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# When Mining Moves People: Development-Induced Displacement and Resettlement in La Guajira, Colombia

**C**olombia is after Syria the country with the highest number of internally displaced people in the world – amounting to over six million according to records of the United Nations High Commissioner for Refugees (UNHCR) and the Internal Displacement Monitoring Center (IDMC) (UNHCR 2015; IDMC 2015). Around 300,000 people are newly displaced each year, most of them because of the impacts of the internal armed conflict (IDMC 2014).

Yet, it is not only conflict that displaces people in Colombia; development projects such as large-scale resource extracting projects are also forcing people to leave their homes. It is ironic that the initiation of massive development projects that endeavor to increase national wealth have the potential to create new poverty in the case of those displaced (Price 2009: 267). Oliver-Smith describes this paradox as such:

*“[a]imed at generating economic growth and thereby improving general welfare, these projects have all too often left local people displaced, disempowered, and destitute. Resettlement has been so poorly planned, financed, implemented, and administered that these projects generally end up being ‘development disasters’” (2009: 3).*

In Colombia, mining is an important segment of the national development strategy designed to stimulate the Colombian economy, increase its competitiveness on the international market and create “more social, regional and intergenerational equality” (Teherán Sanchez 2014: 44). In the 1970s, the open-cast mining of coal was given a special role within the development strategy as it was prioritised by national policies, and has grown considerably over the last 40 years (Teherán Sanchez 2014: 44). The biggest open-cast coal mines are located in the César and La Guajira departments in the northeast of Colombia and have led to the displacement and resettlement of the local population (Teherán Sanchez 2014: 45, 52).

This paper seeks to provide a review of the recent displacement and resettlement processes in the context of the Cerrejón mine in the department of La Guajira. Given that multinational corporations are the main stakeholders of this mining project and their yield supplies the world market, these displacements are not only of national but also of international concern. Since the beginning of the Cerrejón mining operation in 1976, different displacement processes have taken place. People have had to move because of infrastructure construction or the expansion of extraction activities. The violent displacement of the community of Tabaco, which attracted international attention in 2001, marked a turning point as Cerrejón subsequently introduced a resettlement policy. Currently, the planned resettlements of five communities are

under way – the four rural and partly afro-Colombian communities Roches, Patilla, Chancleta and Las Casitas and the indigenous Tamaquito II community. The relocation of families to the new sites is at an advanced stage, yet some individual families remain at the original resettlement site – except for Tamaquito II where all families have moved. In 2014, international attention was drawn to the mine as the residents of Las Casitas and the Cerrejón company could not reach an agreement on resettlement and the international media and non-governmental organisations (NGOs) underlined the possible expropriation of the community (Willis 2014; Suhner 2014; Indepaz 2014).

First of all, this paper will provide background on the department of La Guajira and the history and structure of the Cerrejón mine. Secondly, mitigation measures for mining-induced displacement and resettlement at the international, national and Cerrejón company level will be presented and assessed. Migration patterns in the influence zone of the Cerrejón mine will then be outlined, with a separate section for each of the five recent resettlement processes. The conclusion will provide a comparative perspective of the five cases and an outlook, giving rise to recommendations concerning the resettlement processes.

The paper is based on primary and secondary sources. The primary sources comprise two interviews conducted with experts of the Colombian NGO Indepaz, which is accompanying the resettlements of Roche, Tamaquito II and Las Casitas, and the Swiss NGO Arbeitsgruppe Schweiz Kolumbien (Ask!).

Available secondary material concerning the resettlement processes was partly lacking and partly contradictory. The paper cannot therefore guarantee that all details of the resettlement processes are included but it aims to represent the views of different stakeholders. Thus, the material was derived from various sources: academic articles, the Cerrejón website which includes a section on the resettlement processes (updated until mid-2012) and further information concerning the company, the Cerrejón's progress reports on its social commitment from April 2009 to April 2015 which contain detailed but fragmentary information, a fieldwork study conducted by Hora on the resettlements of Roche and Tamaquitos II (2014), NGOs reports by Indepaz and Ask!, newspaper articles and other material.

## **1. BACKGROUND: THE DEPARTMENT OF LA GUAJIRA AND THE CERREJÓN COAL MINE**

In order to grasp the full extent of the resettlement processes linked to the extractive activities of the Cerrejón coal mine, a brief understanding of the geographical location and its socio-economic and political situation as well as of the history and structure of the Cerrejón mining operation is necessary.

