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ASSESSING MEANINGFUL STAKEHOLDER ENGAGEMENT THROUGH ETHICS STANDARDS

Lessons from the Samarco Dam Break and its Operational-level Remediation Program

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Introduction

Stakeholder engagement is an umbrella term for various processes and strategies applied by companies and governments to manage their relationships with diverse stakeholders (Kujala et al., 2022). While stakeholder engagement can bring short-term gains to shareholders, this practice can also help to create long-term value not only for shareholders, but also for stakeholders who are or can be adversely affected by organizations, especially when the engagement process is carried out meaningfully. Engagement with stakeholders has traditionally been understood to be part of business ethics and corporate social responsibility (Friedman & Miles, 2006; Freeman, 1984); however, the complexity of engagement that actually delivers value to affected stakeholders should not be understated (Greenwood, 2007).

As explained in the introductory chapter of this handbook (Buhmann et al., 2024), what constitutes ‘meaningful’ engagement from the perspective of affected stakeholders remains under-researched. In this chapter, we address this knowledge gap with an emphasis on the perception of communities that are involved in operational-level grievance mechanisms and related remediation activities. Closely related to the risk-based due diligence process and its expectations of meaningful stakeholder engagement (MSE), the provision of remediation is also a complex and under-researched process. Remediation is relevant when harm is perceived to have occurred. Grievance mechanisms handle complaints and may lead to remediation; but remediation can also come about as a result of other activities. Several studies indicate that remediation initiatives, whether implemented by companies or government authorities, are complex and often fail to adequately remedy the harm suffered by affected communities; or, in some cases, even lead to additional harm (e.g. Rogge, 2020; Aftab, 2016). In the business and human rights field, calls for non-judicial grievance and remedy mechanisms have been made in order to provide for speedier, simpler, and often less resource-demanding access and remediation for affected stakeholders (Buhmann, 2023). Non-judicial mechanisms may be

state-based or operational-level in nature. The latter means they are organized by and/or working from the company or project level. A non-judicial mechanism may issue findings or recommendations, but cannot pronounce an enforceable agreement. Still, their effectiveness vis-à-vis judicial mechanisms remains uncertain (van Huijstee & Wilde-Ramsing, 2020).

Yet, how to even start to assess whether the interaction, as a form of engagement, between affected people and a remedy mechanism is meaningful to those affected? By what standards can this be assessed? In the absence of specific standards and tools for that purpose, in this chapter we take inspiration from standards of research ethics. Such ethics standards were developed to prevent harm to the people that are to some extent involved in research projects. While there are obvious differences between research as an academic or professional activity, and relationships between remedy mechanisms and affected people, there are sufficient similarities in terms of objectives to identify and prevent harm to make it worthwhile to take research ethics as our point of departure for an analysis of the interaction processes and process design. By applying an ethics assessment to a specific case, we contribute to the emergent evolution of research and methods on MSE, with a particular focus on the ‘meaningfulness’ to affected people of a process involving forms of interaction that constitute ‘engagement’, such as consultations, interviews, surveys, town-hall meetings, etc.

We draw on the case of the Fundão dam break in late 2015 and the subsequent efforts by an organization set up by the involved mining companies to remedy adverse impacts in the main flooded villages, other communities, and ecosystems of the Doce river watershed. On 5 November 2015, a major failure occurred at a tailings dam for a mine operated by the mining company Samarco S.A. in a rural district of the municipality of Mariana in the Brazilian state of Minas Gerais. The collapse of the dam resulted in the flooding of downstream villages (including Bento Rodrigues and Paracatu de Baixo), 19 deaths, the displacement of hundreds of families, and severe socio-economic disruption in dozens of municipalities (FGV, 2019). In addition to damaging communities, the dam released around 43 million cubic meters of tailings (mining waste) into the Doce river. About two weeks later, the tailings mud reached the Atlantic, having flowed over 700 km and affected two states, 42 municipalities, and many rural communities. While the collapse is generally referred to in English as the Samarco dam disaster (or sometimes the Fundão or Mariana dam disaster), due to its extent and character, in Brazil it is often referred to as the Samarco crime or disaster-crime. Samarco S.A., the operator of the mine, is a joint venture between Vale, Brazil’s biggest mining company, and BHP Billiton, one of the world’s largest mining companies.

In March 2016, the Brazilian government and the involved companies reached a preliminary agreement for remediation and compensation for affected people and communities. However, it was soon suspended by a court order, owing to inadequate opportunities for the affected communities to participate in the negotiations leading to the agreement (Tuncak, 2017). This led to various other remedy initiatives, including the establishment of a new organization, named Fundação Renova (in English, ‘Renova Foundation’), to implement compensation and remediation programs, including the reconstruction of the destroyed villages (Alves et al., 2021; Maher, 2022; Dadalto et al., 2020).

Established by a legally binding agreement and funded by the mining companies Vale and BHP, the Renova Foundation is the central organization in a remedy set-up from the company level. The result of an agreement between Samarco, the federal government, and local governments (Carlos, 2020), the Renova Foundation functions as an operational-level grievance mechanism focused on the delivery of remediation. Being set up by companies or business networks and therefore private in nature, such mechanisms – while also diverse in nature

– are generally recommended by the UNGPs as part of a company’s system to learn about and deal with risks or harm early on (UN 2011, GP 25). As part of this, they should also function to deliver remedy to affected people when harm has occurred.

For a variety of reasons, the reconstruction of the two main flooded communities was not done at the original sites of Bento Rodrigues and Paracatu de Baixo. Instead, two new villages were planned, partly inspired by the original villages (including through landscaping). This was planned in collaboration with the displaced villagers who were invited to express their wishes for their newly built replacement houses. Yet, eight years after the dam collapse, at the time of writing (November 2023), rebuilding was still ongoing. While it is coming to an end in some places, the duration of the remediation process has left many of the displaced villagers discontent. Some have made new lives in the town of Mariana or elsewhere where they were resettled pending the rebuilding; many have repeatedly expressed wide discontent on the entire process to scholars, consultants or civil society organizations (Hanson Pastran and Mallett, 2020; Haugsnes, 2018). The Renova Foundation, which is implementing the resettlement projects, has been recognized to be an institutional innovation, but one that has been plagued by severe criticism, including unethical behavior (Coelho, 2023; Maher, 2022; Bertollo, 2020).

