21. In 2017, the monitoring of air quality in Piquiá carried out by the community's own youth with the support of the Oswaldo Cruz Foundation's Centre for the Study of Workers' Health and Human Ecology (Cesteh) found levels of pollution above what is recommended by the World Health Organization (WHO). Report available at: <http://www.pacs.org.br/files/2017/09/Relatorio-Final.pdf>

22. STATE GOVERNMENT OF MARANHÃO/SECRETARIAT OF ENVIRONMENT AND NATURAL RESOURCES/SUPERINTENDENCY OF PLANNING AND MONITORING/SUPERVISION OF MONITORING OF COMMITMENTS – INSPECTION REPORT N° 66/SPV-MC/2017 - São Luís, December 28, 2017. Received by e-mail on 8/5/2018

23. GOVERNMENT OF MARANHÃO - *Governo-garante-apoio-na-reducao-de-impacto-ambiental-a-piquia-de-baixo*. 24/11/2017 – Available at: [goo.gl/tpoKfZ](http://goo.gl/tpoKfZ), accessed on 16/5/2018

24. According to information in section 5 below, three of the five steel mills in 2011 closed their activities due to the international fall in the price of pig iron.

25. The document "Mine Closure Planning Guide" of the Brazilian Mining Institute (Ibram) is the best parameter in Brazil for the treatment of the closure of projects in the mining-steel production chain. Although having as focus of analysis the ore extraction sites, the guidelines can be extrapolated to the iron and steel enterprises. According to Ibram, the following needs should be considered at the time of activity closure: 1) the correct prediction of "adverse socioeconomic impacts of greater importance to the community, such as loss of jobs, closure of small businesses, municipal tax collection and drop in the level of public services"; 2) ensuring the viability of new forms of use of the areas occupied by the enterprises, "considering the restrictions resulting from the permanent changes", as well as the skills and opportunities associated to the period of operation of the steel factory; 3) that the commitments made by the company that opened the steel company are made by its successors, observing that "if the conditions to be complied with for closing are not clearly established as early as possible, there is a risk of abandonment or legacy of a liability environmental and social"; 4) to the extent that closure entails costs, these must be known in advance. Planning closure from the beginning of a project helps to make decisions – both public and private - that lead to the choice of technical alternatives that facilitate closure, are feasible and financially acceptable; and 5) closure implies risks for companies – both financial and image - and for communities; planning closure assists in knowing and managing the residual risks of closing actions. For more details, please see: <http://www.ibram.org.br/sites/1300/1382/00004091.pdf>



In the picture above, the water sample seen on the left has been collected by Sema technicians for analysis at the collection point of Gusa Nordeste. The water sample seen on the right, has been collected at the disposal point, it is water discarded by the steel mill into the Piquiá River, after the cooling of the blast furnaces. ©ACMP

Sema's inspection also found the presence of carbonized material (coal dust) on the vegetation surrounding the factories. According to the report, this is an indicator of the "dispersion of particulate matter in the atmosphere" that can be either deposited in the vegetation or "inhaled by the local population". Within Gusa Nordeste, the inspection found that the company did not have any air emissions control equipment. In its defence, Gusa Nordeste claimed that the "bag filters" needed for this function were found to be damaged and that they were being replaced. The company received an infraction notice for non-compliance with Decree 29.669/2013 and a recommendation to ensure they have sufficient spare parts of their air emission control equipment to guarantee immediate replacement in case of malfunctions.

**The problem of the open storage yard of slag and solid waste from pig iron production**, held by Gusa Nordeste on a plot of land near Piquiá community, also drew attention during the inspection. The existence of this pig iron-waste courtyard has been the object of several denunciations by the inhabitants of Piquiá over the years, due to the eloquent number of accidents, including fatal ones. On November 2, 1999, Gilcivaldo Oliveira de Souza, a 7-year-old boy, died after advancing on a pile of "munha", the incandescent dust deposited by steel factories in the surroundings. In 2001, Ivanilson Rodrigues da Silva suffered burns on one of his legs for the same reason. These cases were reported in 2011. In 2013, 9 year old Alan Vitor dos Santos, became another victim suffering from severe foot and leg burns.

During the visit to the community in April 2018, FIDH team observed that **the situation persists. There is no restriction on the entry of unauthorized persons, nor proper signalling regarding the risks associated with contact with the slag and the residues deposited therein.** The few warning signs have their view obstructed by the deposited slag heaps.

Images taken by the Community Association of Residents of Piquiá (ACMP) during the inspection by Sema's technicians at the site prove these materials are highly flammable, when materials enter in contact with the slag they burn.<sup>26</sup> The commitment to build a partition wall between the slag yard and the residents' houses had already been taken over by representatives of Sifema at a meeting between representatives of that entity, the team that produced the 2011 report and representatives of FIDH on September 14th, 2010.

In the inspection report carried out in December 2017, Sema requested again the construction of a wall that would definitively prevent the entry of people and animals into the area, as well as adequate signalling of the area with visible and easily understandable security signs, the implantation of a green belt in the area, and the installation of devices that would minimize the dispersion of particulate matter.<sup>27</sup>

26. Watch the video at: <https://youtu.be/LSBCmCla6mw>

27. STATE GOVERNMENT OF MARANHÃO/SECRETARIAT OF ENVIRONMENT AND NATURAL RESOURCES/SUPERINTENDENCY OF PLANNING AND MONITORING/SUPERVISION OF MONITORING OF COMMITMENTS – INSPECTION REPORT N° 66/SPV-MC/2017 - São Luís, December 28, 2017. Received by email on 8/5/2018

According to Sema, in 2012, the steel factories established in Piquiá were asked to apply environmental management and solid waste management programs, but most of them were disapproved or approved with reservations.

Use the QR code to watch the footage made by residents of Piquiá that shows how easily materials in contact with the slag combust in the storage yard of Gusa Nordeste that is located near the community:



#### ***D. The lack of adequate health care persists***

The investigation in 2011 highlighted serious health problems generated by the emission of pollutants on the part of the iron plants and coal furnaces. Air, water and soil pollution has caused respiratory problems, eye and skin problems, and various other afflictions. The proximity of waste products and pig iron production to the populated areas has also caused accidents, including serious and fatal burns. In addition, problems in accessing health care services were reported. Such elements indicate a violation of the right of every person to enjoy the highest possible level of physical and mental health.

**The persistence of health problems among the inhabitants of Piquiá and the lack of adequate medical care are other characteristics that remain unchanged since the diagnosis made by FIDH, Justiça Global and JnT network in 2011.** According to recent reports by residents to the FIDH team, the most recurrent health problems are related to respiratory and ophthalmological diseases, aggravated by pollution. Additionally, the constant fear regarding the risk of waste-transport trucks and slag yard accidents are sources of tension that leave residents in a permanent state of emotional stress.

Piquiá de Baixo has today a health centre with precarious infrastructure. According to the residents' report, Açailândia City Hall does not ensure its adequate maintenance. A doctor offers health services to the residents four days a week. However, attendance to the families, through a home visit, does not happen due to the lack of staff.

As in 2011, the failure of public institutions to respond effectively to the problem of pollution produced by steel factories in Açailândia continues to represent one of the main negative aspects of this case. The information passed on to FIDH and JnT network following the requests for information, as well as the findings from the field visit, as already shown above, reveal that it is not enough for public institutions to have the necessary tools to take action, if this is not accompanied by a real intention to act on the basis of an effective strategy of action.

**No public institution, whether of the federal, regional or local executive branches or of the legal institutions of Maranhão, presented a strategy to deal with the repeated complaints by the residents themselves and by the entities of civil society at different national and even international instances about recidivism of environmental pollution caused by the steel factories over the years.** The replies of the representatives of these institutions suggest that they merely passively respond to complaints when they are pressured or constrained. Instead of offering effective responses to the issues at stake, they merely tried to appear as if they were acting. The persistence of the same problems documented by the FIDH team in 2011 is the most emblematic symptom in this regard.

Even more serious, **is the explicit acknowledgment that a stronger action is limited by the need to keep steel factories in operation so as not to aggravate the “social issues”** – social issues being understood in a narrow sense, just as the need not to compromise the jobs and the tax collection generated by the steel factories. This opinion was reported to FIDH team both by the representatives of the municipal and state Executive Branches and the Public Prosecutor’s Office of Maranhão, during the face-to-face meetings held in April 2018.

In fact, the Public Prosecutor’s Office adopts a line of action based on consensus building, which has been shown to be relatively effective in relation to the community resettlement process (as we shall see below), but insufficient to treat the pollution generated by the steel factories. In practice, a request was addressed to companies requiring them to inform about the mitigating measures adopted for the treatment of pollution and establish of surveys for the investigation of sensitive issues, such as the transportation of incandescent pig iron by Gusa Nordeste’s trucks. However, **neither the notification nor the investigations have had any major consequences so far.** According to the prosecutors responsible for the case in the Public Prosecutor’s Office of Maranhão, **the cautious behaviour observed in the treatment of environmental problems is directly associated with the need to maintain a good dialogue with steel factories and Sifema, which according to them has guaranteed the progress of the resettlement process.**

### ***E. The resettlement process of the inhabitants of Piquiá de Baixo***

As already explained, the resettlement process of Piquiá de Baixo was the aspect of this case that advanced most between the years 2011 and 2018. After a long wait, the construction works for the new neighbourhood began in November 2018. During this period, the inhabitants of Piquiá de Baixo obtained the definitive property of the land for resettlement, drew the urban plan of the new district of Piquiá da Conquista with the support of a technical assistance financed by the steel factories, and guaranteed the financial arrangement for the cost of the construction works – with contributions from the Federal Savings Bank (CEF), the Union of Pig Iron Industries of Maranhão (Sifema) and Vale S.A. **Most of the progress made in implementing the resettlement process was achieved thanks to the intensive work of the Community Association of Residents of Piquiá (ACMP) and to the struggle and mobilization of the entire community.** For a better understanding of the resettlement process, the main steps will be described below.

