

Business and Human Rights Resource Centre interviews Danilo Chammas - lawyer and activist for *Justiça nos Trilhos (Justice on the Rails, Brazil)*. Interviewed by Júlia Mello Neiva and Sif Thorgeirsson

Danilo Chammas is a lawyer and human rights activist with extensive experience in the field. In recent years, he has been dedicated to the work of holding companies accountable for the human rights abuses arising from their operations. The focus of his work has been mainly the impacts of the Carajás project in the north and northeast of Brazil, comprising a large mining project. To learn more about Justice on the Rails, please read below and/or click [here](#).

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BHRRC: What are the biggest challenges you face in trying to make corporations take responsibility for the consequences of their actions?

Danilo Chammas: I'll start by contextualizing it. We're in a region impacted by the largest mining operation in Brazil, which, if you include all of its structures, occupies more than 900,000 km². I'm talking about the Carajás project. The project has been going on for 30 years. And aside from the area with the actual mines, in the middle of native Amazonian forest, there is also an 892 km railway that goes through 27 different municipalities all the way to the port in São Luis do Maranhão, on the northern coast of Brazil. More than 90% of the minerals taken from Carajás go directly for export. The main product of the mine is iron -- considered some of the highest quality iron on the planet -- but there are also copper, nickel and manganese mines. The operation is run by Vale S.A., a multi-national headquartered in Brazil. With activities in over 30 countries, Vale is now considered the third largest mining company in the world. Along with the mines, Vale also owns the railways and the port. [Ed. note – To see [Vale's responses to the issues raised in this interview](#), please click [here](#), [here](#) and [here](#).]

The Carajás project is currently undergoing an expansion, with the opening of a large new mine, the construction of a second rail line along the entire length of the first, construction of a new 100 km rail line, and expansion of the port. A large portion of the resources for this expansion comes from the generous loans of BNDES [Brazilian Development Bank] as well as the government of Canada through EDC (Export Development Canada). As a result of this expansion, Vale hopes to leap from its current 100 million tons of iron extracted and exported annually to 230 million by the end of this decade. Within the project's so-called "direct area of influence" (a distance equal to or less than 500 m from its mines, railway or port), there are more than 100 settlements, among them indigenous communities, remnants of *quilombos* [rural settlements of people of African descent, often escaped slaves], agrarian reform settlements, small-scale agriculture and fishing communities and urban neighborhoods. The project also affects dozens of environmental conservation areas and archaeological points of interest.

One of the greatest challenges has to do with the asymmetry of power between the private corporation in charge of the project and the State that supports it, on the one hand, and the populations impacted by it, on the other. Furthermore, I can say that a good part of the negotiations between the company and affected people occur under conditions of questionable legality, which makes everything harder. And those affected are vulnerable populations. These groups are often unorganized, without any notion of rights and duties, unaware of the legislation or the roles played by the actors involved -- often confusing the role of the company and the State.

And the company and the State do not help matters -- to the contrary. Those who try to resist, that is, who fight for their rights, who seek ways of minimizing the impacts and violations, suffer the consequences. It's not a simple thing. So all of this is also a challenge for the people on the ground, like me, who are striving for recognition of these rights and the responsibility on the part of companies and the State for their actions. Some people end up being persecuted, sued or under surveillance. There are several means used to ensure that such resistance does not occur and that rights can continue to be violated with impunity.

Another relevant point is that the organizations and professionals who defend the impacted communities are not considered legitimate actors by Vale. The relationship is not marked by good faith. For example, we don't refuse to sit down with the company, dialogue with the State or with anyone interested in solutions. That dialogue has happened in a few of the cases we are involved in, such as the one demanding the resettlement of the entire community of Piquiá de Baixo, for example, which has been a process of negotiation with the State and private companies, mediated by the Public Prosecutor's Office. But in other cases, that dialogue has been impossible, precisely because the communities, local organizations and their advocates are delegitimized by the company.