In many countries, including Brazil, academic and medical research projects are subject to formalized research ethics and clearance requirements. But practitioners in charge of various forms of interaction with (affected) stakeholders that ideally should be meaningful to the latter are not subject to such requirements. The engagement of companies and consultancies with stakeholders is not subject to specific ethics requirements, even for activities that assume contact with people who are or may be adversely affected by their activities. This applies broadly to engagement in the form of impact assessments, the implementation of proposed projects, or remediation for actual harm.

Research ethics standards generally aim to protect the dignity, rights, and welfare of research participants (WHO, n.d.). As we show in this chapter, such standards could provide a basis for promoting more ethical engagements with stakeholders. After all, MSE and research ethics requirements have much in common in terms of preventing and addressing risks or harm to frequently vulnerable actors. What is striking is that economic activities such as those undertaken by mining companies – which, as demonstrated by the Samarco dam collapse, can lead to immense impacts on the dignity, rights, and welfare of people – are expected to involve MSE but, unlike many research activities, are not subject to stringent ethics requirements; and nor are activities to provide remediation through the companies or grievance mechanisms or organizations established by them, such as the Renova Foundation.

Underscoring these parallels, intensive research focusing on particular communities or individuals in an area, such as the victims of the Fundão dam collapse, may result in a level of stakeholder tiredness, that could also be framed in terms of engagement fatigue or even of engagement disenchantment. Research fatigue has been found to be likely in contexts where repeated engagements do not lead to perceived change, or where the engagement conflicts with the primary aims and interests of the community or other group subject to the research (Clark, 2008). Unsurprisingly, engagement fatigue (caused by repetitive communication, consultations, interviews, surveys, etc.) has been recognized in the context of the Samarco disaster and victims (Maher, 2022). Such fatigue is one reason for exploring ethical behavior towards affected people. At the same time, communities subject to research are increasingly asking about the benefits that they will accrue from making themselves available, for example for interviews, or through accepting to be subject to observation. This underscores their

concern with meaningful outcomes; just like the UNGPs and OECD Guidelines assume (and demand) that remediation leads to meaningful outcomes for affected people, although it is also recognized that the road to such outcomes may be complicated. Similar issues are relevant, and questions are being raised with respect to the remediation programs of the Samarco dam disaster.

Based on a review of the academic and grey literature on the aftermath of the disaster, as well as an online survey with affected people, we examine and discuss the ethical dimension of stakeholder engagement in the Samarco dam disaster with an emphasis on the operational-level remediation set-up. We show that in the absence of specific tools or standards to assess meaningfulness in MSE, standards borrowed from research ethics can serve as a proxy in the assessment and design of an intervention involving engagement with affected people. While focused on a Brazilian case study, findings are likely to be relevant to a broad international audience of stakeholder engagement practitioners and policymakers.

This chapter proceeds as follows: The next section provides a background on research ethics and its application to research and engagement with stakeholders subject to research; and briefly contrasts this with MSE in business-oriented stakeholder engagement. The following section explains the chapter's method, including a literature review, and a survey of affected peoples' perceptions. Based on a review of previous studies, the chapter then provides an overview of the impacts of the Samarco disaster and critiques of the remediation process and set-up, with a particular focus on the operational-level remediation mechanism. The final sections present and discuss the findings of the survey and the literature review, and finally draw concluding remarks.

Ethics in academic research projects *versus* MSE in business-oriented stakeholder engagement

Ethics, simply put, is a branch of knowledge that deals with the moral principles of human conduct. The term ethics is derived from the Greek word “ethos”, which means “character”, i.e. the beliefs or ideals that characterize a community or ideology. The equivalent of “ethos” in Latin is “mores” (thus the contemporary term ‘morality’), which refers to the manner, custom, habit, or social norms of a particular society or culture. For millennia, scholars have been studying and theorizing ethics. However, notions of what ethics means or implies may vary substantially among knowledge areas.

In the context of research, ethics concerns the moral principles that must be observed when planning, implementing, and publishing research, especially when humans and animals are involved. Research has long been plagued by ethical scandals, ranging from appalling experiments that subject humans and animals to physical harm and/or emotional distress to other types of misconduct involving the fabrication and falsification of data, plagiarism, data privacy breaches, etc. To prevent such unethical practices, numerous research ethics principles, guidelines, policies, and laws have been created over the years. For example, the United States, during World War II, created a research ethics code (known as the Nuremberg Code) that provided a legal basis for the prosecution of German Nazi scientists who had conducted morally abominable experiments with prisoners (Katz, 1996). Following this code, in 1978, the National Commission for the Protection of Human Subjects in Biomedical and Behavioral Research published *The Belmont Report: Principles of Ethical Research on Human Subjects*, which became the backbone of ethical clinical research in the United States while enforcing three basic principles: (1) respect for persons, (2) beneficence, and (3) justice (Miracle, 2016).

Legislative and normative bodies in the United States and in many other countries have developed research protocol review mechanisms to ensure that proposed studies adhere to sound ethical principles (Hirtle et al., 2000). By the early 2000s, dozens of countries around the world had adopted mandatory research ethics procedures. In general, these procedures mandate the lead authors of research projects involving human subjects to submit their research plans, protocols, and questionnaires to ethics committees to obtain ethics clearance. These committees typically review submitted documents to understand, for example, whether:

- research objectives, methods, and protocols are clearly and objectively communicated to participants;
- participants are able to provide free informed consent;
- anonymity is guaranteed;
- collected data are kept confidential and research complies with privacy laws;
- participants understand their roles in the research;
- participants are fully aware of the risks involved;
- participants understand how they might benefit or suffer from the research outcomes;
- researchers follow up on their promises; and
- contact information (e.g. email accounts and phone numbers) is provided (Edwards et al., 2007; Hirtle et al., 2000; Garfield, 1995).

While reviewing research proposals, ethics committees may request additional information and, depending on the risks involved, set conditions for the research to move forward. Such review procedures have become very common in biomedical research, as well as in the broad field of social sciences – globally (Israel & Hay, 2006) and in Brazil (Novaes et al., 2009).