#### ***1. The expropriation of the land for the construction of the new district***

The land chosen for the construction of the new Piquiá district belonged to a farm named São João, a private area of 38 hectares located 7 kilometres away from Piquiá de Baixo. The first stage of the resettlement process began with the expropriation of the property, in the name of social interest. Access to property to the land, was an essential condition for the elaboration of the basic project of resettlement by the community. It was up to the municipality of Açailândia to issue a decree to expropriate the land and make a deposit of the amount necessary for its acquisition in favour of the former owner. At first, Sifema committed to donate to the municipality the amount corresponding to the compensation for the area, but the implementation of this commitment would take time to materialize. The agreement was made through a compromise agreement between the Public Prosecutor of Maranhão, the Public Defender of Maranhão, the municipality of Açailândia and Sifema.

The launch of the 2011 report, which took place just days before the signing of this first compromise term, helped to put pressure to reach an understanding between the parties. A representative of FIDH witnessed the signing of the compromise agreement, at the headquarters of the Attorney General’s Office of Justice in Maranhão, São Luís, on May 24, 2011. An addendum, signed on June 22 of the same year, was necessary to charge the fulfilment of the commitment previously assumed. Decree no. 610, declaring social interest and authorizing the expropriation of the land, was published by the Municipal Government of Açailândia on July 13, 2011.

However, the former owner of the land appealed against the judicial decision that granted the tenure to municipality, and obtained an injunction that would only be reviewed by the Court some months later. During this period, the inhabitants of Piquiá were in permanent mobilization. In December 2011, hundreds of residents went on marching and blocked the BR-222 highway, which connects Açailândia to São Luís.



During the demonstration, which lasted more than four hours, the residents used disposable respiratory masks, which symbolically showed their indignation pollution and the connivance of public powers and institutions. The motto of this act was “cows have somewhere to go, the people of Piquiá do not”. The decision of the Court of Justice in March 2012 guaranteed the ownership of the land to the municipality. Subsequently, the judiciary established that the amount of compensations to be paid to the former owner should be higher than initially established. It was up to Sifema to donate the difference to the municipality, *i.e.* R\$ 720 thousand.



November 2017: In São Luís, residents demand CEF to approve the resettlement project and Sema to carry an inspection of Açailândia steel factories.  
©Justiça nos Trilhos

Resident protest in BR-222 highway requesting the reform of the decision that blocked the expropriation of the land for the resettlement (December/2011)  
©Marcelo Cruz



## 2. The construction of the basic resettlement project

With the ownership of the land assured, the residents of Piquiá de Baixo were able to advance to the next stage: the preparation of the basic resettlement project. At first, Vale S.A. offered to elaborate this project, taking advantage of the resources and the experience of the Vale Foundation. **The community, however, declined the proposal and fought to build its own methodology and to be able to count on the advice of an entity that enjoyed its full confidence. The aim was for all aspects of the project to reflect only the values and concerns of the community itself and that there should be no doubt about it during the process.**

To do so, it was necessary to guarantee resources for the hiring of a specialized technical assistance for the elaboration of the urban and housing project and other services related to the resettlement. Sifema was responsible for the contribution of R\$ 350 thousand for the implementation of the measure. Again, the agreement was established through a compromise agreement signed on August 24, 2012 by the

Public Prosecutor and Sifema. The agreement also defined the Community Association of Residents of Piquiá (ACMP) as the entity responsible for managing the resources and for choosing the advisory body.

The ACMP organized a process of public selection through a Public Notice oriented to entities with proven experience in popular technical advisory services for social movements of housing and agrarian reform. Three entities responded to the Notice. The proposal chosen by the residents, in a process accompanied by the Public Prosecutor's Office and the Public Defender's Office of Maranhão, was the one presented by Usina - Centre of Work for the Inhabited Environment, a São Paulo-based entity.

At the end of 2012, Usina was contracted and the planning of the new district started soon after. For the construction of the project, the 312 families that were granted the right to resettlement were mobilized and registered by the Public Prosecutor's Office of Maranhão. **The process of building the popular plan was participatory, and the community itself helped to design the houses and layout of the new district. One of the most important aspects of the process lies in the fact that the residents recognize themselves in the project.**

The Public Defender of Maranhão has helped to develop a document with basic guidelines for the resettlement process, which, for example, define at least three different house models with a minimum standard of quality. The role of these guidelines was to safeguard the right of residents to choose and not to be forced to accept any model of house.

The project also considered the way the community lives, ensuring that essential aspects, characteristic of the current forms of sociability of the inhabitants of Piquiá de Baixo were kept in the new district, such as places for sitting on the sidewalks to chat.<sup>28</sup> In May 2013, the ACMP submitted a basic resettlement project to Açailândia City Hall, and in December of the same year, the final urban development and housing project, with a full budget, was submitted to the Federal Savings Bank (CEF) for evaluation and approval.

In March 2014, Sifema had not yet paid the extra costs for the completion of the expropriation of the land of the new resettlement. Again, the solution to the impasse was the mobilization of the residents of Piquiá. For more than 30 hours, residents blocked the accesses to Gusa Nordeste, Simasa and Pindaré steel factories in protest for non-compliance with the expropriation agreement. On day 7 of that same month, a third commitment term was signed by the Public Prosecutor of Maranhão and Sifema, imposing on the steel factories the obligation to deposit in court the difference in value to the landowner.

**With the resolution of the impasse and constant pressure from the community, the Municipality of Açailândia published the Decree no. 105, dated May 28, 2014, approving the project of subdivision called "Resettlement of the Community of Piquiá de Baixo".** On December 17, 2014, the basic resettlement project (in its urban-housing and technical-social axes) was approved by CEF in São Luís and finally sent to the Ministry of Cities, in Brasília.

Residents of Piquiá de Baixo waited yet another year until the Ministry of Cities finally authorised their resettlement project to be hired by the *Minha Casa Minha Vida Entidades* housing program on December 31, 2015. Throughout that year, two facts were decisive for this qualification to occur: First, **on June 13, the Açailândia City Hall sanctioned Law No. 432, which made ACMP the definitive landowner for the construction of the new district.** Second, in October 20, Piquiá's case was formally denounced to the Inter-American Commission on Human Rights (IACHR), in Washington, in the United States, shaming the representatives of the Brazilian government present at the hearing for the omission of the State in relation to violations of rights suffered by the community.

The selection of the project by the Ministry of Cities (now incorporated to the Ministry of Citizenship) represented the guarantee of public resources, from the Social Development Fund (*Fundo de Desenvolvimento Social - FDS*), which were sufficient to cover 60% of the construction works of the new district.

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28. *Minha Casa, Minha Vida* housing program received criticism precisely because it gave decision-making power over the location and design of the project to private agents. The criterion of orientation of these agents is profitability, obtained through the standardization, the scale, the speed of approval and construction and the lowest possible cost with the purchase of the land. The result: construction of standardized mega-projects located in the worst locations in cities, where urban land is cheaper and without considering social aspects of the community. ROLNIK, Raquel. **Guerra dos Lugares: a colonização da terra e da moradia na era das finanças.** São Paulo: Boitempo, 2015.



February 2014: Residents of Piquiá de Baixo and technicians of Usina participate in a planning workshop in the new district of Piquiá da Conquista. ©Justiça nos Trilhos



May 2016: Mrs. Francisca Sousa and Joselma Alves represent the residents of Piquiá de Baixo in the signing of the Basic Resettlement Project contract in the presence of President Dilma Rousseff. ©Assessoria do Palácio do Planalto

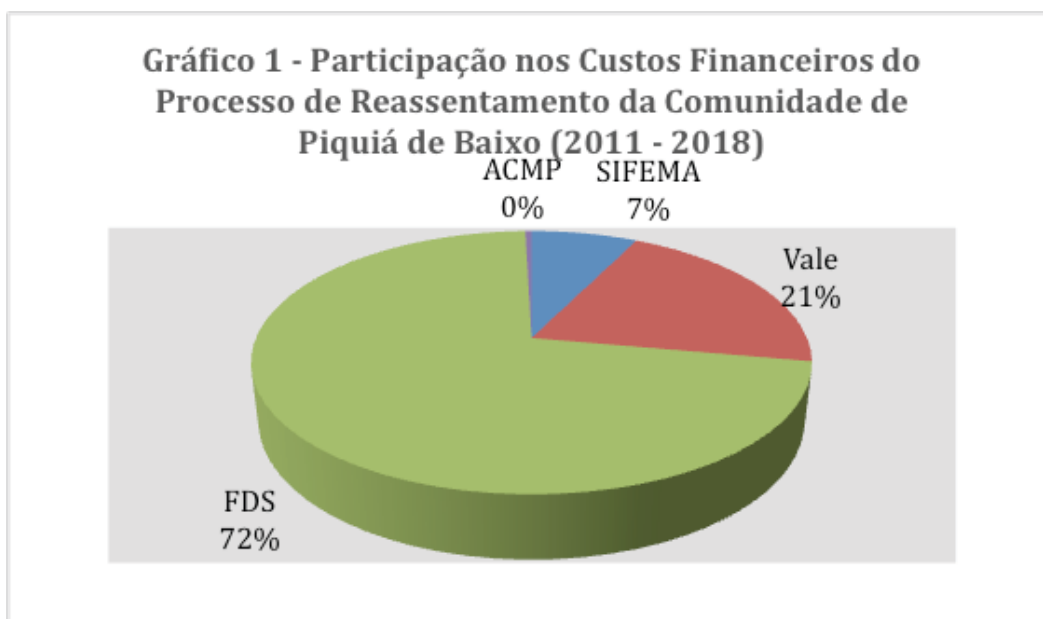
### 3. The labyrinth for the approval of the resettlement executive project: adding damage to the damage

On May 6, 2016, the contract for the resettlement project was signed by representatives of the Community Association of Residents of Piquiá de Baixo (ACMP), at a hearing in the *Palácio do Planalto*, in the presence of then-President Dilma Rousseff. In October of the same year, the executive project detailing the main steps necessary for the execution of the work, the budget and the fulfilment of the fundamental technical norms was submitted to the Federal Economic Bank (CEF) again for evaluation and approval. The approval of the executive project is the last instance before constructions begin. On September 17, 2018, with the signing of the executive project, the process finally entered into the final phase and construction works started.

