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Management of a Space for Speech and Analysis of the Conditions for the Production of Versions regarding a Corporate Crime: the Case of the Vale S/A B1 Dam Failure in Brumadinho (MG)

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Abstract

This paper analyzes how the construction occurred of the conditions for the production of versions of the corporate crime related to the Vale S/A dam failure in Brumadinho (MG) based on an analysis of the final report of the Parliamentary Commission of Inquiry of the Chamber of Deputies (CPI Bruma). This study provides a specific contribution by presenting corporate crime as a crime legitimized by management, in which the dynamic of organizations operated under its logic influences the criminal practices as it exerts pressure for economic results at any cost. Thus, our study aimed to analyze how the construction occurred of the conditions for the production of versions regarding the corporate crime and the discursive dynamic around the corporate crime of Vale S/A in Brumadinho (MG), in the CPI Bruma. Methodologically, we sought to use documental research in the investigative process and the final report of the CPI Bruma, created specifically to investigate the failure of the B1 dam at the Córrego do Feijão mine, applying discourse analysis from a habermasian perspective, seeking to demonstrate that communicate practices may be intentionally distorted to favor one group to the detriment of another. With this, we analyzed the management of the space for speech in the CPI, through the habermasian lens, the multiple discourses, under the premises of the validity intentions of the act of speech, and its communicative distortions. We provide indications from the CPI Bruma report that suggest that the failure of the B1 dam at the Córrego do Feijão mine was not an accident, but occurred because of the negligence

of Vale S/A, which, in pursuing financial success, chose to prioritize economic results and ignore the imminent danger of failure.

Keywords: corporate crime; management; mining-dependence.

Introduction

The studies on crimes operated by corporations can be viewed in different ways and are being updated in various areas of knowledge, ranging from critical criminology to sociology to organizational studies. With this, primarily within the theme of organizational studies (OS), we find in the literature studies that indicate the need to investigate how they are born and develop and what impacts they cause in different countries and cultures with or without multinational companies. Nowadays, almost daily, the media reports cases of corporate corruption involving public agents, whether regarding the course of old cases, or concerning discoveries of misconduct (Alcadipani, 2014; Medeiros, Valadão Júnior, & Miranda, 2013).

With regard to the criminal practices, Medeiros (2015) states that there is a dark side in organizations, despite their effort and discourse to present themselves as benefactors. These practices occur in a covert way and, when they come to light, the penalties incurred equate to small fractions of their profits (Sachs, 2011).

By means of a critical theoretical lens in OS on which this study is based and through its conclusions, it is proposed that corporate crime should be understood as crime legitimized by management, which has a structural nature and aligns with the public authorities in its ambiguous and contradictory criminal practices. With this, corporate crime corresponds to non-compliance with the legal framework in force carried out in the name of or to serve the interests of capitalist organizations.

Thus, corporate crimes have major potential to become invisible, as many of them are legitimized through articulations of the local or national public authorities, which create new legal/normative mechanisms to decharacterize them, enabling the judicial conditions for impunity. Freitas Junior and Medeiros (2018) indicate that in corruption cases violation of the law is a rule of conduct.

Corporate crime is presented in a rationalized, structured, institutionalized way by management. That rationalization opens up room for justifications by corporations when participating in webs of corruption, such as bribing public agents, as well as a wide variety of corrupt acts in general (Clinard, Yeager, Brissette, Petrashek, & Harries, 1979). "It is perceivable how conceptions of corruption highlight the dichotomous relationship between the public and private spheres" (Torsello & Venardi, 2015, cited by Fretas Júnior & Medeiros, 2018, p. 10).

One of the possible explanations for corporations acting under that logic, according to indications of this study, is that they have developed rationalized instruments and techniques that favor efficacy and financial performance in pursuit of unlimited growth. Corporate crimes have come to form part of these instruments, primarily because the economic directors dictate their laws to political agents, making corruption inherent to that promiscuous relationship. Gaulejac (2017) states that "management has become the science of capitalism, implying a desire for domination that is presented as fundamentally rational" (p. 75).

In light of these assumptions, we primarily conjecture that organizations that operate through the management logic have a dark side, in which “errors, accidents, and crimes are often protagonized by organizations in pursuit of their objectives, resulting in losses for consumers, workers, the environment, and communities” (Medeiros, 2013a, p. 419).

Historically, management has been a modern institution that is explained through its intrinsic relationship with the capitalist system. Based on that relationship, managerial ethics are articulated through practices and discourses focused on the capitalist economic interest and, in turn, these are legitimized through the utilitarian vision of thinking and carrying out management in organizations of this nature (Vizeu, 2010b, 2011a).

The question is that the dynamic of corporations condition fraudulent criminal practices and operate through the management logic, which is constructed and assembled to serve the capital markets. The whole managerial articulation, the structure of these markets, is focused on financial results, on profit maximization, from the top down to employee profit-sharing programs.

This study shows that, in particular, the corporate crimes that occur in Brazil are the result of a historical Brazilian tradition of collusion between some private companies and representatives of the State, as we can find in the mining sector. This relationship has been historically constituted as a bureaucratic stratum that favors small groups to the detriment of others, with the State being responsible for the introduction of capitalism in Brazil (Faoro, 2001; Vizeu, 2008).

Likewise, management operates with the aim of maximizing capital gains. For that, it creates sophisticated mechanisms for legitimizing its criminal actions, such as discursive manipulation (Vizeu, 2011b). Discourse is a social practice that reproduces and transforms the social reality, which, as this study indicates, emerges as the instrument of legitimation for criminal actions in the case of the method of companies operated through the management logic.

Therefore, it can be considered that a discourse is produced for corporate crime that justifies and attenuates its effects. With the aim of downplaying the damage of criminal actions, justifications are produced that go beyond being characterized as a discourse that aims to downplay the evil done. Through the relationship with actors that manage the State, it is also configured as a device for obtaining favors, which will serve as triggers for the continuity of the criminal actions. That is, there is a discursive web whose objective is to maintain the interests of the corporation.

As Coraiola and Derry (2020) present, discourses also serve to manipulate evidence, especially when used for training communication between employees and society. Regarding the discourse for doubting the commitment of a crime, this is propagated not only to the victims, but also to all stakeholders – which we were able to capture in the discourses of the employees of Vale S/A in an audience in the CPI. Vizeu and Matitz (2013) indicate the sacralization of corporations in the use of the mission statements, something that can be extended to other forms of the organization’s institutional communication.

Within this context, we sought to analyze how the construction occurred of the conditions for the production of versions of the corporate crime related to the Vale S/A dam failure in Brumadinho (MG). The driving question of this research was: how were the conditions built for the production of versions regarding the corporate crime of Vale S/A in Brumadinho (MG) in the Parliamentary Commission of Inquiry of the Chamber of Deputies (CPI Bruma)?

We chose to investigate the topic based on an analysis of the final report of CPI Bruma, with the understanding that CPIs are presented through their structural logic as an arena for debate, a space for a multitude of speech, as Habermas (1997) prescribes, or, also, a space for dialogic debate. However, we assume that, through its political-partisan conception, the constitution of a CPI has intentionality in its narrative; after all, we are talking about a multinational that enjoys major influence on the political agenda of the State. Our intention is to make a social denunciation and advance the theory on the occupation of these spaces by criminal organizations and their collusion with the State.

The space for speech should be organized in order to facilitate constructive interaction between the participants, as well as enabling the emergence of people, their interests, and their behaviors. When that knowledge is obtained, a locus of moderation of behaviors can be established, creating rules of participation with a view to the discussions occurring in a fair way. In this sense, these spaces should be constituted in a location in relation to which a feeling of belonging is established (Webler & Tuler, 2000).

In these spaces, recognition is sought by means of the legitimization of the speech of each subject, including those that may be in opposite camps, as antagonists. Therefore, these spaces should have a device capable of inhibiting the natural action of silencing voices, avoiding favoring the validity criteria present in an interpersonal relationship. They are spaces of non-coercive agreements. Thus, the speakers seek to expose their viewpoints in a way that they make sense, so their arguments are understood as honest and true, in compliance with the norms, thus being morally valid.

Regarding the theme of discourse, in this study we adopt the habermasian perspective, ascertaining the spaces for speech or arenas for debate in which these types of offences are discussed. In addition, we analyze the validity intentions of the acts of speaking in the spheres of the objective world, of the subjective world, and of the normative world, seeking to highlight the discursive manipulation intentions of the rational-instrumental decisions that represent a strategic act in relation to a communicative act.