Research should observe both procedural ethics, such as accountability, consistency, transparency, and trustworthiness (Favaretto et al., 2020) and relational aspects, taking into consideration the ‘who’ and ‘how’ of the interaction embodied in the engagement. As noted by O’Sullivan et al. (2023, emphasis in original), “[...] the ethics of engagement requires attention to *who is engaged with and how the engagement is enabled and structured*”. Of particular relevance to MSE in regard to affected stakeholders – who are often vulnerable – as well as part of the research ethics literature that have highlighted ethical challenges for research with vulnerable communities, is to ask how ethical sensitivity and strategic (research) effectiveness are combined. Pittaway et al. (2010, pp. 231–232) draw attention to “[...] the intersecting issues of power and consent, confidentiality and trust, risks to researchers and potential harm to participants, as well as the broader cross-cutting issues of gender, culture, human rights and social justice”.

Many research ethics systems, including Brazil’s, have roots in the biomedical field and have expanded to the humanities and social sciences (Leitão et al., 2015). Research projects in political science, sociology, and anthropology often deploy some form of stakeholder engagement as a data collection technique, although not necessarily framed in stakeholder terminology. Numerous data collection processes involving human participants are carried out through interviews, participant observation, online surveys, among other types of engagement with participants. Many Brazilian research projects are routinely scrutinized by ethics committees to ensure that they comply with the ethical requirements listed above (Rocha & Vasconcelos, 2023). Thus, interestingly, while the ethics of stakeholder engagement, when taking place in research settings (e.g. as part of an academic research project, thesis, etc.), must be reviewed and authorized by ethics committees, a similar ethics review and approval

is not required when stakeholder engagements are carried out by practitioners who work for consultancies, companies, or governments; nor when business organizations seek to remedy actual impacts through operational-level remedy mechanisms, such as the Renova Foundation. This does not mean that ethics is not a concern for stakeholder engagement practitioners. It probably is. However, ethical principles are not always explicitly addressed by practitioners, let alone institutionalized by social and environmental normative bodies.

According to the OECD Guidelines and UNGPs, businesses have a responsibility not only to prevent and/or, as relevant, mitigate harmful impacts, but also to remedy such impacts when they do occur (UN, 2011, GPs 11 and 22 with commentaries; OECD, 2023, commentary 46). It is also clear that they should draw on feedback from affected stakeholders to assess the effectiveness of their responses (UN, 2011, GP 20; OECD 2023, commentaries 50–51). Studies related to human rights due diligence observe that meaningful engagement with affected communities is simultaneously “a moral imperative and a strategic necessity in human rights due diligence” (The Remedy Project, 2023). Although the UNGPs and OECD Guidelines stop short of specifying meaningful engagement with affected stakeholders in regard to remediation, the expectation of such engagement permeates the due diligence process with a view to identifying risks and impacts and taking adequate responses. It is logical that providing a response that is adequate, and therefore meaningful, to victims of harm from their perspective, must be informed and supported by a process of engagement with them that is also meaningful to them. From this perspective, MSE is important not just for the identification, prevention, and mitigation of risks or harm, but also for remediation.

Indeed, remediation in the sense of the substantive reparation of harms is frequently seen to be so closely related to due diligence as to forming part of that process. This is the case, for example, with the OECD’s 6-step due diligence wheel (OECD, 2018), which is applied by multiple companies and other organizations. As also explained in the introduction to this handbook (Buhmann et al., 2024), the 2023 update of the OECD Guidelines significantly increased the emphasis on MSE as an aspect of all processes related to responsible business conduct. The extent of this is such that it has been labeled ‘meaningful stakeholder engagement 2.0’ (Lichuma, 2023).

Scholars have long been investigating the relationship between ethics and stakeholder engagement, but with a historical focus on how engagements can contribute or not to lessening ethical problems. For example, Mitchell et al. (2022) have argued that engagements, when seen as a way of reducing risk, ambiguity, complexity, equivocality, and uncertainty, can help managers address ethical challenges. Conversely, Owen et al. (2001, p. 264) argue that practices of stakeholder engagement, at least in the field of social and ethical accounting, “amounts to little more than corporate spin”, having little or no capacity to address ethical challenges.

While the ethical problems “of” engagements have been studied in the narrower field of “shareholder” engagement (Goodman & Arenas, 2015), few studies have tried to understand the ethical problems that permeate risk-based due diligence, or remedy-oriented stakeholder engagements as part of such a process. After all, how ethical has stakeholder engagement been from the perspective of those who are being ‘engaged’ in impact assessments, particularly affected people, or in remediation of harm they are exposed to? Are engaged communities feeling respected? Do they trust the professionals and companies in charge of stakeholder engagement, and does their experience change in the course of a project or during remediation? Are affected people’s data being collected and analyzed in an ethical manner? These are just a few of the many questions that remain marginally explored in the literature.

Aware of this knowledge gap, this chapter set out to understand how the people affected by the Samarco dam break perceive the ethical aspects of the various communication and engagement programs in which they have been involved. These types of engagement fall within the risk-based due diligence approach, which, as noted in the Introduction (Buhmann et al., 2024), should be ongoing, covering all phases from inception to completion of a business project, including its aftermath and remediation.

Methods and case study

Case study and context for the case

This chapter adopted a predominantly qualitative approach to inquiry based on a single case study. This approach is a common methodological choice among social scientists who explore under-researched, context-dependent problems (Creswell, 2007).

Many sampling approaches and data collection and analysis methods can be adopted in qualitative case studies (Yin, 2003). Given that the ethical problems of stakeholder engagement remain under-researched, this chapter explores a case in which problems were already known and would likely be perceived to be ethical issues, if they had occurred within a research context. Examining the case from an ethics perspective thus allows for academic scrutiny that contributes to understanding the experience of affected stakeholders regarding effective MSE.