In June 2017, the Agreement for Cooperation and Partnership between the Community Association of Residents of Piquiá (ACMP), Vale Foundation, Vale S.A. and CEF was signed. The purpose of this agreement is a financial contribution of Vale S.A., with CEF amounting to R\$ 6.24 million. This total corresponds to R\$ 20 thousand for each housing unit in the new district of Piquiá, to complement the minimum resources for the the construction of the new district.

**Graphic 1, below, shows the participation of each agent to the budget of the resettlement process.** The budget also provides for a contribution by the families undergoing resettlement, totalling R\$ 130,684.92, which will be paid in the form of direct services provided by the inhabitants in the form of a joint effort, estimated at R\$ 418.86 per family. A few months earlier, another compromise agreement signed between the Public Prosecutor of Maranhão and Sifema guaranteed the transfer of R\$ 750 thousand from steel factory companies to ACMP. The resources have already been used to hire a technical team that ensures the preparation and constant mobilization of the residents of Piquiá for resettlement of Piquiá de Baixo. For example, it will carry out the updating of the Single Register of the federal government of all families entitled to join the resettlement. The grant by Sifema should guarantee support to the residents until the beginning of the construction works.





Graphic 1 above also reveals that, although companies are the ones responsible for the human rights abuses documented, the State will bear more than 70% of the costs of the community resettlement process, through the Social Development Fund (*Fundo de Desenvolvimento Social - FDS*) operated by the Federal Economic Bank (*Caixa Econômica Federal - CEF*). Besides, according to ACMP, the project has undergone a strenuous and uncompromising process of analysis by the CEF's technicians. During the interview conducted for the elaboration of this report, technicians from the community's association said they weren't impressed by the degree of detail and rigor required for CEF's approval. However, they were **struck by the amount of comings and goings of the proposal due to often incoherent and unjustified demands, which have often contradictory standards adopted by CEF itself in the analysis of other projects of the same nature. According to reports, the best metaphor to help to understand the situation is to compare it to a labyrinth.**

Undoubtedly, one can expect rigor for any project that uses public resources. However, in the case of a proposal that emerges from the social struggle of a community obliged to leave its place of origin mainly as a result of health issues caused partly by the State's own omission to provide the proper legal framework and to sanction the actors responsible of such human rights violations, the lack of cooperation of the civil servants of the CEF in dealing with the proposal represents a new infringement of the affected community's rights.

Such attitude deeply affected Piquiá community's dignity, but they continued the struggle nonetheless. In November 2017, about 50 residents of Piquiá held a demonstration outside the headquarters of CEF, in São Luís, to demand that the analysis of the community resettlement project be finalized and thus to continue with the process of construction of the new district. Residents were willing to sustain the demonstration until a solution was found. After a full day of demonstration, CEF committed to provide a solution to the pending issues.

The impasse, however, continued. A few days later CEF imposed additional requirements for the approval of the project. They wanted an important budget item called 'indirect expenses' to be removed from the budget. 'Indirect expenses' is a "margin of error" allowed in every project involving construction without which, according to the advisory technicians, the works could begin, but they would not come to an end.

ACMP, which is responsible for the execution of the project, did not accept to commit to the contracting of the works without the guarantee of minimum conditions for its integral execution. This situation led to a new impasse that suspended approval of the project for several months. The solution found needed to involve the Vale Foundation so that the indirect expenses were covered by the private part of the budget, that is, by the resources contributed to the project by the Foundation itself. The final approval finally took place in September 2018, the contract between the ACMP and the Social Development Fund (*Fundo de Desenvolvimento Social*) was formalized, represented by the CEF.



The funds raised by ACMP so far are sufficient to cover only the construction of housing units and the basic infrastructure, such as paving of public roads, water, electricity and sewage. Additionally, constructions are secured for the new headquarters of ACMP and the Community Mothers Club (*Clube de Mães da comunidade*). **Public buildings and structures, such as schools, a nursery, a football field, a health unit, a soccer field and a public market are not yet guaranteed.** The expectation of the ACMP is that the public institutions, especially at the municipal and state level will ensure the complementation of the necessary infrastructure for the new district through the implementation of public policies. In November 2017, the government of Maranhão, in a meeting with representatives of ACMP, committed itself to the construction of public facilities in the resettlement area, such as a nursery, schools, a health unit and a sports court, as soon as construction of the new housing starts.

The ACMP expects that the entire *Piquiá da Conquista* construction project will take two years, in the best case scenario. Since November 2018, the construction of houses began, in the modality of self-management, with the association and its advisory having the role of coordinating the various stages of the work. The execution of the works and the transfer of the public funds of CEF is being done “by measurement”, i.e. the disbursement is done in stages, through the supervision and approval of the technicians of the bank.

Based on the experience of the preliminary stages of the approval of the proposal, the **fear of ACMP is that the execution of the works will also suffer from the intransigence of CEF, which could mean an even greater delay in a resettlement process that has already lasted for over ten years.**

Additionally, another motive of great concern of ACMP is the lag between the fixed prices of the approved budget, based on the database of the project submitted by the ACMP to CEF (April / 2017) and the prices that are being applied by service providers and material suppliers during the execution of the construction works (as of November 2018). This lag is due to two reasons: a) a large discrepancy between constant reference value (SINAPI) and market value of a fundamental item that will be used in large quantities; and b) Inflation for a long period of time, including between the submission of the project (April / 2017) and the beginning of construction works (November / 2018). This lag is estimated at approximately R \$ 2 millions. The ACMP and its advisor have been working hard in order to reduce or obtain compensation for this lag to be compensated throughout the construction in the negotiations for each purchase or contracted service. In any case, the resources granted, either will need to be complemented by public and / or private resources of the responsible stakeholders.

Finally, another important concern of ACMP is with regard to the financial compensation that the Minha Casa Minha Vida Program standards require from beneficiaries of this program. Residents understand that such demand, in this case, is unjust, because Piquiá's relocation was a compulsory, motivated by pollution they did not caused. ACMP expects to reach an effective solution for the problem before the conclusion of the construction.

**Despite their constant mobilisation, the inhabitants of Piquiá de Baixo are tired of this strenuous process. Many of them who are already in old age wonder if they will be able to live to see the completion of the resettlement, with the inauguration of the new district. Due to this fear, the ACMP will propose the creation of a body of mediators to monitor the works throughout its various stages.**

## 5. Update on the actors involved in the Piquiá case

Between 2011 and 2018, important contextual, political and economic transformations have unfolded in the reality of Açailândia, especially in the life of the communities affected by the mining and steel supply chain. It is important to remember that Vale S.A. continues to play the role of the main supplier of iron ore used by the steel factories of Açailândia. Thus, at the local level, the start-up of *Projeto Ferro Carajás S11D*, owned by Vale S.A, for the duplication of the mine-railroad-port transporting system along the *Corridor Carajás* and the deterioration of the international pig iron market economic situation, produced effects on the municipal economic conjuncture.

On the one hand, Açailândia consolidated its position as an export hub by doubling the amount of iron ore extracted and disposed of by Vale, and since the inauguration of an integrated steel mill for long steel production, increasing the capacity to produce items with higher added value. On the other hand, three of the five steel mills existing in 2011 ended their activities due to the international fall of pig iron prices. It should be noted that, at the national level, the political and economic crisis, marked by the implementation of a fiscal adjustment policy, with a reduction of funds for redistributive public policies, represents a threat to the resettlement process of the Piquiá de Baixo community, which mainly relies on funds from the federal government's *Minha Casa Minha Vida* Program.

### A. Expansion of Vale S.A. operations in the Carajás Corridor

In January 2017, Vale S.A. began the commercialization of iron ore extracted from the *Projeto Ferro Carajás S11D* in *Canaã dos Carajás*, in the South-East of the state of Pará. Exploration of this mine, which is considered the largest project in the company's history, will allow Vale S.A. to increase the amount of annual iron ore extraction in that region from 155 million tonnes in 2016 to 230 million tonnes by 2020.<sup>29</sup> The main destination of this ore is export.

As a result of the expansion of its extraction activities, Vale S.A. needed to double the Carajás Railroad (*Estrada de Ferro Carajás EFC*) to adapt its transportation capacity. The construction of a 100-kilometre rail line in Pará state, as well as the expansion of the *Ponta da Madeira* Port (*Terminal Portuário de Ponta da Madeira*) in São Luís, Maranhão state - which includes the construction of Pier IV - are part of the Capacity Logistics Northern Program (*Programa de Capacitação Logística Norte - CLN*).

According to the Basic Environmental Plan (*Plano Básico Ambiental - PBA*) of the project, the duplication of the Carajás Railroad involves "the expansion of 504 kilometres and the remodelling of 226 kilometres of existing lines".<sup>30</sup> It also includes the construction of 46 new bridges, five rail viaducts and 24 road viaducts<sup>31</sup>. This railway passes through 27 counties, 28 Conservation Units and directly crosses more than 100 communities in the states of Pará and Maranhão. Additionally, it encompasses 86 communities of Afro-Brazilian descent - known as *quilombolas* - in its area of direct or indirect influence. The *Projeto Ferro Carajás S11D*, will double Vale's activities in the region and as such, represents a risk of a potential increase in human rights violations not only in the community of Piquiá, but also in many other families and communities of farmers, fishermen, indigenous peoples and *quilombolas*, as well as in urban peripheries of the region<sup>32</sup>.