According to Vizeu (2011b), the constituent arguments of the discourses need to have validity in the objective world, that is, what is being said should be true. In the subjective world, in turn, the understanding is sought that what is said is sincere, and, in the normative world, what is sought is the legitimacy or morality of what is said. Finally, allied with these three intentions is the intention of intelligibility – which in other words means ascertaining whether what is said can be understood by everyone.

To collect the information, we chose to use secondary data; we collected and analyzed material derived from 2,462 pages of the final report of the CPI Bruma. That report incorporates elements from other CPIs, testimonies, and a police investigation. Once the textual *corpus* was defined, we proceeded to the discourse analysis according to the habermasian perspective, focusing on the validity intentions of the act of speech proposed by Vizeu (2011b), as well as presenting how public spaces for speech can be co-opted in the case of corporate crimes.

By using the theoretical perspective of Habermas (2012) for this study, we aim to demonstrate what communicative practices can be intentionally distorted in favor of one group to the detriment of another. With that, we analyze the multiple discourses under the premises of the

validity intentions of the act of speech. Through the analysis of these intentions, we understand how the argumentative strategies are configured in the constitution of the discourse of the crime, especially of the aspects of the relationship between public and private agents.

With that, we are interested in investigating the corporate crime under the lens of the relationship between public and private organizations, as we understand that this form of looking at the phenomenon can unveil how such engendered connections can discursively manipulate public spaces for speech, as well as the public consciousness in order to mitigate the damage caused by that type of crime and because there is a lack of division between capitalism and the modern State (Bresser-Pereira, 2011).

Finally we intend to make a social denunciation that can highlight the contradictions and effects of management operated solely through the management logic.

Literature review

This section presents the essential theoretical pillars for understanding the context and constructs employed in this research: corporate crime, the relationship between the State and management, mining-dependence, public space for speech, and the theory of communicative action.

Corporate crime as an practice institutionalized by management

Organizations operated according to the management logic have assumed protagonism in contemporary society (Clinard et al., 1979; Medeiros & Alcadipani, 2017), which is based on the capitalist production system. Thus, they are the ideal type of representation of the economic progress of the more industrialized nations, considered to be the First World. However, under the image of progress, there are obscure actions through which big corporations operate. Therefore, “organizations have a dark side, which harbors corporate practices that cause losses for society in general, including various kinds of corporate crimes” (Medeiros & Alcadipani, 2017, p. 49).

The crimes of organizations, broadly speaking, have received various nomenclatures, definitions, and intentions, such as: the vision of corporate illegality actions (Baucus, 1994); organizational misconduct (Baucus, 1994); acts of omission or commission (Kramer, 1984; Schrager & Short, 1978); corporate crime (Clinard & Yeager, 1980); white collar crime (Sutherland, 1940); state corporate crime (Michalowski & Kramer, 1987); corporate predators (Mokhiber & Weissman, 1999); killer organizations (Stokes & Gabriel, 2010); and criminal organizations (Alexander & Cohen, 1999). These concepts involve criminal practices that include conducts that, although legal from the judicial viewpoint, can be considered immoral in society.

There has been a significant advancement in the understanding of the reasons for organizations to commit corporate crimes, ranging from the understanding of Sutherland, believed to be the pioneer of the theme. After his speech on white collar crime, at the American Society of Sociology in 1939, Edwin Sutherland's (1883-1950) sociological examination focused on the “... attempt to understand society and its behavior in relation to the problems that affect it” (Medeiros, 2015, p. 203).

Within the context of these illegal practices, Medeiros (2015) resorts to Sz wajkowski (1985), who at the start of the 1980s had already listed the stimuli for the occurrence of actions at this level on the part of organizations:

- environmental pressure to accumulate capital and advance profits;
- the structure of the organization and legal structure that constitutes the context of actions within the environment; and
- the internal process of choosing actions, that is, the intention to commit the criminal act.

According to Borges and Medeiros (2014), the criminal act occurs by means of two factors. The first is the motivation presented through the psychosocial and structural causes, which the author denominates as opportunity. The second factor is the “cost-benefit,” indicated by Ariely (2013) as the reasoning behind carrying out the crime in terms of the benefits and the probability of discovery of the action (Ariely, 2013).

Given so many possibilities, in this study we adopt the understanding that the management dynamic is the motivation and justification that legitimizes the commitment of crimes. As an example, Schnatterly, Gongloff, and Tuschke (2018) present the fraud triangle, indicating their conclusions on the pressures and opportunities faced by chief executive officers (CEOs) that serve for them to rationalize their misbehaviors.

With that, for our focus on understanding corporate crime, this is presented in Figure 1, where the stimulus and justification for management functioning are illustrated. This is justified as it brings an economic return for the shareholder and that alone. All the other factors that form the basis for actions in the corporate context are relativized for that purpose.

Consideration should also be given to the indications of the studies of Anand, Ashforth, and Joshi (2004), revisited by Freitas Júnior and Medeiros (2018), who present the strategies used as rationalization tactics for excusing the criminal acts of those that make use of corruptive practices. Aiming to avoid an appreciation of their negative nature, they are presented as part of the system, a common and even acceptable occurrence of acting in daily life, namely:

Table 1

Strategies used as rationalization tactics for excusing criminal acts

Denial of responsibility	For those involved, committing the criminal act would be the only possibility, since it consists of one of the practices of the sector. This can be illustrated with the cases of companies that justify their actions by alleging that this type of practice is constituted in the typical procedure of the segment and not a choice.
Damage denial	The conviction that there were no victims or direct loss to people, or even that there was no intention to cause damage.
Victim denial	Besides not assuming that their criminal practices caused damage to the victims, the criminal actors allege that they deserved the effects since they somehow chose to participate by accepting to work in those companies.
Social considerations	These put the criminal practice on the same level as others to show that there are worse practices.
Appeal to higher loyalties	The argument is that the criminal practice occurred to fulfill the values of superiors or to serve the logic of the system, with a view to a higher cause or even to fulfill the determination of a hierarchical superior.
Equilibrium metaphor	This involves the right to carry out activities considered to be outside the legal order, for example, "when the employees revel in the past glory of an organization to justify the current anti-ethical behavior.

Source: Elaborated by the authors based on Anand et al. (2004, p. 14) and Freitas Júnior and Medeiros (2018, p. 12).

In this logic, to understand the figure, the ethics of management can be seen as economic and utilitarian, derived from an instrumental rationality; a value that subordinates everything to it, even the substantive values of the current morality (Guerreiro Ramos, 1989). With that, there is the understanding that the management dynamic is the motivation that legitimizes the practices of committing crimes. As it aligns with economic ethics, the corporate crime is practiced by the agent of the corporation not only in pursuit of their own interest, but also in favor the company's objectives:

The company controls not only the whole apparatus of its production, which includes beings and things, but it also controls, in a more indirect way, the beings and things via its market or markets. When it enters into agreement with other companies, it places in balance all or part of its triumphs. (Raffestin, 1993, p. 59)

Therefore, there is a structure, a *modus operandi*, based on a socially and historically established utilitarian economic market system. Corporations are embedded in this context, which through their operating logic enable a motivating dimension for criminal action that is justified by the achievement of their objectives. For Marx (2011), the objective of the action-end of the capitalist system is the production of more wealth for the holders of capital.

On this question of the search for a justification for its actions, Coraiola and Derry (2020) argue that there is an effort by the organization (in the case of their study, the American tobacco company), to cover its tracks, manipulating the evidence of its misdeeds with tactics ranging from

hiding documents to what we already commented on, which is the construction of a strategic ignorance, spreading doubts about the hazards of its products.

Figure 1 shows the logic of the practice of corporate crimes.



Figure 1. Logic of the practice of corporate crimes

Source: Elaborated by the author based on Sz wajkowski (1985), Miotto (2013), and Medeiros (2013a) from a critical theoretical perspective.

Therefore, the **management dynamic** motivates criminal practices as it exerts pressure on the system for economic results at any cost, including justifying them. Within this context, corporate crime corresponds to a response of the agent of the corporation to the pressures for results that they suffer in exercising their role and not to serve their own interests. That is, the crime is corporate as it is carried out to achieve the goals and objectives of the corporation and it is articulated with its approval.

Schnatterly, Gangloff, and Tuschke (2018) argue that, in the case of CEOs, there is a culture of rationalizing their errors, because of the pressure suffered, such as the remuneration structure, the opportunity that is presented in the question of power and control structure, and finally, rationalization, such as the company's culture, which is consistent with what Anand et al. (2004) discuss regarding employees' engagement in the tactics of rationalization of committing the crime.