The reasoning for the choice of this case is its impacts and the complexity and discontent surrounding remediation through the Renova Foundation. The Samarco Dam break is among the world's most catastrophic technological disasters. While it caused 'only' 19 deaths, its socio-economic and biophysical impacts have been felt in large portions of the states of Minas Gerais and Espírito Santo, an area that is almost the size of the country of Portugal. The dam failure caused serious disruptions to the lives of thousands of people and triggered one of Brazil's most complex post-disaster restoration, remediation, and compensation programs. In addition to the creation of the Renova Foundation and the various activities and compensations offered as part of the remediation offered by the foundation, dozens of judicial and executive institutions at the federal, state, and municipal levels are involved in post-disaster policies, programs, lawsuits, and non-judicial agreements (Primo et al., 2021). A wide and diverse range of stakeholder engagement programs and activities have been implemented in the 44 affected municipalities. Moreover, numerous universities, NGOs, technical assistance organizations, commissions of affected people, and other grassroots organizations have been actively working with social and environmental justice issues related to the disaster to support the affected communities.

Two rural communities were entirely devastated by the mud and debris: Bento Rodrigues and Paracatu de Baixo. As shown in Figure 30.1, they were located in the city of Mariana just below the dam. In 2015, prior to the dam break, Bento Rodrigues and Paracatu de Baixo housed about 600 and 300 people, respectively (FGV, 2019). While some families from these communities opted for financial compensation, many others chose the resettlement option they were offered by the involved companies through Renova. Yet, eight years after the dam break, many families were still waiting to move into their new homes.

The Renova Foundation is responsible for the resettlement and rebuilding programs of several villages, including Bento Rodrigues and Paracatu de Baixo. Due to the scale of the socioeconomic disruption caused by the dam break, the Mariana region has also been

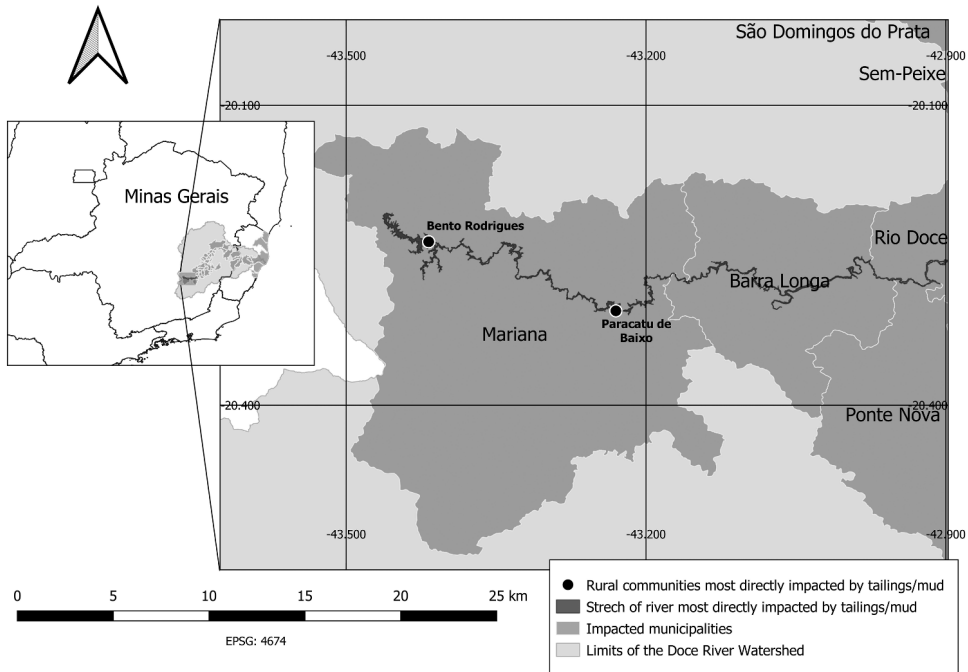


Figure 30.1 Study area and pre-resettlement location of the two most directly affected villages

prioritized by an independent technical assistance organization (Cáritas Brasileira), which assists affected people in post-disaster matters.

Review of other studies

To capture the ethical issues in the affected-stakeholder program in the Mariana region, a two-pronged literature review was undertaken. The first part considered ethical aspects of stakeholder engagement, in particular with affected stakeholders. The second part reviewed published academic studies related to the Samarco dam disaster and the remedial aftermath. The Samarco dam break has triggered multiple studies, published in Brazil and in international journals. To identify these studies, systematic searches in the Scopus and Google Scholar research databases were undertaken between November 2022 and August 2023. While Scopus is the world's largest academic database, many non-indexed, Portuguese-written studies can only be found in Google Scholar. The focus of the literature review was on the communication and engagement programs, including the operational-level remediation program, and their ethical challenges. Within the large number of studies of the dam collapse and its impacts, these issues, however, are only specifically covered by around a dozen studies.

Online survey

Following the literature review and inspired by what it showed, an online survey was designed to capture the perception of the affected people themselves about the ethical challenges of the engagement programs following the disaster, in particular the Renova Foundation project.

In collaboration with *Cáritas*, the aforementioned technical assistance organization, and with the approval of the Commission of People Affected by the Fundão Dam (CABF¹), the online questionnaire was shared with a group of more than 5000 people from the Mariana region registered by *Cáritas*. This group includes not only the families whose houses were destroyed by the flood of tailings, but also many other individuals whose economic and social activities were affected by the disaster.

The survey was organized into five sections and asked respondents to provide anonymous information about their personal feelings and overall perception about the dam break, the communication and engagement programs in the aftermath, the involved institutions, etc. Most questions were closed-ended, but a few open-ended questions allowed for more contextual, spontaneous responses. Only 23 affected people provided complete responses to the survey, which represents a small fraction of the targeted population. As further discussed below, this is likely an indirect effect of the ethical challenges and sense of lack of meaningfulness that permeate the post-disaster engagement programs.

Literature review

The bulk of the academic studies on the disaster and its aftermath have not explicitly dealt with issues of engagement with affected stakeholders. This literature broadly falls into two main social science streams. One stream emerges from within management and organization studies. These studies deal mainly with the post-disaster governance model, stakeholder engagement strategies and related experiences, values, and perspectives (e.g. Esteves & Mazzola, 2018; Goes et al., 2021; Jhuniior & Goes, 2022; Euclides et al., 2022; Bortolon et al., 2021). Another stream, a more diverse one, is represented by anthropology, law and sociology studies that emphasize the human rights of those affected by the disaster and its aftermath, including the rights of participation (e.g. Bertollo, 2020; Ceni & Rese, 2020; Coelho, 2023; Zhouiri, 2018; Lavallo et al., 2022; Maher, 2022). This stream of the literature also addresses the consequences of the disaster-crime of Mariana, acknowledging the complex temporality and spatiality of its related harms (e.g. Lavallo et al., 2022; Bussinguer et al., 2020; Milanez & Santos, 2018; Zhouiri, 2018).