### B. Crisis in the pig iron sector

The expansion of Vale S.A.'s commercial plans contrasts with the crisis experienced by the Açailândia steel sector during the same period. The fall in export prices of pig iron, the main product of the municipality, and the increase in competition as a result of the consolidation of Russian and Ukrainian

29. REUTERS - Vale starts commercial operation of its largest ore project - 16/1/2017 – Available at: <https://goo.gl/dafm2u>, accessed on 5/5/2018.

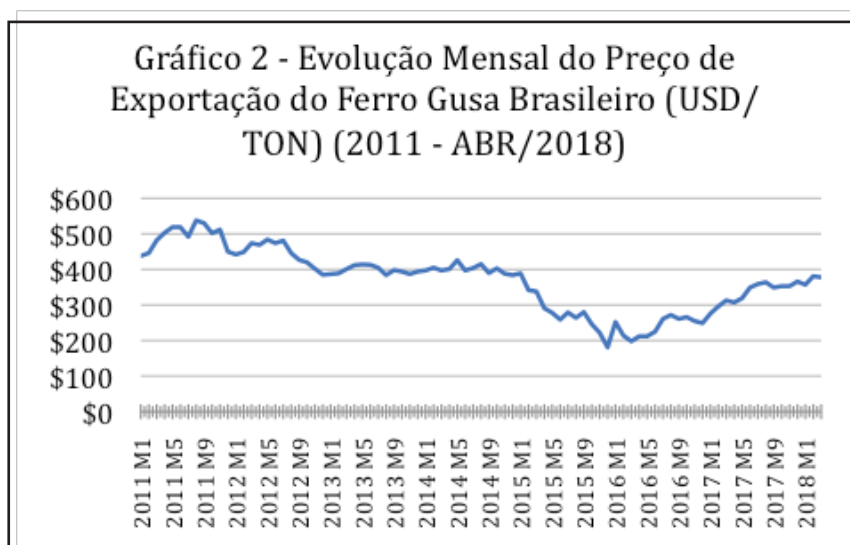
30. AMPL0; VALE. Duplicação da Estrada de Ferro de Carajás – EFC. Estudo Ambiental e Plano Básico Ambiental – EA/PBA. Vol. 1. Belo Horizonte: Ampl0; Vale, 2011.

31. In response to a complaint made by *Rede Justiça nos Trilhos* in 2013, the *Dhesca Brasil Platform* launched the report "*O Projeto Ferro Carajás S11D, da Vale S.A.*", which investigated allegations of human rights violations arising from the extraction, processing and iron ore disposal under the responsibility of Vale S.A. and others related to the iron and steel complex in the region of *Corredor dos Carajás*, located between south-eastern Pará (PA) and western Maranhão (MA) states. Access: <goo.gl/D4RkH9>

32. DHESCA 2013.

companies, which became the largest global producers of this commodity, were decisive factors for the closure of steel mills operating in Açailândia. In December 2015, the steel crisis hit its peak when the export price of pig iron came to US\$ 181, the lowest value in years. A devaluation of approximately 66%, relative to its price in August 2011, when the same ton was worth US\$ 538. As of 2017, market conditions have improved, and prices showed signs of recovery, as seen below in Graphic 2<sup>33</sup>.

This crisis has led to a decrease in jobs. Besides the mass layoffs of directly hired workers, jobs were also lost among coal suppliers, carriers, security and cleaning companies. The most obvious symptom of the crisis, however, was the closure of steel factories. *Ferro Gusa do Maranhão (Fergumar)* was the first to close its doors in 2015. In March 2017, *Guarani* (formerly *Simasa*) and *Companhia Siderúrgica Vale do Pindaré*, both owned by the *Queiroz Galvão Group*, were bought and deactivated by *Suzano Papel e Celulose*, which was only interested in the forestry assets of the steel factories. **The deactivated structures of steel factories, however, are deteriorating in the open air, posing risks to the environment and surrounding communities**, as has already been reported in the previous session of this report. Therefore, **three out of five steel factories that were in operation at the time when the 2011 report was produced, have now ceased to function. However, *Siderurgica Viena S.A.* and *Gusa Nordeste S.A.*, the latter belonging to the *Ferroeste Group*, continue to operate.**



The reaction strategy of Açailândia's steel factory complex's to the crisis began in December 2015, when the *Ferroeste Group* inaugurated *Aço Verde do Brasil (AVB)*, an integrated factory that produces long steel with a production capacity of 600 thousand tons/year to meet the internal and external market.<sup>34</sup> With the start-up of *Aço Verde do Brasil (AVB)*, Açailândia steel factory complex began to experience a higher production chain by producing higher value-added items such as steel billet, rebar and high-quality wire rod.

With the international crisis, steel factory Viena, and Gusa Nordeste itself, allocate much of their pig iron production to AVB's steelworks within the municipality of Açailândia itself. Cement manufacturing by *Cimento Verde Brasil (CVB)*, through the reuse of industrial waste, such as blast furnace slag and limestone fines, is another recent strategy of Gusa Nordeste to diversify its production. CVB's cement production capacity is up to 8 thousand tons per month. It is estimated that the *Ferroeste Group's* total investment in the installation of the steelworks and cement plant was R\$ 800 million, with funds obtained from *Banco do Nordeste*<sup>35</sup>.

33. Available at <https://www.steelonthenet.com/files/pig-iron.html>

34. Ferroeste Group – aciaria – Available at: <https://goo.gl/odjyty>, Accessed on 16/5/2018

35. Government of Maranhão – Com-apoio-do-governo-do-estado-setor-siderurgico-cresce-em-acailandia. 15/11/2016 – Available at: <https://goo.gl/rYWpJy>, accessed on 16/5/2018

### **C. Inclusion of steel factories on the dirty list of slave labour**

In 2015, the *Viena S/A* and *Ferro Gusa do Maranhão Ltda (Fergumar)* steel factories were added to the “dirty list” of slave labour produced by the Ministry of Labour and Employment (*Ministério do Trabalho e Emprego - MTE*). **Degrading conditions of work were observed in the Vale do Canoa III and Retiro farms, which produced charcoal. Both were owned by the Viena Siderúrgica S/A company and located in the rural area of Darcinópolis (TO). The Agua Amarela farm, located in the rural area of Araguatins (TO) belonging to the Ferro Gusa do Maranhão Ltda (Fergumar) steel factory was added to the list as well.**

According to the technical report of the surveillance team of the Ministry of Labour, 56 workers from the *Agua Amarela* farm were rescued, including four women and one teenager. In this establishment, workers performed cutting and stacking activities of eucalyptus wood, and produced charcoal destined to *Fergumar Ltda*. After verification of the crimes, this steel factory company was obliged to pay more than R\$ 72 thousand for contractual terminations and to collect the Working Time Guarantee Fund (*Fundo de Garantia por Tempo de Serviço - FGTS*) of the exploited workers. Currently, the company is facing criminal proceedings before the Labour Court. In the charcoal producing farms of *Vale do Canoa III* and *Retiro*, 89 workers were found and rescued. They also performed eucalyptus woodcutting and charcoal production in a situation analogous to slaves. In this case, the steel factory company was ordered to pay more than R\$ 180,000 in contract rescissions and to respond in legal proceedings.

### **D. The role of BNDES in the region**

The National Economic and Social Development Bank (*Banco Nacional de Desenvolvimento Econômico e Social - BNDES*) also continued to support economic enterprises of the mining and steel chain production along the Carajás Corridor through direct and indirect financial operations, despite our organisations recommendation to “Suspend any support contemplated for other Vale projects until they have fulfilled all the recommendations of 2011 report, including legal and judicial proceedings related to investigated cases”. **The bank holds a 9.5% equity stake in Vale S.A. and is the main financier of the expansion of the miner’s operations in the region. In the case of the Ferro Carajás S11D and Capacitação Logística Norte (CLN) projects, its funding reaches 52.3%.**<sup>36</sup>

In 2012, when BNDES approved a R\$ 3.892 billion loan to Vale S.A for the implementation of the *Capacitação Logística Norte (CLN)* project. But the duplication works of Carajás Railway was suspended by a decision of the judge of the 8<sup>th</sup> Federal Court of São Luís, which considered the process of environmental licensing of the work illegal.<sup>37</sup>

After years of civil society criticism for the lack of clarity of its operations, **BNDES improved its transparency policy** in 2015, allowing access to financial information previously considered confidential, such as interest rates for each contract, values, deadlines and the guarantees offered. The measure also allowed access to automatic indirect operations contracted by companies with financial agents that transfer resources.

By visiting “*BNDES Transparente*” web portal, it is possible to see that Açailândia pig iron-producing steel companies have accessed bank resources through this indirect lending modality.<sup>38</sup> **Viena Steel Factory Company was the one that had the most access to resources. Between 2002 and 2016, this company contracted 76 loans, which totalled R\$ 27.58 million. Gusa Nordeste Steel Factory Company contracted 15 loans between 2008 and 2012, for a total of R\$ 6.1 million. Fergumar Steel Factory Company only contracted a loan amounting to R\$ 1.4 million.** The funds were made available through the Finame funding line, intended for the acquisition of capital goods, such as machinery and equipment, modernization and expansion of activities. According to BNDES, financial agents authorized transfer resources from indirect automatic operations must have internal policies consistent with BNDES’ own social and environmental responsibility policy. However, this has not been enough to prevent Açailândia steel factories from working with irresponsible socio-environmental practices.

36. DHESCA 2013.

37. IG - *BNDES libera R\$ 3,8 bi para obra suspensa da Vale* – 23/8/2012 – Available at: <https://goo.gl/MvYsPG>, Accessed on 16/5/2018

38. BNDES – *Transparência* – Available at: <https://goo.gl/PwiJNo>, Accessed on 16/5/2018

## 6. Analysis of Recommendations formulated in 2011

In this section, we will present an assessment on the degree of implementation of recommendations presented in the 2011 report, for the appropriate remediation of documented infringements of rights. In all, 39 recommendations were made, aimed at public and private institutions that directly or indirectly have some level of responsibility for the situation.