The **opportunity** is born from the historical relationship of the public agent action on behalf of the private interests of the economic elites (Faoro, 2011), especially considering the version of the story to be told, and the legal knowledge of the procedural steps, and even the result of the historical punishment of these crimes (Freitas Junior & Medeiros, 2018).

The **justification**, in turn, occurs via the values of management, anchored in its ideology, which attenuate the moral nature of some corporate crimes, decharacterizing them through distorted communication. Moreover, there is always the rationalization for committing the crime. As we already indicated in Anand et al. (2004), we only need to see the result of the judicial actions, as for example Freitas Júnior and Medeiros (2018) indicated regarding the strategy of rationalizing corruption through the optics of the testimonies of the accused.

The capitalist system is capable of reinventing itself by altering its practices to maintain the

status quo. It is presented as a dominant ideology that prioritizes principles such as competition, individualism, and the greatest possible accumulation of capital. Based on that principle, we indicate that corporate crime can become a tool for achieving organizational objectives, as well as its justification within the system.

In a context in which financial results represent the ultimate goal of activities, we see multiple “businesses” developing that illustrate the growing separation between business and morality. From the moment in which management science and those that embody it submit themselves to the interests and pressure of capital, we see the development of discourses that cover up with laudable intentions practices that are less laudable (Gaulejac, 2017).

Alcadipani (2014) highlights that “corporations can use their power to change rules that are bad for their business” (p. 68), which is consistent with what Borges et al. (2016, p. 37) argue: “those who practice corporate crime have privileged positions in society, even influencing the elaboration and interpretation of criminal laws, unlike those who commit street crimes.”

The practice of management is an important tool of capitalism that, as the dynamic of capital demands reinvention in the face of growing competition and the social crisis, constantly improves the managerial discourse, spreading throughout the whole social context as a hegemonic and justified logic, operating by means of capitalist rationalization.

With that, there is the proposal of a form of understanding the logic of operation of a criminal action of corporations within their economic-social structure instrumentally rationalized for obtaining profit:

The corporation as a business model is constituted within the greater force of contemporary capitalism. The principle of corporate separation foresees that the responsibilities of the corporation and the ownership of its assets are exclusive from the corporation; therefore, shareholders have no responsibilities regarding its crimes and misconduct (Medeiros, 2019, p. 440)

Gaulejac (2017) states that “managerial management is an ideology that translates human activities into performance indicators and that performance into costs or benefits” (p. 36), which is consistent with Chanlat’s (1999) argument when he states that managerialism is “directly the product of a society of managers that seeks to rationalize all spheres of social life” (Chanlat, 1999, p. 17). According to Vizeu:

The capitalist company model, as it is built according to instrumental reasoning, also serves as a means for denaturalizing the human condition in social relations, as it conditions the sense of community to the perspective of economic advantage, where all human dimensions are supplanted by the economic sphere. (Vizeu, 2005, p. 11)

Thus, corporate crime is related with the very essence of management in that both involve the same type of interest: the maximization of economic gains.

Therefore, the central question in the concept of corporate crime is that this is practiced by

the agent of the corporation on behalf of the interests and economic objectives of the company. That definition is fundamental for understanding why corporate crime is associated with the management dynamic – another element of this study for discussing the relationship of corporate crime, it is characterized by efforts to coopt the public agent to serve the interests of an economic elite, something that has long marked Brazilian society (Faoro, 2001).

When analyzing the development of management in Brazil, it can be understood that this did not occur in the way that is proposed in the situation of economic neoliberalism (Vizeu, 2018), and that there is a relationship that is not supported by the free market initiative, but by the creation or flexibilization of laws to better serve major economic groups (Faoro, 2001).

The historical relationship between the Brazilian economic elites and public agents is verified, which not only marked the way management was established here in the country (Vizeu, 2008), but which is also a fundamental element in elucidating how corporate crime is treated in the national context.

That elitist/promiscuous/protectionist nature of the relationship between companies and agents of the public authorities has not been deconstructed over the years, according to the logic of pure liberalism. On the contrary, it has been refined in the logic of the bourgeois State of law based on industrial capitalism. It has transitioned from the *bandeirante* movement to landlordism, *coronelismo*, nationalism, militarism, and redemocratization, but the privileges granted by the State to the companies of capital have remained (Luz, 1978). In the end, the political-social structure has survived the various transformations, but it still has at its heart the guarantee of privileges, and not of rights (Faoro, 2001).

Relationship of the State and management: mining-dependence

In Brazil, the development of the relationship of economic organizations with public institutions, since the country's colonization, has exercised protectionism for the major management groups. The activities of the State sometimes include those of fund provider, consumer, and partner. That is, in Brazil, there was the introduction of capitalism conducted by the State, sustained by the patrimonialist premise (Faoro, 2001; Vizeu, 2008, 2011a).

With the inevitable modernization at the turn of the 20th century, the patrimonialist logic in the configuration of political-economic relationships was maintained, but incorporating the institutional references of the Modern State and of the industrial economy. In fact, the latter are adjusted to the patrimonialist order as they subvert the political rule of guaranteeing privileges to the bureaucratic stratum that controls the Brazilian State. (Vizeu, 2008, p. 136)

The public-private relationship was enhanced after 1808, with the arrival of the Portuguese royal family and the promotion of the colony to the United Kingdom of Portugal, Brazil, and the Algarves (Luz, 1978; Vizeu, 2008):

... The result was the license of April 28th of 1809 that was not, however, limited to the means prescribed by the liberals. Besides the exemption of customs rights for the raw materials needed for the national factories, the exemption of export tax for products manufactured in the country, and the use of national articles in the clothing of royal troops, all of which measures could not fail to be applauded by the liberals, certain concessions were established that would, over the century, favor certain abuses against those that would protest against the defenders of economic liberalism. (Luz, 1978, p. 21)

There are indications that the Brazilian public authorities became a protagonist of the interests of the economic organizations since, from the beginning, they have served the interests of another, of individuals instead of the collective (Faoro, 2001).

This elitist/promiscuous/protectionist nature of the relationship between companies and the agents of the public authorities has not been deconstructed over the years, according to the logic of pure liberalism. On the contrary, it has been refined in the logic of the bourgeois State of law based on industrial capitalism. It has transitioned from the *bandeirante* movement to landlordism, *coronelismo*, nationalism, militarism, and redemocratization, but the privileges granted by the State to the companies of capital have remained (Luz, 1978). In the end, the political-social structure has survived the various transformations, but it still has at its heart the guarantee of privileges, and not of rights (Faoro, 2001).

The first factor that characterizes the Brazilian managerial path is the search for competitive advantage through privileges obtained by means of some form of political ties, and the persistence of personalist political negotiation in industrial companies has offset the lack of rationalization in production (whether in terms of the adoption of new production technologies or rationalization of administration). Thus, even under pressure from external patterns of competition (given that imported products are available in the Brazilian market), the characteristic mode of facing that threat has been protectionism, serving the interests of individuals or small groups, built through the relationships with the State. In other words, whenever a particular industry has felt threatened by the competition of a more efficient competitor, its directors have activated their network of political influence to minimize the threat. (Vizeu, 2011a, p. 78)

A good example of that relationship can be seen in the Brazilian mining sector, where we can indicate that mining-dependence is yet another of the effects of the corporations operated through the management logic under the auspices of the State, and that this dependence of those affected can become an environment conducive to corporate crimes being committed, given that its dependents become weaker in relation to the corporations.

When looking at the history of the development of the mining sector in Brazil, the first major economic-social arrangement is identified, which required an important immigration from the Metropolis to the Colony. But not only that, a significant migration movement occurred as well as a new structural composition of the Brazilian State, given that capital was transferred from Salvador (BA) to Rio de Janeiro (RJ) (Fausto, 2006).

Coelho (2018) presents the mining-dependence in three aspects (economic, political, and

sociological), so that this triangulation forms the basis for the reality of those who live in that environment, and highlights the power of the corporation and its promiscuous relationship with agents of the State. The economic dependence is constituted through the raising of taxes and generation of employment and income, given that mining is the main source of funds for many municipalities and the local population. With that, the success or lack of it of the companies in that sector, more than others, directly affect local economies.

In the political dependence, there is the action of the corporation in the instances of the State to defend its interests; this is the case of the big mining companies embedding themselves in the government deliberative process (chambers of counselors, municipalities, state governments, environmental licensing and monitoring agencies, senators, and state and federal deputies etc.), seeking advantages for their activities, such as tax exemptions, flexibility in the laws, and gearing public management toward their interests.