This literature on the Samarco dam disaster highlights crucial facets of effective research practices, offering valuable insights into understanding and evaluating the trust-building possibilities involved in engagements with affected communities. A key emphasis lies in recognizing and addressing power imbalances inherent in both internal dynamics and the relationships among stakeholders, the mining companies, and the Renova Foundation, i.e., the organization charged with operational-level remediation efforts (Zhouiri, 2018). It is imperative for researchers, governmental bodies, and private entities to be acutely aware of the potential marginalization and silencing that their research may inadvertently perpetuate within affected communities and in relation to other stakeholders (Euclides et al., 2022).

Studies undertaken on the specifics of the remediation process are less explicit about ethical issues, but implicitly expose relationships and engagement with affected stakeholders and their perceptions in ways that relate to the understanding of ethics noted above. In particular, some of these studies discuss the effectiveness of the Renova Foundation and its programs offered. For example, a number of studies point out that the governance structure of the Renova Foundation prevented those affected by the dam break from having an effective say in the planning and design of the remediation scheme, because it excluded them from developing the mandate of the foundation (Euclides et al., 2022; Lavallo et al., 2022; Silva et al., 2019;

Milanez & Santos, 2018). Milanez and Santos (2018) also underlined that “Decision makers adopted strategies and methodologies with limited participation, [...] diverting from what specialized literature recommends doing” (p. 138). Ceni and Rese (2020) describe the Renova Foundation and its programs as representing a strategy dominated by its own interests.

Zhoury et al. (2018), in turn, have argued that the dam collapse recreates vulnerability patterns already in place: villagers who were already adversely affected by the mine prior to the collapse were converted into ‘victims’ after the collapse.

Studies have also highlighted the importance of an interdisciplinary approach to understanding the complexity of the challenges that the disaster represents, for example, in terms of collective health (Freitas et al., 2019), long-term impact of the tragedy on the mental health of those affected (Noal et al., 2019), or even memory and cultural losses of the residents of Bento Rodrigues (Miranda et al., 2017). Such issues resemble the line of argument behind the UNGP’s insistence on MSE to understand the complexity of the situation of affected stakeholders in order to appreciate and handle impacts, as described in the introduction of this handbook.

Maier (2022) found that victims who were expecting to benefit from the Renova Foundation programs reported repeated delays in meeting deadlines set by the foundation itself. He observed that prior to the dam collapse, the community was highly dependent on the mining company (Samarco) and its supply chain for its livelihood and economy in general. Reportedly, the company provided 80% of the income for the wider community in the town of Mariana (ibid.).

Demajorovic et al. (2019) noted that prior to the dam collapse, Samarco was considered a genuine member of the community’s social network. However, the company’s stakeholder engagement was more geared towards monitoring the perception of its image and reputation than community impacts, let alone empowering communities to become less dependent on the mine or less vulnerable vis-à-vis harmful impacts from the mine. Despite this, Maier (2022) found that only weeks after the disaster, the wider community’s economic dependence on Samarco became even more evident, as many locals started to support the return of Samarco’s mining activities.

Maier (2022) also observes that Renova’s interaction with the affected stakeholders was impeded by the formal sphere associated with the legal rationale of the project’s background and governance. He suggests that Samarco deployed the formally independent multi-stakeholder initiative structure of the Renova Foundation to shirk the company’s responsibilities associated with their duties towards the care and respect of their victims’ human rights.

Silva et al. (2019) and Lacaz et al. (2017) noted that Renova’s governance model left affected people disempowered by limiting their active participation in decision-making. They emphasize the absence of engagement practices by Samarco as a contributing factor. Milanez and Santos (2018) state that governmental actors also share responsibility for not involving affected individuals in shaping Renova’s mandate.

The ‘forced’ closure of the mine following the disaster led to reprisals against affected stakeholders who had moved into the nearby city of Mariana. They were blamed for the suspension of the mine and the resulting loss of jobs and economic downturn. The fact that they were offered compensation payments and housing paid by Samarco and the Renova Foundation caused animosity by some in the wider community, also reflecting community dynamics prior to the disaster when many people in the area, but not all, gained their living from the mine (Maier, 2022).

Whereas the Renova Foundation has been criticized for a governance structure reflecting or even perpetuating already existing power disparities between the mining companies and

the villagers, some efforts were made to address the power asymmetries in the wider responses to the disaster. Coelho (2023, p. 5, emphasis in original) explains that in order to deal with the power asymmetry, the Brazilian judicial institutions and civil society organizations adopted innovative measures by introducing “[...] a system of *independent technical advisors* – experts on certain issues whose costs were covered by the perpetrators (the mining companies Samarco, Vale and BHP Billiton) but who were chosen by, and responded directly to, the affected people”. Caritas-MG has been playing such a role and has been in a permanent legitimate engagement scheme with the CABF.

Still, Alves et al. (2021) and Nabuco and Aleixo (2019) argue that, despite more than 85,000 civil and criminal, individual and collective proceedings as well as special settlement schemes and reparation programs, redress for affected communities and individuals remains limited. Alves et al. (2021) find that concerns regarding the lack of victims’ participation and the absence of proper social participation mechanisms in Renova’s decision-making processes remained largely unaddressed. They argue that because of Renova’s inadequacy in fulfilling its mission and legal responsibility for repairing and redressing all damage caused by the collapse, a judicialization occurred, resulting in the so-called Simplified Indemnification System. Yet, Alves et al. (2021) find that regardless of the backdrop of the governance and participation problems in the operational-level remediation mechanism of the Renova Foundation, the Simplified Indemnification System requires victims to either accept a top-down, arbitrary matrix of damages; or accept Renova’s programs as they are; or lodge their own individual proceedings and bear years of insecurity of court proceedings. In other words, neither the state-based, nor the operational-level remedy mechanism function in a way that can be considered meaningful for all affected stakeholders, neither in regard to the procedure, nor in regard to the outcome.