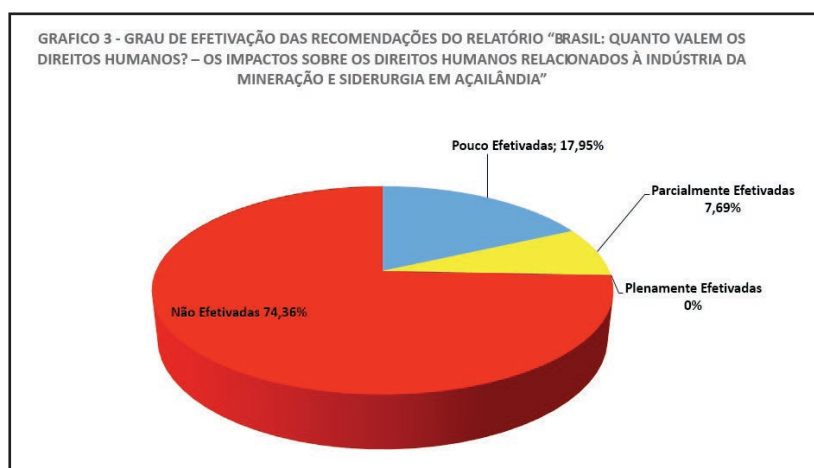
In the analysis of the recommendations, the following were taken into consideration: answers to letters sent to recipient bodies, requesting information; in-person interviews held during field work, and research material. Based on the information obtained, the 39 recommendations in the 2011 report were evaluated according to the following classifications:

- **Not implemented:** recommendations were considered “not implemented”, regarding which no answer was received from the institutions consulted, despite the persistence of the problem that originated the recommendation;
- **Poorly implemented:** recommendations were considered “poorly implemented”, regarding which only sporadic, intermittent and insufficient answers for resolving the detected problem were received;
- **Partially implemented:** recommendations were considered as “partially implemented” for which answers were produced that, although not able to resolve the problem, at a minimum reflect the implementation of those initiatives as a result of a strategy by the institutions;
- **Fully implemented:** recommendations were considered “fully implemented” if they were undertaken so as to definitively resolve the issue detected by the 2011 report;

The classification of the 2011 recommendations into the categories described above made it possible to produce and consolidate the information that help demonstrate, as we will see later, the omission of the responsible actors within the context of the violation of the rights of the communities affected as well as the relationship between the State and private interests in the handling of the problems and in the persistent situations of violations.

It is important to note that this analysis took into consideration only the actions of public and private institutions, the targets of the recommendations. Therefore, initiatives of the community itself, which, as described previously, were and continue to be fundamental in proving responsibility for the violations and in pressuring the institutions for answers, were not considered here. The initiatives of the community itself were largely responsible for the actions of the public and private institutions that led to the few advances registered.

Graph 3, below, offers a general assessment of the level of implementation of the recommendations.



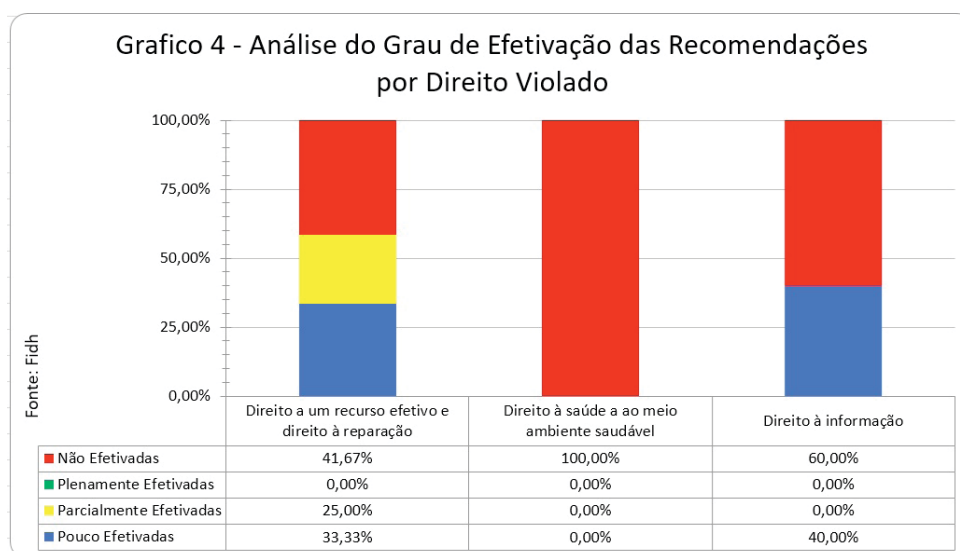


Of the 39 recommendations, none were classified as “Fully Implemented”. This means that none of the infringed rights reported in 2011 were fully remedied. On the other hand, 74.4% of the recommendations were classified as “Not Implemented”, which shows that public and private representatives did not implement measures for meeting the problems detected and offers a measurement of the persistence, in 2018, of the problems documented in 2011, and which continue to represent factors of the violations of individual and group rights. Finally, 17.9% of recommendations were classified as “Slightly Implemented” and 7.7% classified as “Partially Implemented”.

The recommendations made in 2011 were grouped, focusing on the guarantee of 3 essential rights of the communities affected:

1. Right to an effective recourse, including the right to redress;
2. Right to health and a healthy environment;
3. Right to information.

Graph 4, below, presents information on different levels of implementation for the recommendations in the 2011 report, aimed at the guarantee of those rights. First, the graph shows that **the recommendations aimed at the “Right to effective recourse, including the right to redress” were those that achieved the highest level of implementation.** The sum of the recommendations classified as “Partially Implemented” and “Poorly Implemented” surpass 50% for this right. This degree of implementation largely reflects the process of relocating Piquiá de Baixo and the decisions in the first and second instance regarding the 21 lawsuits brought by residents of the community against the steel mill, as we will see below.



### **A. Piquiá takes on the fight for redress**

In the 2011 report, our organizations invited the Brazilian State to guarantee the immediate establishment of impartial and independent investigations and/or legal actions for the purpose of determining the actors responsible for the violations committed, including the guarantee of comprehensive legal counsel for the victims and measures of redress in accordance with the national and international benchmarks on the right to effective recourse, including the collective and full resettlement of all the families of Piquiá de Baixo.

Amidst all the aspects in this situation, **what advanced the most was precisely the resettlement process.** The resettlement was also the aspect of the situation for which almost all the actors converged to resolve the issue: different governmental instances, of the Judiciary, and even the companies who infringed on the rights. If they did so, however, it was always as a direct result of the community's pressure and never accompanied by due recognition of their responsibility for the problem – especially by the private agents. Sifema's actions (and not directly those of the steel mills) are symbolic of this situation, in building the agreement that made the settlement possible.

The State, especially its legal institutions, played an important role in enabling the resettlement process for Piquiá de Baixo, however, like the companies, it only did so when pressured by the residents. The government of the State of Maranhão acted in political coordination and mediation, through its office of human rights. Both the Public Prosecutor's Office – Maranhão (MP-MA) as well as the Public Defender (DP) functioned as mediators in the community's resettlement process, having carried out initiatives that reflect the existence of a strategy for handling this situation. The Public Prosecutor's Office of Maranhão, for example, was decisive in building consensus and agreements necessary for completing the process. The role of the Office of the Public Defender was to raise awareness among the residents regarding how they should file a claim for the resettlement, which was decisive in the relocation project going beyond the standard model for public housing policy. The Piquiá Residents' Community Association (ACMP) values that work, stating that "residents sense their participation in the construction". It is worth emphasising that the turnover of people responsible for following the case in the legal institutions was noted as one of the challenges for ensuring the continuity of the process, specially in the DP, where this practice is part of an institutional policy.

**The decisions by the Court of Maranhão of first and second instance, in favour of the communities in the 21 cases for the redress of moral and material damages against the steel mills and the thirteen cases decreed final also represent an important step in the process of full redress.** On the other hand, there is cause for concern in the fact that the different levels of government (state and municipal) and the State Public Prosecutor did not adopt more severe measures against the enterprises, to not suggest that Maranhão is a location hostile to private investments. The research carried out by the International Federation of Human Rights (FIDH) identified the initiation of civil inquiries, especially by the Public Prosecutor's Office of Maranhão (MP-MA), for the investigation of problems associated with steel mill pollution and the follow-up of environmental supervision by the licensing body. However, unlike the nature of the actions in the relocation process, the initiatives here are sporadic and inconclusive, not reflecting a strategy for dealing with the problem, and they did not produce larger practical effects, like improving the behaviour of companies or even the opening of court proceedings.

Aside from the studies carried out as a result of the community's effort, **public institutions did not demonstrate any consistent initiative to produce information relevant to this issue of pollution by the steel industry.** Additionally, Sema, the organisation responsible for licencing and oversight of enterprises in Maranhão, works primarily with self-monitoring data from the companies themselves and by carrying out occasional on-site visits, for which it does not have the adequate tools to effectively monitor pollution in all its aspects. Air quality, for example, is not being monitored due to lack of equipment. Although there have been great strides in the strengthening of environmental oversight of steel mills, institutionally speaking, especially since Decree 29669/2013, and the decentralisation of the oversight by tasking the Municipal Secretary of the Environment with this role, the information obtained allows us to affirm that the public authorities do not have a strategic approach to this problem.

Thus, in the name of preserving economic interests, the violations committed are accepted. The biggest symptom of this problem is the fact that the public and private institutions interviewed and consulted acted in such a way as to not demand the acknowledgement of responsibility for the problems caused. The measures that advanced the most were those within the scope of cooperation, by signing terms of commitment and by voluntary initiatives. In that sense, the implementation of any measure of full redress will need to overcome this mistaken notion that protecting the rights of the communities affected is in opposition to development and progress.