Finally, in the sociological dependence, those that live in the mining-dependence often give up their rights and collude with the companies' deviations, since "the desire for jobs in mining and the fear of dismissals or the disappearance of existing jobs demobilize communities that directly experience the damage generated" (Coelho, 2018, p. 256). With that, it is common for the victims of this sector to develop a sort of Stockholm syndrome so as not to paralyze the companies' activities.

Coelho, Milanez, and Pinto (2016) state that part of the population of Mariana (MG) defended the immediate return of Samarco's activities, even after the dam failure that occurred there in 2015, as they argued that unemployment was increasing due to the suspension of those activities. In fact, those who represent the environmental and monitoring agencies of the public authorities, as well the businesses and workers of Vale S/A, mentioned the existence of that economic and political dependence of the municipalities in relation to the mining companies (Coelho et al., 2016).

Therefore, mining-dependence is yet another of the effects of the corporations operated via the management logic, and that dependence can constitute an environment conducive to corporate crimes being committed, given that it makes its dependents weaker in relation to the corporations.

The space for speech as a place of space for participative equality

According to Martins and Carrion (2013), the public sphere can be understood as a network in which communication occurs in a fluid way, where contents are communicated, positions are taken, and opinions formed" (p. 83).

In Habermas (2012), communication not only provides information sharing, but also a form of action, of modification, of maintenance of the *status quo*, and of emancipation. As such, he presents his thoughts on the two actions: communicative reasoning and instrumental reasoning, elucidating how there can be either communication that seeks a consensus or that is notably manipulated and systematically distorted with the aim of achieving strategic objectives of the corporation.

On one hand, one type of communication is practiced that focuses on understanding, on consensus, that presupposes linguistically competent agents and, in which, according to Vizeu

(2005), “the [communicative] reasoning consists of the use of valid arguments, capable of substantiating the propositions and enunciations considered in the communicative interaction” (p. 4). On the other hand, it is instrumental communication that uses manipulation, given that it becomes a strategic means for achieving a goal, with deception tactics, biasedly and intentionally distorting the communicative process (Habermas, 2012).

Public spaces should be spaces for speech capable of including all the participants necessary and of having self-regulation of the way mutually acceptable results can be constructed. They should be places where there is an “ideal situation for speech” and the possibility for discussions that seek a free consensus and not to the bullying of those involved. These spaces should be a level playing field ensuring all speakers have equal chances to discursively act (Webler & Tuler, 2000). For example, this is what is expected of a Parliamentary Commission of Inquiry (CPI), which should give a voice to all versions and ensure that these, in a consensus, become a viable version through emancipation.

For the discussion of the public space for speech, the studies that use the habermasian basis have provided contributions for understanding its composition, such as in that of Pinzani and Schmidt (2016), who organize various studies about the use of the author, as well as that of Oliveira and Fernandes (2011), who discuss Habermas’ thinking about questions involving the public space. There is also Lima (2021), who organizes a colloquium highlighting the core concepts of the author’s work.

With that, in Habermas’ reflection about public spaces for speech, one of the first steps for the success of these discursive arenas would be to identify the potentially interested and affected parties, which should divide the space. Therefore, the public spaces should be constituted as discursive places of democratic intention, which offer ample space for participative equality and where the participants recognize themselves as subjects capable of explaining their arguments with the aim of arriving at a collective agreement (Vizeu & Bin, 2008).

It would also be a space where the speakers could expose their arguments in search of truths, claiming the validity of their affirmations in a consensual way within a wide debate. That is, each participant would pursue their validity intention in the act of speech, in the objective, subjective, and normative worlds.

These spaces cannot be transformed into merely places that function as an asymmetric representation, in which there are no guarantees of their balanced formation. Going beyond that, symmetry should not only derive from the space, but also from the participation (Aguiar, Heller, & Melo, 2012). In other words, these spaces should be disarmed of their intentions; however, because of who organizes it, individual interests can silence voices and occupy the space in their own interest, justifying it for a wide debate, but being like a real house of cards.

The organization of spaces for speech should have the principle that the information serves all; that all feel part of the process and know how the space works. This space loses its legitimacy through disinterest, distrust, or the discrediting of its participants (Tongo & Behr, 2020). This is because “the lack of information reduces the possibility of argumentation and, consequently, inhibits the actors from expressing their validity intentions in a democratic process of forming an opinion and will” (Tongo & Behr, 2020, p. 82).

Also in that space for participation, in its organization, the strategic action of manipulation through influences between participating groups should be inhibited, that is, it is not permissible for there to be cohesion, much less the exchange of favors, gifts etc. (Martins & Carrion, 2013). Therefore, it should be analyzed whether, in fact, the participants had space to freely deliberate about all the questions they consider pertinent to what is being discussed, as merely being present is no guarantee of participation or representation of their discursive intentions.

In the spaces of discursive arenas, there is what Habermas (1997) denominated as the public sphere or space, which represents a complex network where the debates and discussions are produced regarding a variety of subjects of a public order. These conversations occur through the intersubjective sharing of the worlds of the life of their participants.

With that, public spaces for speech are those that favor the place of the subject as what “recognizes political equality and uses the search for signification in all possible spheres, including seeking intelligibility” (Vizeu & Bin, 2008, p. 94). These are spaces where the speakers can give opinions, diverge, and, with that, feel they are actually taking part in the decision, as they are in a legitimate environment with a real opportunity for manifestation.

For Habermas (1997), this public space should be autonomous, a place that is not merely constituted as a space for the strategic goals of some interest groups, even if they are representing actors with major political, economic, or social influence, which is what is expected of a CPI. Vizeu and Bin (2008, p. 90) highlight that “equality is conceived exclusively from the political viewpoint, as it presupposes the natural differences of the individuality of the participating subjects.” With that, this is a space that limits major instrumental interests, without an opening for actions of a coercive or dominating nature, being a space that aims to guarantee the autonomy of the world of life.

Based on the habermasian premise that a mutual understanding in the public space is formed through the argumentative debating of different (and divergent) voices, a CPI can be characterized as a public space for speech insofar as it aims to be a democratic space for those involved and directly interested in the event under investigation. For that, the CPI should be guided by listening to all those involved, considering all versions and arguments, and being a space where all have equal conditions for expression and speech, without any type of previously established constraint or difficulty. For that reason, in the same way that Vizeu and Bin (2008) denominated, plural instances of public debate sponsored by the democratic state of law should be configured as a public space where deliberative democracy is established, in the habermasian sense.

In order to identify the relevant contextual aspects that characterized the CPI as a public space for speech, it is necessary to understand how the commission is formed, how the activities and diligences are defined, how the deponents are chosen, how the official texts and conclusive reports are defined. There was also an endeavor to understand the legal questions for the functioning of those commissions. We started from the premise that a CPI is a democratic space and stands out for the judicial principle of the opportunity for a full defense, being constituted, in theory, as a free space for speech for argumentative debate – including taking into consideration the interests and intentions of those responsible for its constitution and operationalization.

Habermas (1997) explains that the space for speech is constituted in a space of mediation between the State and the demands of society, always around the argumentative discussions of topics derived from the world of life that, at some point, constitute a problem or interest of society.

It is in that place that one can find the spaces for speech of those involved in a variety of processes. It is characterized as an arena of multiple voices with the aim of representative formation, such as forums or stages. These are places where the subjects can deliberate in a natural way in search of consensus, where meaning is given to the validity intentions of the act of speech (Habermas, 1997).

They can be forums, councils, audiences, and parliamentary commissions. There is the premise that the public space is the locus for establishing the truth of the facts. With regard to spaces for investigation, these are also there to compensate for damages.

Spaces such CPIs can be considered a space for speech. They are an extension of the activities of the parliament for defending the interests of society, an instrument of popular representation, given that they seek to be multiple both in their investigations, and in their hearings – carried out to reach the truth of a variety of facts that can give rise to a CPI.

Methodology

The present study constitutes research that follows the qualitative logics, with a descriptive focus and the use of bibliographical research, using the organization as the analysis level; discourse as the unit of analysis; and, finally, a cross-sectional temporality. With the research objective of analyzing how the construction occurred of the conditions for the production of versions of the corporate crime related to the Vale S/A dam failure in Brumadinho (MG), we chose to carry it out using the materials derived from the final report of the CPI Bruma, which occurred in the federal sphere and was carried out by the Chamber of Deputies.

This choice was due to the fact that, in that document, it would be possible to find the constitution of the space for speech with the multiple voices of the various parties interested in the event: the company, the government, the representatives of the victims, the people affected economically etc.