And there is also the issue of surveillance. This ends up disrupting the relationship even more. Until 2013, we had been noticing some strange occurrences which were even reported to the authorities, including a report released by the International Federation for Human Rights (FIDH) in 2011. In 2013 our suspicions were confirmed when there were reports in the press and a hearing at the Federal Senate Commission for Human Rights and Participatory Legislation [Comissão de Direitos Humanos e Legislação Participativa] about the existence of a group within the security department at Vale whose purview was to track and monitor social organizations and indigenous peoples. Its practices included illegal and repressive measures that ended up affecting people's personal lives. So, to the extent that we are tracked or have people infiltrating our organizations, we are in no way on equal footing with Vale in this situation of conflicting interests. Rights continue to be violated which neutralize our ability to scrutinize company actions. This I also find to be a tremendous, serious challenge. I think it's important to make it clear that there is an attempt to undermine us, to make it so that we are seen as anti-development, overly demanding and outside of the law.

The truth is that our work is done in a very solid fashion, organized, accessing legal mechanisms, researching, closely measuring our words and actions. Our network includes university centres and professionals who research and analyse the data. The claims we make aren't spontaneous or instinctual, but always well-founded and this is the level we work at. If at times we go to the judiciary, it is because we could find no other means of solving our conflicts. That's because it is the last resource for the people whose rights we defend. It's not for pleasure. We know that this is an unequal and difficult battle. But I think it's really important to recognize this because, as I said, there is a campaign to defame us within society and amongst the people we deal with. And this defamation was even present in public statements made by Vale to justify surveillance directed at us and many other groups who do this kind of work, both in Brazil and outside the country. The declaration made by the company went something like this: "we have monitored those groups because they commit illegal acts, provoke onsite accidents..." In fact, this does not happen. I also want to reinforce that the spying, infiltration into organizations and the people doing the legal work should also be dealt with according to the law. To the extent that the legal professionals are also the victims of these practices, our legal work is compromised. The principle of equality, specifically of equal status under the law, also ends up being completely compromised when one party violates the communications of the other party. It also compromises attorney-client privilege. Along with the more general intrusions on rights to privacy, on the inviolability of communications and the right to free association - I feel it is important to highlight this specific problem.

BHRRC: What are the main obstacles you feel exist in trying to access legal solutions in Brazil?

DC: Brazil is very large and it's hard to answer that considering all its differences. But from my point of view, I see that legal institutions have difficulty dealing with these types of issues. In some cases there is a lack of adequate logistical resources, not enough personnel to do this work. The themes we deal with aren't usually big priorities in the justice system, so you see many prosecutors active on other types of subjects which appear to interest the more dominant social classes. And there is often only one, or sometimes not even one, professional of this kind to working to defend indigenous peoples, the environment, traditional communities.

This is another important point. As I mentioned before, people aren't aware of their rights, nor of possible solutions. A good part of our work actually goes beyond litigation, to encouraging people to engage with the judicial institutions that exist to defend them. We work so that people understand the importance of acting according to the principles of rights and duties, and are aware of the roles of each actor. Often people are very influenced by the idea of immediate benefit. So we also have work to do in this other, larger sense: to reinforce the principle of human rights, which is at its core the principle of democracy. But I think we still have a long way to go. There is still a lot to do to provide real opportunities for access to justice to those whose rights are violated by these companies.

BHRRC: And what are the consequences that you and other people, colleagues, have encountered as a result of your advocacy for human rights, both positive and negative?

DC: Our organization, and I as well, unlike many others, we really value our work on defense of rights as well as our litigation work. We believe that this is the path that leads forward, as long as it's seen as just one part of a larger social struggle that began before and will go on after any individual case. Litigation can never substitute for social struggle. On the contrary, it must be done in such a way as to propel it even further. For us, the concept of a successful case is thus relative, and not necessarily related to a favorable verdict, which often cannot even be enforced afterwards. Nor does an unfavorable ruling necessarily signify a defeat.

We strongly prioritize a way of working in which people act as decision makers, have the possibility of sharing their opinions and having them considered at each important interval in the process. So, even in judicial cases, which occur in an environment where legal professionals predominate, we do everything possible to let people participate, consciously and freely. In hearings and sentencing, we always strive for and support the presence of a representative group of the affected community. Before each major event in the process, we have held discussions with people, sometimes even public assemblies with the entire group, hundreds of people.

BHRRC: To decide together?

DC: To decide together. I think it's really important, to the extent that they are the main interested parties and we, the legal professionals, are merely intermediaries. This causes the people to take charge, to grow throughout the process and to begin, bit by bit, to see the real problem and their situation in a different light and thus become truly empowered. For myself, whenever this happens, it's a huge victory, which causes me to continue working despite the adverse conditions, and even though we often fail to reach our desired objective.