The 2011 report also presented **specific recommendations for companies regarding the adoption of measures to remedy the impacts caused by pollution in the communities of Piquiá de Baixo, and to take all the necessary measures to identify and prevent potential negative impacts on human rights and the environment.**

The financial support of Sifema and Vale S.A., through the Vale Foundation, to the resettlement process represented an important step in the resettlement process. However, the support was given without the necessary acknowledgement of any responsibility for the violations directly or indirectly committed. Company support is characterised, as a rule, as a social responsibility initiative and not directly due to the infringement of rights, which goes against the approach of full redress for violations. It is worth also noting that companies' actions were a result of the direct mobilisation of the Piquiá de Baixo community and the pressure applied at different levels of initiatives. In terms of the on-going environmental problems, we note a lack of initiative to adapt the facilities to properly meet the projected constraints. Companies limit themselves to acting when it suits their interests or when the constraint is inevitable.

**In terms of the establishment or adaptation of internal mechanisms to be able to receive and deal with complaints on the infringement of rights and for the resolution of extrajudicial disputes,** Vale S.A. was the only company that answered questions from the FIDH. Company representatives provided company information channels, such as the toll-free (0800) telephone numbers and its Ombudsman office, which may also be used by suppliers. They presented the “community relations” staff, as a company attempt to establish a direct and trustworthy relationship with the communities. They pointed out the initiatives that are being taken to improve the existing tools, from the inclusion of technology—the ability to send photos from mobile phones, for example—and guarding the anonymity of people who file the complaints. However, they did not show any willingness or even concern for the inclusion of members of the society or public authorities in any instance of the follow-up on the functioning of these complaint channels.

The 2011 report also made a **direct recommendation to companies to abstain from any action, including court actions, that would have the objective of intimidating or slandering people who are acting in the defence of the rights of people affected by their operations.** In response, Vale stated that it did not have any intimidation practices and that it only uses the right to protect itself (its property) in situations of conflict. It presents, therefore, a view diametrically opposed to the perspective of human rights regarding the role of its defenders. The *Justiça nos Trilhos* (JnT) Network, for example, over the years has followed Vale’s various judicial proceedings against the leadership of communities affected by violations from mining activities along the Carajás Corridor. Those communities manifest their protest against the infringements suffered, most of the time in a completely legal manner. In some cases, the leaders sued by Vale were not even directly involved in the protests.

## ***B. Health and environment are compromised***

Returning to Graph 4, the second finding directs us to the fact that **the recommendations surrounding the guarantee of the “Right to health and a healthy environment” were all classified as “Not Implemented”.** This indicator is a direct reflection both of the continuation of the problems caused by steel mill pollution on Piquiá community life, as well as the omission of the public powers and companies to achieve effective solutions.

Regarding the **right to health and a healthy environment,** in 2011, the FIDH, JnT and Global Justice underlined the need for the State to immediately evaluate the level of compliance with the current environmental licences, suspending the granting of new licences for Gusa Carajás mining and pig iron and coal plants in Açailândia until the appropriate evaluation processes are concluded.

In answers sent to the FIDH, the Maranhão government acknowledged, through Sema, that the steel companies do not comply with the conditions imposed by their operating licences. In fact, since 2012, no company has had its licence renewed. On the other hand, between 2010 and 2017, there was no suspension of any environmental licences. Sema states it produces reports using self-monitoring data from the companies themselves. Serious problems such as the continuing existence of the open-air slag yard, or the non-compliance, in some cases, of atmospheric emission control equipment are flagrant examples of the causes of the violations of the local population’s right to health and a healthy environment.

What allows the steel mills to continue in operation is the automatic renewal instrument. That is, the finding of irregularities was not enough to interrupt operations, and the sanctions applied are ineffective in handling the issue.

The new Gusa Nordeste steel mill, Aço Verde Brasil (AVB), was inaugurated in December 2015, despite the fact that the steel mills were operating, at that time, in non-compliance with environmental licencing conditions, thanks to the automatic renewal. So, the inauguration was carried out despite the resettlement process for the inhabitants of Piquiá de Baixo not being concluded and without taking into consideration the irregularities already existing in the steel mills. On 4 April 2018, the FIDH team witnessed the disturbance caused by a Gusa Nordeste company lorry tipping over as it transported liquid pig iron at an approximate temperature of 1,300° C. The large recipient containing the incandescent liquid pig iron was punctured, and the material ran onto the BR-222, in front of several houses and local community businesses. The lorry then caught fire. The transport of incandescent pig iron between the facilities of Gusa Nordeste and Aço Verde Brasil is today one of the greatest concerns of the Piquiá community.

**Recommendations in the 2011 report were emphatic in also highlighting the need for the State to reinforce the monitoring system for the environmental impact on the mining and metal sector, in**



**accordance with Brazilian legislation**, through a closer coordination between different bodies and public measures, and the immediate installation of equipment to monitor air quality and prevent permanent emissions due to ore mining, companies and coal plants.

It is worth emphasising that the Supplemental Law 140, of 8 December 2011, which defines the competencies between the various environmental bodies, removed from Ibama and gave to Sema the power to supervise and control the activity of steel companies in Maranhão. That is, there was a decentralisation of the competency that sought to give better flexibility to the procedures of granting licences, supervision and control which, in this case, proves to be innocuous, if we take into consideration the mild nature of Sema's activity towards the steel mills. The activity of Ibama and ICMBio activity is limited to situations that involve areas of federal jurisdiction (like indigenous land, forest reserves, etc), or when requested by the state instance or the Federal Prosecutor's Office.

It is worth noting that in 2013, Ministerial Order 111/2008 was transformed in Decree 29.669/2013, which, in theory, increases its strength and is applied by Sema in monitoring the steel mills. Without a doubt, this represents progress. However, Sema itself stated, in a face-to-face meeting held on 3 April 2018 and in a document sent on 8 May of that same year, that the steel mills do not meet more than half the demands of the decree. Sema stated that it applied the pertinent sanctions, but, up until this time, it has not specified what those were exactly, when they were applied and whether they were effectively complied with.

According to Sema, the appropriate environmental systems were not installed. Sema classifies as "Pending" the compliance with Decree 29.669/2013 in its "Article 7 – Delivery of semester reports" for both steel mills that are in operation. Another pendency, also according to Sema, pertains to the implementation by the steel mills of Solid Waste Management Plans (SWMP). The companies presented their SWMP but, after analysis, they were not approved.

Regarding public health policies, the Municipal Government of Açailândia, through its Secretariat of Health, is still not sensitive to the specific situation of the illness of the Piquiá community. The representative of the municipal secretariat of health stated, during the meeting held on 5 April 2018, there was no need to adopt specific measures for treating the case, such as the compulsory notification of respiratory illnesses, and does not have a strategy for dealing with the issues raised by the residents. For the Açailândia Municipal Secretariat of Health, despite being neighbour to a steel production pole, Piquiá is a community like any other in the municipality. Therefore, definition of the volume and quality of public health policies for the community is made in accordance with quantitative variables, such as the number of residents.

**The 2011 report emphasises the obligation of companies to rigorously comply with Brazilian laws in force on the environment, human rights and work, and to comply with the international standards on the responsibility to respect all human rights within the scope of their activities.**

Vale informed FIDH that it developed its Global Human Rights Policy in 2009, aligned with the UN Human Rights and Companies matrix, and that in 2013 it revised its Policy so that it would be aligned with the UN Guiding Principles on Business and Human Rights. From the Policy and the Guiding Principles, Vale established a system for managing the theme, focusing on the processes: policy, evaluation, integration, monitoring and reporting and mechanisms of claims and complaints. Vale also informed that it seeks to establish relationships with suppliers that share the same principles and values as the company. The mining company states that it seeks to spread awareness and respect for human rights throughout its value chain, including the adoption of legal contractual clauses and documentation that proves legal compliance.

However, throughout this report, facts were presented that prove that the Açailândia steel mills, which are part of the mining-steel industry chain, do not fully meet the environmental licencing constraints, and they have not been able, for six years now, to renew their licences due to failure to deal with the constraints and the continuing existence of environmental problems. They are also involved with other complaints regarding serious human rights violations. In addition, in 2015, the Viena S/A and Ferro Gusa do Maranhão Ltda (Fergumar) steel companies, which operate in Açailândia, were placed on the slave labour "dirty list". The companies were caught exploiting manual labour analogous to slave work in their coal-producing properties located in the state of Tocantins.

Faced with the facts, does one have to ask to what extent the mere adherence of the companies to international protocols of sustainability and human rights represents, especially for residents of the affected communities, an effective guarantee for dealing with these companies' pattern of behaviour in violating rights?

According to Vale, when service providers sign a contract with Vale, they sign the Suppliers' Code of Ethics and Conduct, which presents the principles and values of the company and prohibits the adoption of child and forced labour or anything analogous to slavery. In the event human rights are not respected, duly proven by governmental authorities and the mechanisms set forth in law, the supplier is notified so that corrective measures may be adopted. In situations when those measures are not taken, the company has the right to rescind the corresponding commercial relationship. Vale suppliers must also choose business partners that operate in accordance with labour law and ethical standards compatible with the premises defined in the Suppliers' Code of Conduct. Monitoring the slave labour "dirty list" of the Ministry of Labour and Employment is also part of the registration process for potential suppliers.

Vale also informed that it encourages suppliers to know and act based on international pacts, agreements, treaties and conventions applicable to their branch of activity, such as the UN Universal Statement of Human Rights, Global Pact Principles and IFC Performance Standards, guidelines of the ICMM (International Council on Mining & Metals), as well as legislation of the International Labour Organisation (ILO).