Overall, the reviewed literature indicates significant problems in regard to the delivery of remedy to the people affected by the Samarco dam disaster, including the two villages (Bento Rodrigues and Paracatu de Baixo) most directly targeted by the socioeconomic remediation programs.

Survey findings

The overall message embodied in responses to the survey was one of disappointment with Renova’s efforts and limited results, as summed up by one respondent:

It has been almost 8 years since the dam broke. We, the affected people, are tired. There are no solutions to our problems, no feedback, no respect. To be fair, the whole process must happen with the presence of affected people, especially in decisive and deliberative moments (survey respondent).

Given the low response rate (as explained in the previous section on “Methods and case study”), one cannot take the survey findings as being representative of the entire population of affected people. However, answers do provide a window of opportunity to understand the feelings of some of the affected people from the Mariana region about the ethical dimension of stakeholder engagement. Most respondents (15, or 65%) answered that they were living in the municipality of Mariana prior to the dam break. Of these, six were residents of Bento Rodrigues and four were from Paracatu de Baixo.

The respondents’ demographic information confirms what was already known about their socio-economic conditions (FGV, 2019). However, their answers to the questions related to

the observance of ethics in communication and engagement programs revealed important insights (see Figure 30.2). Most responses indicate that the affected people are often frustrated with the lack or slowness of feedback or adequate follow-up on their complaints. The responses also signaled other problems, such as a lack of trust in several aspects of the communication and engagement, frustration with engagement outcomes, and emotional discomfort during the engagement.

Findings presented in Figure 30.2 corroborate the concern that the engagement and participatory procedures and activities can trigger feelings of discomfort and/or disrespect among affected people. Most importantly, they suggest that these feelings can stem from ethical problems, such as lack of informed consent, unclear objectives and procedures, no feedback, dishonesty, among others. When asked which institutions or organizations most often trigger those feelings, most of the respondents mentioned some those directly related to the mining companies, such as the Renova Foundation, or the companies Samarco, Vale, and BHP (Figure 30.3). Given that the disaster was caused by these organizations, one would expect the affected people to be more likely to distrust them and remain skeptical about their ethics. However, respondents also mentioned that local government institutions and technical assistance organizations, at times, involve them in participatory processes that are, to some extent, disrespectful.

The open-ended questions also revealed numerous other issues. When asked about what could be done to improve the participatory and engagement programs, participants mentioned,

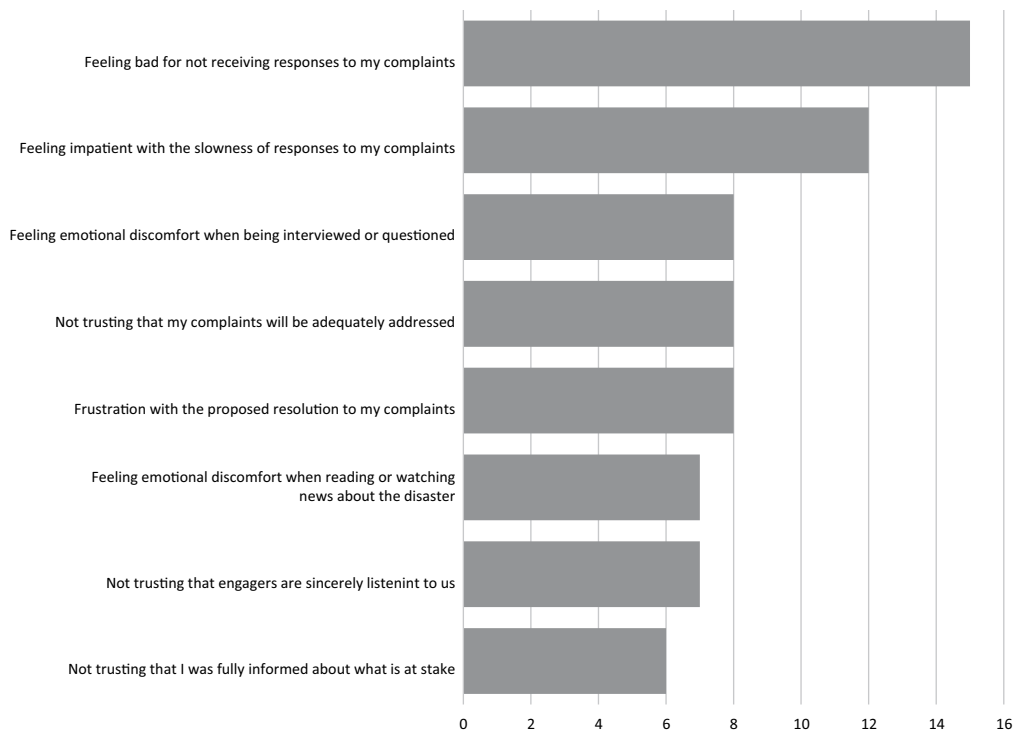


Figure 30.2 Most frequently mentioned feelings of disrespect and/or discomfort when taking part in participatory activities or stakeholder engagement programs