The CPI Bruma elaborated its final report on November 5th of 2019 and sent it to 28 institutions, including the Public Ministry of the State of Minas Gerais (MPMG). This, in turn, denounced Vale S/A for seven crimes and requested the indictment of 22 individuals and two companies. On February 14th of 2020, the State Justice of Minas Gerais accepted the MPMG's charges, which use, among various elements of its investigation, the final report of the CPI Bruma.

We formulated three research questions, aiming to achieve the objective of this study: to analyze how the construction occurred of the conditions for the production of versions of the corporate crime related to the Vale S/A dam failure in Brumadinho (MG) based on an analysis of the final report of the CPI Bruma. The research questions are as follows:

1. How are the multiple discourses built around the event articulated?
2. How did the production occur of versions and of management of the space for speech established in the final report of the CPI of the Chamber of Deputies?

3. How did the discursive distortion occur in the use of the public space for speech and in the production of versions regarding the corporate crime in the final report of the CPI of the Chamber of Deputies?

The proposal consists of understanding, through the analysis of the corporate crime of Vale S/A in Brumadinho (MG), the dynamic of the discussions that build versions regarding corporate crimes. In this case, it was necessary to learn how the management dynamics manifest in the everyday actions that shaped the criminal practices and how they composed discourses to interpret and reinterpret the corporate crime.

To collect the information, we chose to use publicly-accessible secondary data. This is because that tactic would provide numerous pieces of information and cross-checking it would present ample potential for building a robust textual *corpus*. Therefore, we chose to collect data from the public domain, which is consistent with Spink when he states the following:

Documents from the public domain reflect two discursive practices: as a genre of circulation, as artifacts of the sense of making public, and as content, in relation to that which is printed on its pages. They are products in time and components that are significant of the everyday; they complement, complete, and compete with narrative and memory. (Spink, 2013, p. 81)

Likewise, the CPI Bruma report contains various narrative elements, such as the Civil Police inquiry, the works of the Public Ministry, the commission, and the public audiences that preceded them.

The information collection occurred between January 25th of 2019 and May 30th of 2020 in the accompaniment of actions after the justice accepted the MPMG's denouncement against the people involved in the dam failure.

We started from the premise that in the *corpus* chosen it would be possible to study how the construction occurred of the conditions for the production of versions regarding the corporate crime and the discursive dynamic around the corporate crime of Vale S/A in Brumadinho (MG). Thus, by means of an analysis of the validity intentions of the act of speech, we understand how the argumentative strategies were configured in the building of the discourse of the crime, especially the aspects of the relationship between public and private agents.

An initial reading enabled us to characterize the whole investigative process, identifying the actors who participated in the CPI, as well as understanding how the Commission constituted and worked as a public space for speech. This way, we structured the analysis of the data based on two stages: (a) identifying the contextual aspects of the CPI as a public space for speech and the role of the actors involved and (b) an analysis of the textual *corpus* per se, identifying and qualifying the different discourses based on the theoretical assumptions of the habermasian model.

Having defined the textual *corpus*, we proceeded to the discourse analysis according to the habermasian perspective, focusing on the validity intentions of the act of speech proposed by Vizeu (2011a).

Presentation and analysis of data

By using Habermas' (2012) theoretical perspectives for this study, we aimed to demonstrate that communicative practices can be intentionally distorted in favor of one group to the detriment of another, as well as that public spaces for speech can be coopted for interests of dominant groups. With that, we analyzed the multiple discourses under the premises of the validity intentions of the act of speech.

In order to understand the CPI as an arena for debate, a space of multiple cases of speech as Habermas (1997) prescribes, or, also, a space for dialogic debate, we endeavored to survey the actors that participated in the CPI in question. Table 2 summarizes the operationalization and manipulation of the data/analyses.

Table 2

Operationalization and manipulation of the data/analyses

Step	Action
1st step	Characterization of the constitution of the CPI
2nd step	Characterization of the speakers in the CPA in interest groups
3rd step	Characterization and analysis of the CPI as a public space and its management as a space for speech
4th step	Analysis of the production of the versions regarding the corporate crime and the discursive strategies
5th step	Analysis of the discursive distortion and use of the public space for speech in the production of versions regarding the crime

Source: Elaborated by the author.

Based on the preliminary reading of the final report of the CPI of the Chamber of Deputies, the CPI Bruma, we elaborated the analysis strategy, which initially consisted of understanding how a CPI works and of researching the bibliography of each one of the deputies that composed it. In this sense, we sought to indicate the possible intentionalities.

The data collection from the parliamentarians included the name, party, electoral base, role in the CPI, professional training, mandate in which they found themselves, and whether or not they received donations directly or indirectly from Vale S/A. This analysis enabled us to understand the composition and intentionality of the commission and the supposed interests of those responsible for structuring the space for speech. In this collection, we were able to indicate that, in 2014, the last year in which campaign donations by legal entities were allowed, Vale S/A donated R\$ 60,263,010.40 to the politicians and/or parties that constituted the CPI Bruma. That activity of the company in electoral campaigns is fundamental for understanding the posture of the public agents in the CPI, which will be observed further on.

The following step was to identify and characterize all those that had a voice in the CPI Bruma, as well as the locations where the meetings occurred, the dates, the participants, and the division of the space for speech between the interested publics to understand how the dynamic of

the CPI occurred with regard to the activities of the interest groups. With that information, we judged that there were enough elements to portray how the multiple discourses built around the event were articulated.

Therefore, it was possible to characterize how that CPI was structured as a public space for speech, that is, how the management of the space for speech was established according to the final report of the commission. The next step was to analyze the discursive strategies, especially regarding the manipulation around the post-failure developments. On that question, we observed the arguments of the groups under the validity intentions of the act of speech: (a) truth (objective world); (b) sincerity (subjective world); (c) correctness (normative world); and (d) intelligibility.

Table 3

Validity intentions of the act of speech proposed by Vizeu (2011)

Validity requirement of the act of speech	Possibility of questioning	Examples
Truth (objective world)	Is what's being said true?	"We're having financial problems and have to lay people off."
Sincerity (subjective world)	Is what's being said sincere?	"I'm worried about your situation..."
Correctness (normative world)	Is what's being said legitimate or morally valid?	"However, we're going to lay people off in the fairest way possible and according to the law."
Intelligibility	Is what's being said intelligible?	"Has everyone understood the terms well?"

Source: Vizeu (2011b, p. 66).

By means of an analysis of the validity intentions of the act of speech, it is possible to verify the arguments of the multiple discourses built around the event through the lens of the objective, subjective, and normative worlds, that is, the intentions of truth, sincerity, normativity, and intelligibility, comparing the arguments with the concrete facts discovered by the CPI.

To better understand the different interests involved in the event and manifested through the argumentative debate of the CPI, we organized a section for presenting the actors involved in the process. These were associated with three different interest groups: (a) the company denounced because it was responsible for the dam, Vale S/A; (b) the agents of the public authority responsible for the inquiry and/or for the monitoring of the activities of the mining company; and (c) the representatives of the victims or other parties interested in the effects of the event (environmental groups, for example).

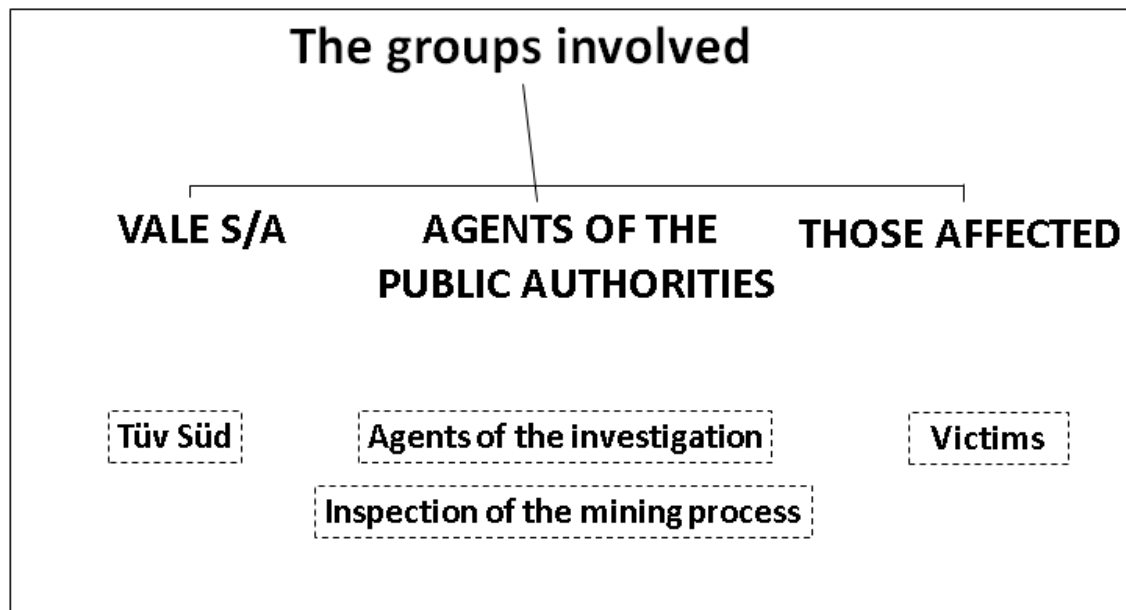


Figure 2. Characterization of the groups interested in the case

Source: Elaborated by the author.