### ***C. Information for what?***

Finally, Graph 4 also shows that 40% of the recommendations aimed at guaranteeing the **"Right to information"**, were classified as "poorly implemented", that is, some measure was applied, but it was sporadic and intermittent. The analysis reflects above all the measures taken by companies and by the Brazilian Development Bank (BNDES) to improve its transparency mechanisms. As we will see later, however, **greater access to information has still not proved to be sufficient to prevent infringements of rights**, particularly, such that polluting companies meet the minimum standards determined by legislation, as research has shown.

Regarding the **right to information**, the FIDH, JnT and Global Justice demanded in the 2011 report that the State should start to duly inform the population, particularly those affected or potentially affected, regarding the impacts of mining-steel industry companies in the Açailândia area, through access to information included in environmental licences and from the organisation of annual public audiences held by the Public Prosecutor's Office of the State of Maranhão. The FIDH research team did not find information on public hearings regarding the relationship between businesses and communities that were undertaken during the period analysed. The last public audience, held by the MP-MA, took place in 2010.

Both the MP-MA and the DP-MA reported during the face-to-face meetings held on 2 and 4 April 2018, respectively, they had requested information from the competent bodies regarding compliance with the constraints provided for in the licencing and the other efforts made to comply with these legal instruments. Both reported that they did not receive answers from Sema to its requests. Both the MP-MA and the DP-MA, however, seem to act passively regarding that issue, only when provoked, without a well-defined strategy.

In turn, the government of Maranhão did not provide information regarding initiatives to facilitate access to information included in the environmental licencing processes. Thus, measures suggested in the 2011 report were not implemented. These include the creation of a database and the digitisation of documents, in order to have the ability to deliver information in a reasonable time to any citizen, and the perfecting of the inclusion of this information in the National Portal of Environmental Licencing, which were not addressed.

In its defence, the State government argues that the great progress regarding transparency and access to information would be the creation of a General Ombudsman for the State. The in-person interview offered more elements. An employee from Sema states that the challenges to disclosing the information are due to the lack of structure of the secretariat: "the difficulty in keeping it updated and easily available happens only because we do not monitor Piquiá de Baixo only, but we monitor the entire state. Thus, it

is almost impossible to publish all the reports on that web page". On the other hand, they guarantee that access to documents is allowed to any citizen and that they have responded to all requests made by institutions. That information contradicts the MP-MA, the DP-MA, the ACMP and the *Justiça nos Trilhos* Network, which were also consulted during this research.

Another aspect related to the right to information, a target of the 2011 recommendations, **is the need for and improvement of the legislation in terms of financial disclosure, so that the requirements on risk disclosure that are not considered as "material" are increasingly demanding**, including the disclosure, by companies, of the risks and impacts of its activities and operations on human rights and the environment, in accordance with relevant parameters. No information was found regarding recent advances in terms of legislation on financial disclosure that would allow us to gauge compliance with this Recommendation. The analysis of the resolutions and standards of the Securities Commission (CVM), the competent body for regulating the financial sector in Brazil, found no specific information in this regard. The standards consulted only deal with the disclosure of a "relevant act or fact", without any further qualifications.

In turn, in 2015, the BNDES perfected its transparency policy, allowing access to financial information considered confidential until then, such as interest rates from each contract, amounts, deadlines and guarantees offered. The measure also allowed access to automatic indirect operations, contracted by companies with financial agents reselling resources. Thus, through the "BNDES Transparent" portal, it was possible to determine that Açailândia steel mill companies producing pig iron access bank resources through this indirect loan modality. As already discussed, according to the BNDES, the financial agents qualified to resell resources of automatic indirect operations must have internal policies consistent with the social and environmental responsibility policy of the BNDES itself. However, this is still not enough to prevent the Açailândia steel mills from operating with irresponsible socioenvironmental practices.

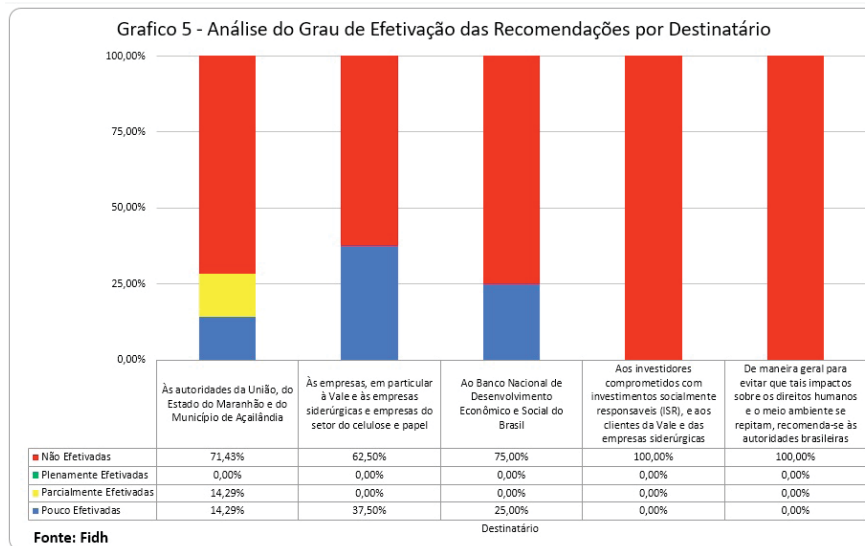
The 2011 report calls for companies to act with transparency, including by disclosing complete and correct social, environmental and corporate governance information addressed to their shareholders, which includes the problems found here. Each year, Vale publishes the 20F Report and the Sustainability Report, which deals with social and environmental issues. Answers regarding the allegations received are also published in the *Business and Human Rights Resource Center* site.

#### **D. The State pays for damages caused by steel mills**

Graph 5 shows us the degree of response to recommendations among the various recipients. Targets of the recommendations in the 2011 report were as follows:

- The State: federal, state and municipal executive power, and legal authorities, with special emphasis on the Public Prosecutor's Office of the State of Maranhão and the Public Defender's Office of Maranhão;
- The companies: companies in the mining-steel manufacturing chain, both Vale S.A. and the steel companies, and the paper and cellulose companies that operate in Açailândia;
- The financing agent: the National Bank of Economic and Social Development (BNDES);
- The production chain: private investors and business partners of the companies investigated.

As can be seen, the recommendations classified as "Partially Implemented", and which reflect the most consistent advances in relation to necessary measures for remedying the infringement of rights, are concentrated in the public institutions. This means that, in the situation in question, **it is the State that has assumed the larger percentage of responsibility for the violations committed by private companies**. Another important aspect is that the sum of the recommendations classified as "Partially Implemented" and "Poorly Implemented" did not surpass 50% in any of the recipients. **Actions reported by Vale S.A. and by BNDES, classified as "Poorly Implemented", symbolise the difficulty associated with the possibility of actually inducing good practices throughout the production and supplier chain**. The case of the steel plant of Piquiá is an eloquent example of this issue. Adherence to international sustainability and human rights protocols or the improvement of institutional information channels and complaint mechanisms have still not produced practical effects for residents of the affected communities.



Analysis of the level of implementation of the recommendations in the 2011 report shows that the perspective of public and private agents regarding actions in processes to remedy the infringement of rights is considerably restricted and selective. The small advances identified reflect measures for promoting the expansion of access to public information or the process itself for the resettlement of the affected community, seeing that the latter is funded primarily by public resources and not by the companies that violated community rights. These are initiatives that did not entail significant and long-term costs to the finances or the image of the entrepreneurs. That would be the case, for example, of a process of full redress for the right to health and a healthy environment based on a public acknowledgement of the impacts caused by the steel mills and the violations of the rights of the affected communities. There is, however, a selectiveness of the rights granted to the affected communities, as long as they do not entail costs to the private actors, even if these actors are the ones responsible for causing the problems and violating the rights.

## 7. Final considerations

The case of the community of Piquiá is an emblematic example of the international debate on human rights violations perpetrated by companies. This updated study of the 2011 report found that, eight years later, the range of the factors causing violations of individual and collective rights remains unchanged. In this sense, it is noteworthy that **none of the 39 recommendations were “Fully Implemented” and that in 74.4% of cases, no progress was identified in relation to what had been recommended.** The omissions by both, public authorities which bear the duty of supervising and authorizing the operation of companies, as well as of private companies responsible of human rights abuses, are flagrant.

The participation of companies in the efforts to make the resettlement of Piquiá community viable is undoubtedly important. However, as long as those efforts are not accompanied by the acknowledgment of the companies’ responsibility in the human rights violations, there is room for the violations to persist, either in Açailândia or elsewhere, in regions undergoing economic development.

It is precisely on this aspect of voluntary adherence that much of the criticism rests on international principles such as the UN Guiding Principles. Their non-binding nature, devoid of legal liability, ends up allowing companies to sustain practices that violate human rights while supposedly adhering to these principles because they will hardly be held responsible for the abuses. In this sense, the decisions in first and second instance by the Court of Maranhão recognizing the responsibility of the steel companies on the impacts caused to the families in Piquiá, are fundamental. Similarly, the fact that superior instances upheld the reparations for the communities in 13 out of the 21 actions initiated, is positive. It is expected that the same decision will be held for the remainder of the actions awaiting trial.

Similarly, the different initiatives that have been identified by the research for greater transparency of public and private actors were evaluated as “deficiently implemented”. **Greater access to information did not prevent the steel companies in Açailândia from receiving public funds - from Banco do Nordeste and BNDES - ; they continued to receive funding despite the infringements of environmental legislation.** The research finds a differentiation of the protection granted to certain human rights, as if the right to information and resettlement were essential, while the right to health and to a healthy environment were not, insofar as they represent higher costs and require long-term commitments on behalf of business actors. **The research also found that, although the companies are responsible for human rights violations, it is mainly up to the State to bear the costs of repairing them.**

Finally, the current trend of more flexible legislation on environmental licensing in Brazil will make the already precarious structures of state and municipal secretariats even more fragile, as is the case of the state of Maranhão and the municipality of Açailândia. It is necessary to guarantee the conditions for the technical staff of these secretariats to act with autonomy and independence in the fulfilment of their duties. Attention is drawn to the passive nature of the performance of environmental agencies in relation to the inspection of polluters. It is necessary to structure a strategy to deal with the problem. If consensus-building for solving problems such as pollution is often more effective, in situations such as Açailândia steel factory companies, it needs to be combined with stronger strategies on the part of the State. The operation of steel factories in Açailândia for six years without license renewal strongly exposes the omission of the Department of Environment and the Public Prosecutor of Maranhão (*Secretaria Estadual de Meio Ambiente e Ministério Público do Estado do Maranhão*) as responsible for ensuring compliance with the legislation.