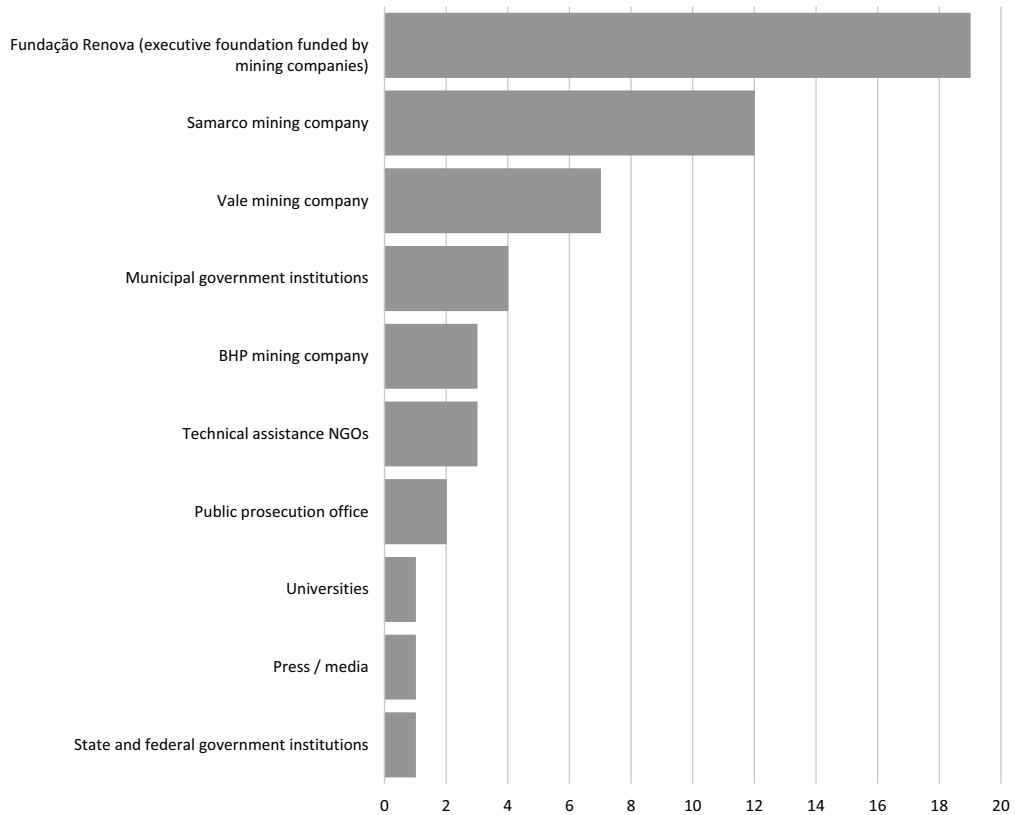


Figure 30.3 Most frequently mentioned institutions that triggered feelings of disrespect

for example: genuine listening; more communication; faster decisions and procedures; more legal support; effective and proportional justice; coherent answers; more power to the technical assistance organizations; among others. One of the respondents also raised serious concerns about the representativeness of the commissions and other affected people-related organizations. This survey participant claimed that these organizations represent just a fraction of the affected people, but deliberate in the name of everyone, thus leading to frustration and emotional distress.

One of the key findings of the survey does not relate to the responses, but to the very low response rate (only 23 responses out of a population of more than five thousand affected people (FGV, 2019), i.e. much less than 1%). The very low response rate in itself corroborates what some authors (Losekann & Milanez, 2021, 2018) have observed on research fatigue: that affected people can get ‘tired’ of filling out questionnaires and answering questions about their feelings and perception about the dam break and its aftermath.

The survey contained only a few questions and was formally approved by the commission of people affected by the Samarco dam disaster. Yet almost every affected person who received the survey link ignored it. The fact that the survey was entirely voluntary and anonymous probably to some extent explains this outcome. But the low response rate is likely also partly explained by the fact that dozens – or perhaps hundreds – of other questionnaire-based surveys had

already been carried out in the region. Without strong incentives, it is very difficult to engage affected people in new voluntary surveys. This was also emphasized by respondents who pointed to the duration of the process, its limited results, and the sense of disappointment.

Overall, the survey corroborates the concern that – like research in the social sciences – stakeholder engagement by practitioners, including organizations involved in operational-level grievance and remediation, can have harmful effects through triggering sentiments of disrespectful treatment and emotional distress. For people who are already affected by harm caused by another activity or event, this may add further harmful impacts, for example by re-activating the experience of loss or building a feeling that meaningful responses are absent or take too long. Accordingly, one could argue that, to be truly meaningful, engagements should take into account the research ethics principles that are typically used in academia to prevent such harms.

Discussion

As noted, the Renova Foundation was set up by the mining companies in agreement with the state governments of Minas Gerais and Espírito Santo and the federal government. The foundation's funding by the mining companies Vale and BHP, and its general governance and mode of operation, make it a form of an operational-level remediation mechanism. The company involvement may explain some of the general mistrust towards the foundation. However, issues related to engagement with the stakeholders adversely affected by the dam disaster and its aftermath also explain important aspects of discontent. This section elaborates on this, based on the above review of literature and the survey explained in the previous section.

Following the reasoning of O'Sullivan et al. (2023) and of Favaretto et al. (2020), an ethics of MSE should consider both procedural aspects (accountability, consistency, transparency, and trustworthiness) and relational aspects, taking into account the impact of the relationships with stakeholders in time and in terms of their perception of fulfillment of needs and respect for their needs and concerns from their own perspective. To this should be added the substantive outcome aspects, in other words, whether the engagement processes deliver value for the affected stakeholders, such as with regard to remediation that is adequate and relevant to their needs (Buhmann, 2023).

Rights of participation have been highlighted by multiple studies on the aftermath of the Samarco dam failure (Coelho, 2023; Lavallo et al., 2022; Bertollo, 2020; Zhou, 2018). There is a close correlation between the right to participate in the design of an engagement process (whether for initial impact assessment or later steps, including remediation) and the procedural and relational aspects of an ethical character that are considered good research ethics practice.

Drawing on insights from research ethics, as well as findings based on the literature review and the survey, two main aspects of enhanced engagement with affected stakeholders can be identified. First, engagement involving potentially or actually affected stakeholders often involves elements of fieldwork, such as consultations or town-hall meetings in impact assessment processes, interviews, observations, and community visits, and various forms of surveys. As noted above, similar activities may also be part of engagement to design and implement remediation through operational-level remedy mechanisms, such as the Renova Foundation. The design and implementation of such processes should be mindful of historical and political issues or conflicts, such as any related to the mining project that led to the dam disaster (Maher, 2022). Governmental and private actors should be attentive to their marginalization,

silencing, and disrespect (Euclides et al., 2022) when planning and implementing engagement actions.

Second, as evidenced by the survey and literature, the participation of affected stakeholders in the design of engagement processes is absolutely key to the legitimization and meaningfulness of participatory processes. This relates to affected people's time availability, the process itself, the outcome, and its perceived relevance to their needs and situation in the spatially and temporally dynamic arena in which a project (such as a mine), a disaster (such as the dam failure), or remediation (such as through the Renova Foundation) is situated. For the Samarco dam failure and its aftermath, a perceived lack of real participation by affected stakeholders explicitly or implicitly forms part of much of the critique of the Renova Foundation. Despite some recent improvements (Branco, 2023), the remediation mechanism has been found to apply merely performative participation, without enabling the active participation of communities and social movements (Lacaz et al., 2017; Ceni & Rese, 2020). Such technical framing of participation, which we may describe as tokenistic, contributes to a sense of meaningless, rather than meaningful participation from the point of view of the affected communities.