The formation of the Parliamentary Commission of Inquiry (CPI)

CPIs can, via their functioning, carry out investigations, determine diligences, carry out search and seizures, go anywhere in the national territory, summon witnesses, engage in face-to-face encounters, breach telephone, bank, and tax confidentiality, and, in some circumstances, even decree imprisonment in specific circumstances, such as *flagrante delicto*. Therefore, the powers of the CPI equate to those of the authorities of the judicial system.

In the composition of the CPI Bruma, we observed the intention of multiple representativeness, reflecting the articulation that occurs in so many other commissions in the Chamber of Deputies. Therefore, in a CPI, there is space for the following leaderships: the leader of the government, the leader of the majority, the leader of the minority, and the leader of the opposition. The 513 legislators, divided into their groups/parties, pursue their space by seeking to position themselves in relation to interests that represent different sectors and demands of society, often conflicting with each other.

It is to verify the adherence to that essence of being a space for representation of different interests of Brazilian society that we sought to investigate the CPI Bruma as a discursive arena for debate, a dialogic space for speech of those involved in the event motivating its creation. Nonetheless, it is a public space, *a priori*, given that any citizen should, theoretically, have access to the functioning, information, directions, and all the questions that can involve the interests of society and of its constituent interest groups.

It is important to note that, of the 33 titular members, 24 deputies of the commission are from the state of Minas Gerais. Adding the alternate members to that composition, the representativeness of deputies from Minas reaches 73%.

Of these parliamentarians, among the titular ones, 13 deputies are in their first mandate; 18 were elected in 2014 and re-elected in 2018 and two ran for the role in the 2014 election, but lost. Among the alternates, in turn, six deputies are in their first mandate; four were elected in 2014 and re-elected in 2018 and only one ran in the 2014 election and lost. The relevance of these data lies in the fact that the 2014 election was the last one in which companies could make official donations to electoral campaigns.

Of the legislators who received donations directly or via companies of the Vale Group S/A, 10 parliamentarians became members of the CPI. The amount of the donation to these was R\$ 706,792.97. Another factor to highlight in this question is that not only Vale S/A made campaign donations, but also the mining sector as a whole. The parties that formed part of the CPI Bruma received donations from the sector in the amount of R\$ 101,569,127.40.

Of the parties that did not receive donations from the mining companies, the Socialist and Freedom Party (PSOL) stands out, as well as the *Rede* and *Novo* parties, both because they did not exist in 2014. All the other parties received campaign funds from Vale S/A and/or from the mining sector. **Considering that these parties negotiated the participation of their members in the CPI Bruma, what is the true impartiality of those agents? Would it not be an indication that the CPI was assembled merely to justify the crime, regardless of its final report indicating otherwise?**

When judging the probable irregular acts practiced by the representatives of the company, how could it be guaranteed that the campaign funding was not a factor influencing the execution of the work? In the field of law, when there is a prior relationship between the judge and those involved in the case, an impediment should be declared to guarantee impartiality; in the case of the CPI, the parties and deputies that directly benefited from donations chose to act in that inquiry, which may indicate an tendency of Vale S/A to use that space to justify its discourse of accident/inevitability.

This is the first point to be considered in the field of equal conditions among the interested parties. From the habermasian perspective, public spaces for speech should not only be built within the law in their act of functioning, but also in a way that they equally distribute rights and powers to those that act in them (Martins & Carrion, 2013). In this sense, we did not find any information about the criteria for choosing the members of the CPI Bruma in the minutes of the meetings and in the stenographic notes, which, added to the suspicion indicated regarding the campaign funding of parties and members, leaves room to question whether the ideal conditions were guaranteed for a fair and free argumentative debate.

The composition of the CPI Bruma, according to its final report, enables it to be seen that the organization, the agenda, and the provision of the information were left up to the deputies that constituted it.

In their vast majority, those parliamentarians benefited financially from Vale S/A in the 2014 election. According to the final report, the space for speech given to the companies was 53% and only 17% for those affected, such that: (a) there was not ample space for participative equality; (b) the participants, on the part of the victims, did not see themselves as subjects, including not being correctly named and their versions not having space in the discursive arena; and also (c) those same groups representing the victims were unable to explain their arguments with the aim of reaching a collective agreement, and if they went to the audience, there are no documents that prove that

condition. So, we can already point to indications of how the control colonizes a space for speech, to the detriment of other speaking parties, giving an air of “space of fact,” due to its legitimacy as a CPI, but not a “real space,” with real conditions for representativeness.

Manipulation of the discourse: crime versus accident

Taking as a reference the validity intentions of the act of speech and the discourse of Vale S/A in the CPI Bruma, we can affirm that the company acted intentionally to distort the sense of its criminal acts and pointed to them as an inevitability. In other words, the company used its space for speech to attenuate its culpability in the CPI, strategically manipulating the discourse primarily through the omission of information and unintelligibility. And that distortion has the strategic characteristics indicated by Anand et al. (2004) and Freitas Júnior and Medeiros (2018).

Vale S/A invoked a Declaration of Stability – according to the habermasian normative world – to attenuate its fraudulent culpability regarding the failure of Dam I of the Córrego do Feijão mine, when there were sufficient elements to indicate that the company, after the utilitarian calculation of consequences (common in companies operated through the management logic), decided to continue its operational actions at the dam.

According to various testimonies to this CPI Bruma, since 2017 at least, it was already known that the safety factor at the dam was below 1.3, the internationally recommended value, habitually accepted by Vale and considered safe for undrained conditions. The studies of Potamas, coordinated by the consultant Maria Regina Moretti, showed safety factor values for B1 of around 1.06, even when different calculation methodologies were used. (Chamber of Deputies, 2019, p. 31)

In the CPI, a posture that is revealed in all the official manifestations of the representatives of Vale S/A was the strategy of decharacterizing the company’s blame for the occurrence of the event. However, via the impossibility of avoiding the company being held responsible, its representatives then sought to attenuate the reparations that should be made.

In a first appreciation of the report of the CPI and of other official declarations of the company, there prevails the argument that the dam failure was inevitable, an event over which the company had no control or knowledge for it to adopt any type of preventative action.

With that, there was the intention to rationalize what occurred, at least as the denial of responsibility, the denial of damage, the appeal to higher loyalties, or the cynical posture. To substantiate that argument, Vale S/A alleged it had legal documents that attested to the safety of the dam, thus adopting the discursive strategy of blaming the public agents or third parties that issued the technical reports. That is, the company’s discursive position is that it was working within the law. We focus on that question further on, after brief consideration of Vale S/A and its relationship with the public authorities.

As presented in our theoretical review, historically, companies in Brazil have adopted strategies of getting personally close to agents of the public authorities. In this sense, considering that up to 2014 it was legally allowed for companies to make donations to political campaigns, Vale

S/A used that mechanism to get close to public agents of the executive and legislative, becoming one of the biggest donors of several parties and candidates.

The donations were made to all levels of elective positions (municipal, state, and federal) and not only in Brazil, but also to politicians from other countries. Regarding the campaign donations in Brazil, on September 1st of 2019, the newspaper *O Estado de São Paulo*, through the reporters Cecília do Lago and Marco Antônio Carvalho, published the following material: “With R\$ 82 mi in electoral donations, Vale spread its influence in 25 States and in Congress.”

That is the first point to be considered in the field of equal conditions among the interested parties. From the habermasian perspective, public spaces for speech should not only be built within the law in their act of functioning, but also in a way that they **equally** distribute rights and powers to those acting in them (Martins & Carrion, 2013). In this sense, we did not find any information about the criteria for choosing the members of the CPI Bruma in the minutes of the meetings or in the stenographic notes, which, added to the suspicion indicated regarding the campaign funding of parties and members, leaves room to question whether the ideal conditions were guaranteed for a fair and free argumentative debate.