There are elements of Brazilian legislation that complicate our work quite a bit, for example the issue of "security suspensions" [suspensão de segurança]. This is an extraordinary mechanism that ends up yielding legal rulings that cause communities' or people's rights to be suspended in favor of other interests, often based on subjective, extrajudicial arguments. They allow the suspension of people's rights in the name of protecting against threats to security and order, public health or the economy. When a judge permits a security suspension, based on the political judgment of a single person, all possibilities for access to justice are crushed. This institution must be stricken from Brazilian legislation; it should not exist anymore.

Another very worrisome factor in our current justice system is the so-called obsession with mediation, which often results in impunity and the perpetuation of violations, even when agreements are made (and often even that does not happen). But despite this adversity, I

understand that our work cannot stop, that it must continue independent of the conditions. Because if we stop, then there will really be no hope left.

BHRRC: Still on the topic of consequences... Do you think that, by involving the participation of the population, you were able to achieve results you can be happy with, as a result of your activism?

DC: Without a doubt. In the cases we are involved which have this characteristic, I think we are reaching our goals. For example, we have worked with the community of Piquiá de Baixo (a neighborhood of the city of Açailândia), which has been the victim of water pollution from Vale installations and pig iron factories, energy plants and cement manufacturing. In Açailândia, the people of Piquiá de Baixo decided that they would take actions in a collective manner. There are more than 300 families living in this community, and in the 1970s they were healthy, had a peaceful life, planting crops and raising animals by the riverside. This changed in the second half of the 1980s when the large iron factories, mining depot and the Carajás Railway arrived.

So this location was chosen by someone, not a resident, to be the location of all of these mining and forging operations and suddenly, the people are surrounded by new neighbors and end up having to pay the price for the promise of development that descended on that region. But the industry generates massive pollution, and working conditions are nothing special. Through the years, the community begins to see that it shouldn't be this way. So in 2005 they started to formalize their complaints and seek the support of authorities and social organizations. Twenty-one families filed a legal complaint seeking reparations (the suit was upheld in 2013 and confirmed on appeal in 2015, though proceedings are still pending for lack of resources).

So, throughout this initial period the Piquiá de Baixo Residents' Association has been getting stronger and consulting among themselves, so that the community can decide what to do. In these consultations, the residents were called on to decide among several possibilities. One of which was to do nothing and accept the current situation, another was to fight to try to halt the operations. There was also the possibility of seeking compensation, so individuals could leave the region. They also considered the possibility of the community remaining and campaigning for the installation of technologies that could mitigate the pollution's effects. But in the end, the option that won with the support of a large majority was to campaign for compensation to be able to leave the area. They agreed that staying was not possible, and that it be done collectively. They sought a new neighborhood to be built, financed by the companies, in a similar and not very distant area, but far enough away to avoid contamination, especially air pollution, which is what has caused the most harm, from what we know. We know that water and soil are also affected, but the complaints mostly have to do with respiratory issues. We are supporting this community in its process of making the companies and the State assume responsibility for the harm caused, and one of the reparations sought is exactly that: the collective resettlement of the community.

BHRRC: The resettlement is already underway, right?

DC: Yes, it's advancing bit by bit. Not at the rate needed. The community continues to live with high levels of contamination. What has already been found is a reasonably nice area and the promise of financial support on the part of the State and companies for the construction of houses and basic infrastructure. Up until the end of last year, we were working to secure the resources in order to complete the budgeting of the project.

We realized through this experience that the Brazilian State has no real policy for this kind of situation (resettlement of communities impacted by large projects). It offered solutions from its policy for dealing with housing shortages (the Minha Casa Minha Vida (*My House My Life*) housing program), which is meant to deal with another huge problem. And we believe that our experience can also serve as a paradigm, that is, as a reference for the formulation of such a policy that has yet to be developed. One of the major struggles wasn't for the resources but for the right of the community to be able to plan its own future. The community had for a long time been forced to demand that this urbanism and housing project for the new neighbourhood would be carried out by experts they trusted. It doesn't seem like a major demand, but it makes a big difference. Depending on the experts' methodology, and whether he or she is more open to listening to the interested parties, the result is influenced by this. And it defines life for multiple generations, right? It was a very important moment in the history of the Piquiá residents' struggle, which helped to bring them together, to the extent that they realized they really had the power to determine their own destiny.