The problems permeating the programs implemented by the Renova Foundations, including those of an ethical nature, may be one of the reasons why decision-makers opted for a different type of remedy set-up in the aftermath of another major dam collapse, the B1 dam in Brumadinho, which collapsed in early 2019. This was another major disaster in the same Brazilian state where the Mariana dam collapse had occurred in 2015. Instead of a complex governance structure similar to the set-up of the Renova Foundation, they opted to leave the mining company fully in charge of the remediation programs and respective stakeholder engagements. While this remains a private-sector-driven mechanism, this set-up was seen as a more effective and less complicated way of implementing the much-needed remediation activities (Silva, 2022).

In hindsight, one could argue that the engagement problems in the Fundão Dam break aftermath, which we have identified based on the literature review and through the above survey (e.g. participation fatigue, weak and late involvement of affected communities, governance barriers, lack of trust, tokenism, etc.) might have been prevented or mitigated if the Renova Foundation and the involved authorities in charge of the participatory processes had taken into consideration research ethics principles.

Some research ethics principles related to the treatment of information (such as ensuring anonymity and confidentiality, clarity of engagement objectives, methods, and protocols) could easily be applied to the remediation programs, and arguably without side effects. These principles are almost generic, in the sense that they may be used in any engagement situation, depending mostly on political will and human and financial resources (Edwards et al., 2007; Hirtle et al., 2000; Garfield, 1995).

However, if not adequately implemented, the research ethics principles that are of a more procedural nature (such as requiring affected people to provide 'free and informed consent' to participate, and subjecting those who undertake engagements to ethics review and approval procedures) could complicate and slow down the remediation process. The literature review and the survey suggest that affected people have been concerned about the slowness of the remediation program, including the village reconstruction to enable their resettlement. The survey findings presented in Figure 30.2 also corroborate the fact that affected people were impatient with the slow speed of feedback to their complaints and inputs in allegedly participatory processes. In this context, adding another precautionary layer of informed consent

could result in more bureaucracy, further complicating a governance system that is already perceived to be overly complex (Losekann & Milanez, 2021).

In this context, the implementation of ethics review and approval procedures is particularly challenging. In the research context, such procedures tend to be perceived in many countries as bureaucratic, and at times cumbersome, leading to unnecessary delays in the implementation of research projects (Snooks et al., 2023; Douglas-Jones, 2019). But, arguably, research projects are less complicated than the remediation programs following large-scale disasters. As shown in this chapter, affected people must be involved in multiple layers of participatory processes. Adding ethics review procedures to each of these processes would inevitably be perceived as being bureaucratic, imposing a trade-off between precaution and efficiency. In other words, in the context of operational-level remediation programs that struggle to be procedurally efficient, the typical research ethics review and approval procedures are unlikely to function as expected. Therefore, companies and government authorities would need to think of other ways to plan and embed ethics considerations in engagement programs as a way to contribute to meaningful engagement with affected stakeholders.

Final remarks

The perceived ethics of stakeholder engagement in operational-level remediation mechanisms is under-researched. This chapter aims to reduce this knowledge gap by exploring a case of remediation of harms caused by a tailings dam break in Brazil that has been plagued by numerous problems related to the participation of affected stakeholders.

Based on a literature review and a survey with people adversely affected by the Samarco dam disaster, the chapter has shown that while meant to be a means to prevent harm, stakeholder engagement with affected people can also be a source of harm, for example by adding a sense of not being sincerely and meaningfully involved. We have shown that affected people often feel tired, uncomfortable, skeptical, suspicious, and disrespected when involved in participatory processes and engagement programs that are tokenistic. This can be explained by multiple factors. In the specific case of the Samarco dam break, many of these ‘unintended’ harms are a consequence of a combination of the scale of the disaster and the subsequent remediation efforts. The latter include the operational-level remediation mechanism, which, as we have shown, is perceived by affected people to be complicated, slow, prone to power asymmetries, and function through forms of engagement that are not perceived to be meaningful in terms of process or outcome.

On the one hand, companies, consultants, and government authorities should engage with affected people to advance their remediation programs. On the other hand, as demonstrated by this chapter, such engagement cannot always take account of the basic ethics principles that would have applied in a research context, by, for example, providing clear information and ensuring anonymity, confidentiality, and timely feedback. Based on such considerations, this chapter has argued that the field of ‘research ethics’ – and the tools employed to provide for ethical research – could inspire enhancements in stakeholder engagement programs by providing principles that can help to protect the dignity, rights, and welfare of affected people. However, it is important to keep in mind that such ethical principles should be implemented efficiently in context, themselves being subject to meaningful involvement of those affected. If not, the ethical requirements of free and informed consent, of ethics review and approval procedures, could further complicate the remediation programs, leading to additional emotional distress.

Overall, this chapter has made the case that there is an ethical dimension to stakeholder engagement, one that overlaps with notions of meaningfulness. While the literature has long been calling for engagement processes that are genuine, iterative, and attentive to the bottom-up perspectives of affected people as shown in the introduction to this book (Buhmann et al. 2024), few studies have been calling for the observance of ‘ethics’ in engagements. As shown here, stakeholder engagement, for example in the context of remediation, can be perceived as being unethical and as generating harm. None of this accord with the essence of MSE as set out in the UNGPs and OECD Guidelines. We suggest that more meaningful engagement should strive to be ethical in the senses applied for research ethics, with relevant adaptations to the operational context. Future studies should continue to investigate this issue, not only in the context of operational-level remediation mechanisms, but also in the more proactive settings of risk-based due diligence and the meaningful engagement of affected people in impact assessment decision-making.

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Note

- 1 CABF is the abbreviation in Portuguese for *Commission for People Affected by the Fundão Dam*, in Mariana, representing the affected territories of Bento Rodrigues, Paracatu de Baixo, and rural zones (Paracatu de Cima, Ponte do Gama, Pedras, Campinas, Borba, and Camargos).

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