In the case of its use of speech in the CPI Bruma, Vale S/A invoked, as justification for its main executives stating that it was an inevitability, a Declaration of Stability – according to the habermasian normative world – to attenuate its fraudulent culpability regarding the failure of Dam I of the Córrego do Feijão mine; there were sufficient elements to indicate that the company, after the utilitarian calculation of consequences (common in companies operated through the management logic), decided to continue its operational activities at the dam.

We found the intention of Vale S/A to manipulate the discourse of the crime in the objective, subjective, and normative worlds, acting explicitly in the sense of denying any malice. For that, it alleges that it had all the legal requirements for the operation, it claims no knowledge of the instability information, and it simulates perplexity about the dam failure. With that, it denies its responsibility and malice, given that it had a document attesting to the safety of the dam.

In an audience in the Chamber of Deputies, Mr. Fábio Schvartsman argues that Vale S/A is “a Brazilian jewel that cannot be condemned for an accident at its dam, regardless of the size of the tragedy” (Lis, 2019, i.p.). What we can find are elements of a critical posture, given that as CEO, and as indicated in the investigation, he had full knowledge and control of the situation.

Below is the passage of the report that presents the strategy employed in the CEO’s statement:

Instead, the deponent insisted on blaming “stability reports,” without mentioning those responsible for the elaboration and receipt of those “technical reports,” as if “technical reports” were products of spontaneous generation and not produced by human beings: “There was no, either on my part, or on the part of my predecessors, any type of information about risk with relation to the positioning of that office. Why was that? Because there were stability reports that said that the dam involved no risk or that the risk was perfectly acceptable, within the normal conditions.” (Chamber of Deputies, 2019, p. 31)

There is a clear intention to distort the communication in the objective world by vehemently

stating that he was unaware of the structural problems that led to the dam failure. That is not consistent with the reality of the facts indicated by the CPIs, given that, as CEO of the company, holder of the highest management position, he had access to the Emergency Action Plan for Mining Dams (PAEBM), as well as the results of the discussions that occurred in the Independent Panel of Specialists for Safety and Risk Management of Geotechnical Structures (PIESEM). His action may be anchored in what Schnatterly et al. (2018) prescribe, given that Vale S/A paid a type of bonus for safety.

There was a strategic and criminal company action of ignoring its equipment and lower-level employees. It was already indicated that, if the dam was stopped, there would be financial losses for Vale S/A in relation to its shareholders, culminating in the receipt of a lower value bonus by Mr. Cesar Grandchamp for not achieving the safety goals. The testimony of Mr. Felipe Rocha, who was an employee of the Geotechnical Risk Management Sector of the company, in the CPI of the Federal Senate reveals that:

With regard to the achievement of goals for receiving a bonus, the deponent made an important comment, explaining that there are only individual goals at the management level: “Employees and engineers in my position don’t have individual goals. The goals are management and executive management goals. (Federal Senate, 2020, p. 110)

In the CPI of the Federal Senate, Mr. Gerd Poppinga states that his variable remuneration also took safety indicators into account. That meeting, specifically, seemed it would be like the others, with the deponents denying and clearing any director of blame, with generic affirmations regarding the autonomy and responsibility of the technical body. However, when Senator Jorge Kajuru asked with regard to the deponent’s variable remuneration, if it would only be related to profits or also to safety, he responded affirmatively, as passages of the CPI show: “Can you answer what the goals were relating to safety and in which years, please, they were achieved in full or partially?”

The answer – in fact, a surprising confession – was the following: “We had an inevitability that gave me a zero for that indicator.” No-one expected the deponent to confess to having got a zero in the safety element. Surprised, Senator Jorge Kajuru asked again: “Zero?” The deponent answered: “Zero.”

There was much surprise about the confession. Senator Jorge Kajuru repeated the question: “Zero?” The deponent answered: “Yes.” Asking Mr. Gerd Poppinga if the president on leave from Vale, Mr. Fábio Schvartsman, had also been penalized in the safety element, he obtained the answer: “He was also penalized.”

At that moment, it was clear the reason why Mr. Gerd Poppinga could not affirm the innocence of the president on leave from Vale, Mr. Fábio Schvartsman: the safety goals established by Vale itself for its directors and for the president were simply not being achieved. In the case of the deponent, the score was a resounding zero. After the confession, the deponent returned to the usual discourse: “Our guide, our anchor, has always been the stability report.”

In the discourse in which its actuation in the event is defined, the company seeks to attribute

a validity intention to its act of speech that makes no sense. In other words, by analyzing its place of speech in the reports of the CPIs, evidence is found that there was no action by the company in the sense of avoiding the failure.

It's amazing the amount of anomalies (symptoms) that the B1 presented in its last periods of life, while Vale deliberately minimized those indications. The minimization of those indications by Vale is evident in the statements of its employees, when they categorically state that there were no signs that indicated instability for B1 (Chamber of Deputies, 2020, p. 181)

It was precisely that Declaration of Stability that the company used to legitimize its actions and minimize its guilt. Mr. Fábio Schvartsman attributed to the technical team and to TÜV SÜD the possible failures in the process, which he stated, more than once, he was unaware of.

It is verified that Vale S//A acted in the sense of ensuring the documents from the legal and management fields, but it was not committed to practical actions to avoid the failure. There is an evident communicative distortion in the sense of manipulating the discourse in order to mitigate its blame. The company's strategy consisted of proving its actuation within the parameters of the law, but, in practice, those documents only served to comply with the formalities.

The company's intention to minimize its punishability is added to that of positioning itself as a victim of its technical team and of TÜV SÜD, even though there is evidence that Vale S/A acted directly to obtain its Declarations of Stability.

Vale S/A evidently elaborates a narrative that disfigures its responsibility in the corporate crime, but this is a reflection of its utilitarian ethics for obtaining profit. Since the failure of the Fundão dam, in Mariana (MG), few practical actions were taken. No employee directly involved in the 2015 failure was detained or even fired, which reinforced the theory that the employees merely follow the company's guidelines.

Clearly, the company's strategy was to disqualify its fraudulent action, in which "Mr. Fábio Schvartsman's refusal to indicate those responsible for the safety of the dams, stating he knew nothing about it, may be a defensive strategy" (Federal Senate, 2019, p. 70):

It's amazing the amount of anomalies (symptoms) that the B1 presented in its last periods of life, while Vale deliberately minimized those indications. The minimization of those indications by Vale is evident in the testimonies of its employees, when they categorically state that there were no signs that indicated instability for B1 (Chamber of Deputies, 2020, p. 181)

The report reveals the discursive intention of Vale S/A to narrate the failure of the dam as an inevitability, indicating the declarations of stability in its defense to minimize its responsibility. However, by analyzing the report and the proof presented, it is verified that this discourse of the company does not find its validity intention in the objective, subjective, or normative worlds, and is not consistent with the facts.

Concluding remarks

Demo (1995) is insistent in stating that the objective of understanding social problems is in order to address them. Taking that affirmation into consideration, this study aimed to analyze how the construction occurred of the conditions for the production of versions of the corporate crime related to the Vale S/A dam failure in Brumadinho (MG) based on an analysis of the final report of the CPI Bruma.

Vale S/A affirmed that what occurred was an inevitability, an accident, given that the dam had the legal certifications to function. However, in light of the proof presented, not only in the CPI, but in other investigations such as that of the Public Ministry and the Civil Police, that discursive intention of Vale S/A, of making the dam failure an inevitability, does not find its validity intention in the objective, subjective, or normative worlds. And, in its aim to seek validity, the company makes use of strategies for rationalizing the crime, stating that it cannot be held accountable for an inevitability.

Vale S/A forms part of the group of corporations that acts through the management logic, given that, even knowing that it had a false Declaration of Stability, it used it to justify and attenuate its culpability in the event that culminated in the failure of Dam B1 at the Córrego do Feijão mine. Thirteen million m³ of mine residues were dumped there, causing the death of 260 people, whose bodies or parts of them were located, and there are six people still missing¹.

For example, it was revealed that Vale S/A was in the practice of paying bonuses to its employees based on safety indicators, which were taken into consideration in its criminal acts and that culminated in the dam failure. However, the sole focus cannot only be on individual actions, given that the management logic occurs through the dynamic that imposes the economic logic and utilitarian ethics as the only references for managerial behavior and, in this case, everything is subordinate to that economic instrumental thinking.

With the management having developed a broad managerial apparatus that aimed to maximize capital gains, it is not surprising that this made use of discursive manipulation to cover up its criminal actions. There are different management tools that compose the structure of corporations, some being camouflaged, hidden, covered up. In other words, the communicative distortion is intentional to deconfigure the criminal actions.