If consistent progress has been identified in 7.7% of the recommendations, and if in 17.9% mere punctual and discontinued responses were identified, to a large extent this is due to the attitude of the Piquiá community. Although the resettlement has not yet been fulfilled, the team responsible for carrying out this report has been able to perceive a significant shift in roles, at least from a subjective point of view. The community of Piquiá left its role of victim to occupy the role of subject and protagonist in the struggle for its rights. **This report shows how the community was able to build its protagonism, knew how to guide and did not let itself be guided, and did not await passively for public and private institutions to solve their problems.**

## 8. Recommendations

As demonstrated in this Report, although human rights in Brazil are too often violated, threatened and ignored in order to guarantee and expand mining related activities, they are clearly established in the Federal Constitution (CF), which particularly protects the right to a healthy environment, to decent housing, health, information, reparation and the right to protest. Other mechanisms such as the National Human Rights Program (PNDH), the National Policy for the Sustainable Development of Traditional Peoples and Communities (PNPCT), the Racial Equality Statute (EIR), the Statute of the Child and Adolescent (ECA), the Guidelines and Basics of National Education Law (LDB), national policies to promote women's rights and other institutional achievements are aimed at protecting and defending historically vulnerable segments of society. These rights are also broadly protected in the various agreements to which Brazil is a signatory, such as Convention 169 of the International Labor Organization (ILO), the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, in addition to international conventions and covenants for the promotion of racial and gender equality.

Based on the diagnosis above, which points to the persistence of the impacts faced by the communities affected by the activities of Açailândia steel factory complex, and the low level of implementation of the recommendations of the report produced in 2011, the *International Federation for Human Rights* (FIDH) and *Justiça nos Trilhos* (JnT) network reiterate the need for the Brazilian State and companies to comply with the 39 measures recommended in the previous report. In this sense, we continue to be committed to the advocacy agenda aiming for the effective implementation of the recommendations made eight years ago.

In addition, based on the urgency of the communities affected by the seriousness of documented rights violations, FIDH and JnT make the following recommendations:

### **Recommendations to the Brazilian State and legal institutions**

Our organisation recommend the Brazilian State :

1. To ascertain the violations of the human rights of the community of Piquiá and recognize the inhabitants of this community as affected by the activities of pig iron and steel industries through letters of dignity ; these communities shall be ensured their right to an effective appeal, including the right to integral reparation;
2. To acknowledge its own responsibility for not having prevented, mitigated and punished the companies for all the human rights violations denounced by the Piquiá community and the organisations that support them, as well as for not ensuring fair and prompt compensation;
3. To acknowledge the responsibility of the companies for the human rights violations of the Piquiá community, by means of a resolution or another act capable of achieving this purpose;
4. Ensure the Judiciary assigns priority, concludes the judgment, and promptly executes the judicial decisions concerning the judicial actions for moral and material damages initiated in 2005 by residents of Piquiá de Baixo against *Gusa Nordeste S.A.*, as well as other actions initiated for the same reasons by other residents of Piquiá against this and other companies and/or public entities, due to the various health problems and other damages caused by pollution;
5. Provide for the Secretariat for the Environment and Natural Resources of Maranhão, the body responsible for environmental licensing and oversight of steel factories in that State, to initiate efficient administrative and disciplinary procedures, within a reasonable timeline. If findings indicate human rights violations have occurred, impose effective and dissuasive sanctions, establishing specific and imperative deadlines for companies to align with existing legal norms, thus allowing communities to access compensation for the damages caused;
6. For the purposes of approval and renewal of environmental licenses, require the Secretariat for the Environment and Natural Resources of Maranhão to stop relying on self-monitoring actions



of polluting companies and ensure the performance of a qualified and independent technical expertise to monitor the operations of these companies. At the same time, a periodic and independent inspection routine should be defined, considering the information contained in the complaints made by the affected communities;

7. Convey a dialogue table to be established among the Community Association of Residents of Piquiá (ACMP), the steel companies operating in Piquiá, the Secretariat for the Environment and Natural Resources of Maranhão (Sema), the Açailândia City Hall and the Public Prosecutor's Office of the State of Maranhão (MP-MA), namely, to establish a timetable that defines deadlines for the compliance of steel factories with environmental standards in general, including the provisions of Decree 29.669/2013 of the state of Maranhão;
8. Create a working group operating from Brasilia to ensure a permanent connection between the Açailândia Attorney's Office, the Centre for Operational Support of Environment, Urbanism and Cultural Heritage of the Public Prosecutor of Maranhão that operates from São Luís, the Attorney General's Office in Imperatriz and the Federal Prosecutor's Office for Citizen's Rights (PFDC);
9. Establish a dialogue table between the Public Defender of the State of Maranhão (DP-MA) and/or the Public Prosecutor's Office of the State of Maranhão (MP-MA) with the Municipal Health Department of Açailândia and other related bodies in order to respond to the urgent need of improvement of the health services for the inhabitants of Piquiá de Baixo;
10. Guarantee the Public Prosecutor (MP-MA) convenes and coordinates the intermediation group between the Community Association of Residents of Piquiá (ACMP), Federal Economic Bank (CEF) and the Ministry of Cities to follow up on the process of resettlement of the inhabitants of Piquiá de Baixo, specifically the execution of the process of construction of the new district, minimizing the potential risks of unfeasibility of the process associated to new bureaucratic impasses and others that lead to the delay in the transfer of resources to the ACMP to which it has not given cause;
11. Ensure the Public Prosecutor (MP-MA) convenes and coordinates an intermediation group between ACMP and the State of Maranhão to follow up on the commitment made on November 23, 2017 for the construction of public resettlement facilities such as day care centres, schools, health centre and multi-sport courts, as soon as the construction of new housing starts;
12. To the Working Group on Business and Human Rights of the Federal Attorney's Office for Citizen's Rights (PFDC) of the Public Prosecutor (MPF): Monitor the Piquiá case as emblematic of corporate human rights abuses in Brazil and develop concrete strategies to strengthen the capacity of communities to initiate legal and/or administrative actions to hold companies accountable when they commit or contribute directly or indirectly to human rights violations.
13. Through the Ministry of Foreign Affairs (MRE) and/or the Ministry of Human Rights, respond satisfactorily and within the stipulated deadlines, to the inquiries made by international human rights bodies on the case of Piquiá and guarantee that the different organs of the State respond concretely to the recommendations made in this report and in the one published in 2011;
14. If necessary, adopt all measures necessary to cover the additional expenses resulting from the gap in the budget of the submission, due to the discrepancy in prices between the table of reference (SINAPI) and market values, as well as the inflation observed in the period between the presentation of the project and corresponding budget (April/2017), its approval and signing (september/2018), the disbursement of resources and effective undertaking of the construction (since november 2018);
15. Take all necessary measures to ensure the inhabitants who are being relocated are not compelled to take up a debt in order to cover the compensation in cash required by regulations to the beneficiaries of the program Minha Vida Minha Casa.

## ***Recommendations to the companies and BNDES***

16. In the name of the right to truth and memory, the community of Piquiá demands the immediate retraction through a public declaration, of the company's untruthful version of the history of the community. Such public declaration shall include an apology and public acknowledgment of its responsibility for environmental damage and violations of rights committed;
17. In relation to the impacts caused by the slag yard (where incandescent waste is deposited) of the company Gusa Nordeste S.A., a schedule for the removal of such waste from the area near the community, in accordance with the National Solid Waste Policy (Law no. 12.305/2010) must be adopted and implemented. Until this happens, a wall must be built to definitively prevent the entry of people and animals into the area, as well as an adequate signalling of the place, with clear and easily understandable safety signs in visible places; the implantation of a green belt in said place and the installation of devices that minimize the dispersion of polluting particules;
16. In relation to the transportation of incandescent pig iron through the BR-222 highway, companies should avoid operating under a lack of environmental license, and transportation should be carried out in a different way, avoiding traffic on the BR-222 highway and other streets with inhabited houses, thus eliminating the risk/damage to the residents. It is recommended that companies define and inform affected communities of a consistent emergency plan for risk situations, investing in the necessary equipment;
18. To the mining companies, steel companies and the National Bank for Economic and Social Development (BNDES), to commit themselves to improving their policies to infuse transparency and good practices throughout their production and value chains so that they can have practical effects for the affected communities. Public and private institutions should be able to translate their commitments into concrete measures to identify, prevent, mitigate and take responsibility for the negative human rights impacts of their activities and/or funding. These processes must be carried out with the direct and significant participation of those affected by activities;
19. The BNDES should include Viena S.A. and Gusa Nordeste S.A. steel factories in its sample auditing performed with regards to automatic indirect operations and exercise its due diligence in the field of human rights, to ensure that its clients comply with international standards for the protection of human rights and the environment prior to the approval of any type of financing. This may mean that the bank eventually refrains from financing projects in the mining sector until sufficient assurances are obtained that this funding will not directly or indirectly contribute to human rights violations and damage to the environment.





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The Worldwide movement for human rights acts at national, regional and international levels in support of its member and partner organisations to address human rights abuses and consolidate democratic processes. Its work is directed at States and those in power, such as armed opposition groups and multinational corporations.

Its primary beneficiaries are national human rights organisations who are members of the Movement, and through them, the victims of human rights violations. FIDH also cooperates with other local partner organisations and actors of change.

## fidh

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FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

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