Another landmark moment was the legal decision that blocked the duplication of Carajás Railway. The decision was handed down in a public civil suit in which the plaintiffs were three social organizations, and it lasted about 45 days from July to September 2012. If on the one hand the project was allowed to continue, on the other, it became clear to society that it had legal issues. The project's licensing had been and continues to be executed in an irregular manner, and it serves as a symbol to show that operating illegally will bring consequences, no matter who is in charge. This was a public civil suit born out of a collective of communities. Our work is also concerned with stimulating the organization of several different communities in distinct locations but impacted by the same project – representing the same development model. They are communities with these characteristics in common, but who do not necessarily realise the similarities. The possibility of people recognizing and understanding that they are not alone is very important. And the meetings *Justiça nos Trilhos* is organizing, which are regional and bring together representatives of diverse communities along the path of the railway, has contributed to bringing this understanding. And it was through this process that the decision to bring the civil suit questioning the licensing of the project came about. It is, at its heart, a battle for the right to participate...

BHRRC: *To be consulted... to decide...*

DC: To be consulted, to be able to comment on the pertinence of the project, its method and the pace with which it is being implemented, to be able to comment and help define the means of

mitigating and compensating. This is what is being hampered by the way the companies and environmental authorities (IBAMA, Brazilian Institute of Environment and Renewable Natural Resources) are handling the process.

BHRRC: In this case, you weren't able to get a ruling on the right to participation.

DC: So, there was an injunction by the 8th district federal judge in Maranhão that blocked the construction and the environmental licensing process until a public hearing was held in each of the 27 municipalities and consultations were undertaken with an eye to the free, prior and informed consent of the indigenous and *quilombo* remnant communities affected.

There was also a requirement to re-do the environmental impact study, which had been proven to be insufficient. But that's when the "security suspension" decision came, which, despite its material errors (it confuses the Carajás Railway with the North-South line, for instance) is still in effect.

But we were at least able to shed light on the problematic issue, right? It's hard these days for someone to say everything's perfect, the way they used to. Something we say a lot is this: that companies, and the State, both of them need to respect the right people have to comment on these projects that affect them -- and that the possibility even be considered to revisit the plans, that is, to not go ahead with the project, if the majority opinion of those affected decides this way. Unfortunately, it doesn't usually work like this, and they're not taken into account. And the other reason we campaign is so that these people are not invisible and not treated as illegitimate actors because that is yet another hardship we face.

BHRRC: What do you think the international community can do to help?

DC: Firstly I think the Carajás region is unknown even in Brazil. Justiça nos Trilhos has a communications team that is trying to do just that: get other parts of the country familiar with our reality. We think this business of a company rapidly extracting enormous quantities of minerals, at the cost of traditional peoples and communities, of a piece of the Amazon Forest, with huge amounts of water, with unique species and important environmental, historical and archaeological sites, is something that, at the very least, concerns all Brazilians, right? Maybe it is in Brazilian society's best interest, and that of future generations, to maintain mineral reserves for a longer time. This should also be of interest to the international community, especially at a time when we are already aware that if we continue at this pace, the planet could soon collapse.

So what we ask of the international community is to spread our story as much as possible about what is happening in the area affected by the Carajás Project. We also think it is important to call into question the validity of the international mechanisms that currently exist to certify corporations as sustainable or socially responsible. These mechanisms should have a better, wider understanding

of the reality; otherwise they risk their credibility. We also consider it important to advance on the issue of international responsibility of companies, while recognizing a State's own responsibility.

BHRC: What is the main message that you would like to send to companies and the government in relation to their legal responsibility for human rights abuses?

DC: That they consider the people potentially affected, who are in an area surrounded by them, as right holders, as legitimate actors, and that they give them the opportunity to define their own destiny, even if this ends up contradicting the plans of the companies or the State. In the end, people's opinion should prevail, even if that opinion goes against the installation or expansion of a project. Another message is that both the State and companies should comply with the law, judicial rulings and the obligations assumed in the agreements by which they themselves agreed to abide.