The impositions of an instrumental rationality in the company's actions led to a variety of events such as the failure of deep horizontal drain (DHD) 15, which, in turn, resulted in the dam failure. The instrumental rationality also permeated the company's actions post-failure, given that it tried to configure the crime as not being one.

Based on their economic practices and ethics, corporations also act via a dark side, in which the utilitarian calculation of consequences is the basis for decision making (Lima & Medeiros, 2020). In addition, values are transposed that should be solely human in indicators pondered in the cost-benefit relationship, aiming to maximize economic gains (Vizeu, 2011b).

As we presented in Figure 1, which substantiates our case to understand the corporate crime, with the motivation of increasing its profit, in the face of shareholders pressuring its main managers for results, including paying them a bonus, Vale S/A explained that what occurred in the case of Brumadinho was inevitable, thus providing justification through the management prism and

making use of strategic rationalization to justify its acts, primarily with the approval of a State that was weak in monitoring its actions.

Big corporations exert enormous influence over the State's actions, often acting like it to serve their own interests. In the corporate crime of Vale S/A, there was the participation of agents of the public authorities or, at least, their omission, given that the National Mining Agency (ANM), responsible for monitoring the dam, was operating without the minimum material and human resources. The data from the study proved that Vale S/A was aware of that inability to monitor.

The "language" of management is return. The strategy of grooming the public agent to serve the interests of an economic elite forms part of Brazilian political culture. It is cheaper for the executive to assume the risk of legal action for a crime, since, historically, public agents have conformed to the interests of the economic elites. The discourse of unemployment and economic losses also serve as justification for agents of the public authorities to attenuate the impacts of corporate crime. From Mariana to Brumadinho, no-one was condemned or imprisoned; yet, some of the victims of that tragedy were condemned to death. What we see is the strategy of the metaphor of equilibrium (Anand et al., 2004), as well as the tactic of forgetting (Coraiola & Derry, 2020), after all, unfortunately, in a country such as Brazil, the headlines are quickly substituted, and nowadays little is said about this case that wiped out hundreds of lives.

From the theoretical viewpoint, corporate crimes are actions of subjects embedded in the management logic, anchored in the rationality of the capitalist market system and in the premise that the financial gains for the holders of capital should be maximized. According to the premise that there is a principle that regulates life, the State is complicit, an operator, and often an advocate that sometimes ensures and sometimes protects such practices of corporations.

According to the final report of the CPI Bruma, Vale S/A committed a corporate crime, and its biggest criminal action was the manipulation of the Safety Factor (SF) of the dam in order to obtain the Declaration of the Condition of Stability. However, little practical action occurred after that conclusion of the CPI.

Through the data we examined, we found that Vale S/A acted strategically to pressure the company TÜV SÜD into signing the stability report, making use of blackmail and threatening it with losing other contracts, which, from the viewpoint of a compliance logic, would be totally unreasonable. However, this method is common among the strategies for operating and justifying corruption, given that Odebrecht had one sector used solely for bribing public entities (Freitas Junior & Medeiros, 2018), whose name was, entertainingly, the Department of Structured Operations.

Analyzing the divisions of space for speech and the result of the CPI Bruma, we did not detect the intention to blame the company, but rather the aim to personify those responsible. This may mean that coercion and domination mechanisms were operated there that prevented the CPI from serving as an autonomous and plural discursive arena, focused on achieving a deliberate consensus among the participants. This shows how the space for speech can be coopted in favor of group interests, in the case of the study, of the collusive relationship between management and the State, in the case of corporate crimes.

We found contradictory aspects inherent to the process of investigating blame, the main action of which was the personification of guilty parties, who are indicated in the final report. In other words, through the way it was articulated, the CPI was not constituted as an arena for debate

to give space for speech to multiple voices. That is because, in the analysis of the CPI as a space for speech, the version of those affected was suppressed from the annexes of the final report. There is no recording of their testimonies so that the use of speech can be achieved. Yet, their positions were registered in the stenographic notes, which, alas, in these situations, are made *a posteriori*.

The final report of the CPI Bruma features the names of 60 people, 53% of which were from companies involved and which were probably there to attenuate their guilt and possible reparations. 30% were agents of the public authorities and only 17% belonged to the group of those affected. However, when analyzing the stenographic notes – which were not provided on the page meant for them – it is identified that, in total, 102 people were heard. In this new parameter, the space for speech of the companies drops to 35%, that of the agents of the public authorities reduces to 28%, and that of those affected increases to 37%, even though those voices were omitted from the final report without there appearing any justification.

The guiding question for the suspicion about the management of the space for speech does not occur through a quantitative metric of the use of the space, but rather regarding the way in which it was managed, since many arguments of the affected group (its versions), as well as the treatment given to those actors, were suppressed from the final report. There arguments were not recorded, and many deponents were indicated only by their first name. In some cases, there remains doubt about who made use of speech, as occurs in the audience of September 16th of 2019, whose record indicates that the deponent was “Mrs. Dona Neiva Ferreira or Andresa Rocha Caldeiras” and “Patrícia Barbosa Rocha or Soraia.”

Given the suppression of those voices from the final report, we identified an asymmetry in the conditions for producing versions regarding the corporate crime that was being discussed there and we believe it can be considered that the space for speech of the CPI Bruma is also presented as a space colonized by the pressures of the systemic world. That has theoretical implications for how the constitution of public spaces for speech can be analyzed, where the constitution of the discursive arena should be characterized, as well as its speakers, its spaces for speech, and its practical consequences.

From analyzing the data from the CPI Bruma report to understand how the communicative distortion occurred regarding the post-failure developments, we found that Vale S/A inexcusably based its strategy on presenting the occurrence as an inevitability, asserting, through its main directors, that it had no prior knowledge of the circumstances that led to the dam failure. And, for that, it used the strategy of rationalizing its acts, exempting it from its responsibility through having a fraudulent technical report and a missing State.

The choice of discourse as an analytical strategy resulted in our understanding that the discourse shapes the relationships and society, as corporate crimes often occur in “legal conditions,” given that Vale S/A had a stability report for the dam. Likewise, when the crimes occur, the actors use discursive games, such as attenuating words. That is, there is no talk of an environmental crime, but of an “incident.” In the end, we see that corporate crimes are disguised by discourse, in other words, we must understand how corporate crimes can be discursively manipulated in public spaces for speech.

The manipulation of language to minimize the deception and attenuate the reparation obligations presents discursive elements rationalized as justification for its acts, as Anand et al.

(2004) point out. With that, the **denial of responsibility** is revealed, so that we think that the actions adopted by the company were the only ones possible. In the case of Vale S/A, its main managers also sustained that they were unaware of the instabilities of the dam, that they could not have acted differently, given that the dam appeared to be safe according to the Declaration of Stability.

Damage denial is also highlighted, even though, in this case, no direct denial is verified, but rather the company's affirmation that what occurred there was inevitable. For example, the company Vale S/A argued that animals that could fly were less affected by the dam failure.

With regard to **victim denial**, this element is present in the speech of Mr. Fábio Schvartsman when stating that anybody could have called attention to the unsafety of the dam if they knew about it. Regarding the social ponderations, Vale S/A states that there have been other accidents and that the company cannot be condemned for that reason. These declarations are understood through the cynical posture.

With this study, by treating the topic in an intelligible way, we sought the emancipation of society by enabling a more demanding posture regarding the political practices and criminal actions of companies; that is, for this debate to reach the subjects and for them to be able to influence the policies of the State, as we verified the imprisonment of society in an ideological and contradictory web of management practices. However, once that web is perceived, possibilities open up for articulation against the contradictions and for understanding that in Brumadinho there was a corporate crime, and not an accident with a "Brazilian jewel."

Finally, regarding corporate crime, this study makes a particular contribution by presenting it as a management crime, in which the dynamics of organizations operated under this logic influence the criminal practices as they exert pressure for economic results at any cost. The results is that in the parameters of a utilitarian elite, through a utilitarian calculation of consequences, it is less costly for the executive to assume the risk of legal action for a crime since, historically, public agents have conformed to the interests of the economic elites.

Thus, the management logic of maximizing capital gains creates sophisticated mechanisms for legitimizing criminal actions, one of these being discursive manipulation.

This article does not exhaust the whole potential for studies on corporate crime, stimulated by the management logic of functioning. This logic is justified as it provides economic return for shareholders and that alone. All other factors that support actions in the corporate context are relativized for that purpose.

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