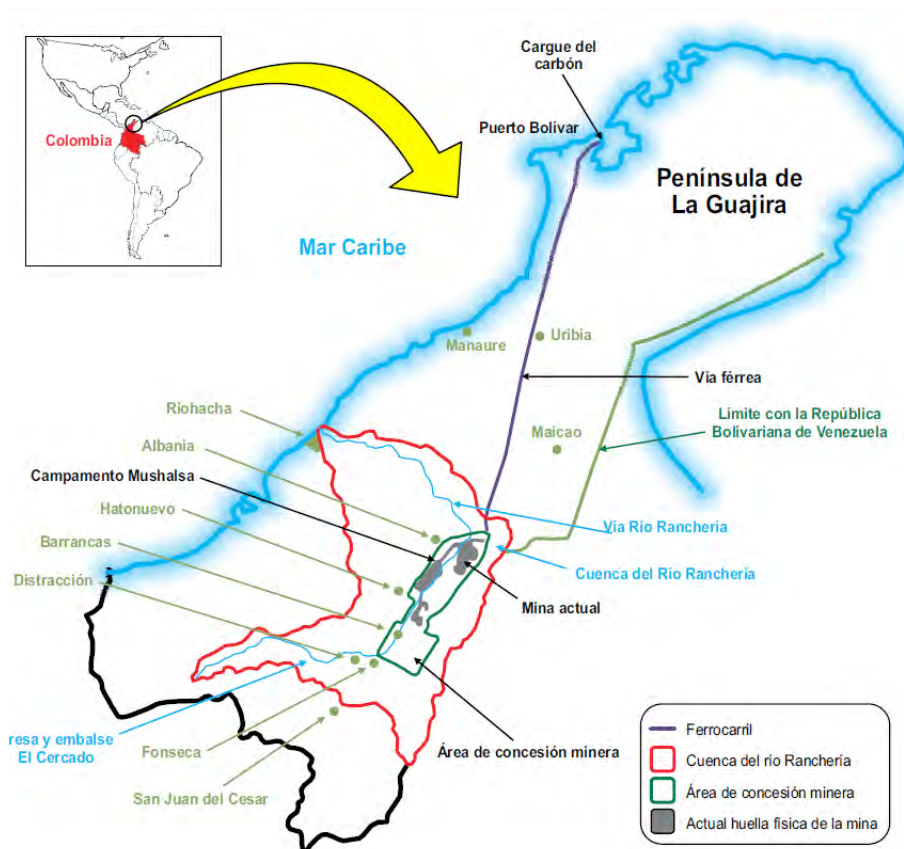
### **1.1 La Guajira: Colombia's Wild West**

The department of La Guajira is located in the northeastern part of Colombia, bordering with Venezuela to the east. The department is a peninsula, surrounded by the Caribbean to the north and west. On the southwestern land border with the Colombian departments César and Magdalena is Colombia's highest mountain range – the Sierra Nevada de Santa Marta. Due to its location, La Guajira is geographically relatively separated from the rest of the country. Figure 1 gives an overview of the department.

The department has a semiarid to arid climate with two natural ports (Teherán Sánchez 2014, 47). According to the 2005 general census, 44.9 percent of the La Guajira population identifies itself as indigenous while another 14.8 percent considers itself of afro-Colombian origin (DANE 2010).

La Guajira is one of the poorest departments in Colombia as about 60 percent of the population lives in poverty and 28 percent in extreme poverty (DANE 2012).

**Figure 1: Mining operation of Cerrejón in the south of La Guajira**



Despite the economic hardship, indigenous communities relying on subsistence agriculture can maintain a decent standard of living (Hora 2014: 42). In 2014, parts of the region were facing such a severe drought that water had to be delivered by the State and humanitarian organisations on trucks with water tanks (Semana 2014c). However, these economic and water-related difficulties are not the only problems facing the region. The leading Colombian weekly *Semana* states:

“There are villages in La Guajira which smell like petrol. Because in some of them, especially in the north, there is more illegal petrol than water. ... The combination of these two problems is a ticking time bomb: this department forgotten by the rest of the country is on the verge of collapse” (2014a, translated by the author).

Several persistent public governance problems characterise La Guajira. The regions’ authorities lost control over large parts of the border. The British newspaper *The Guardian* reports: “Over the years, the state has earned a reputation as Colombia’s Wild West”, neglected by State authorities (Balch 2013). Almost 200 illegal crossing points along the border with Venezuela allow flourishing criminal activities such as petrol smuggling and drug trafficking (Semana 2014b). This is firstly because of the small number of border police forces, some of whom are corrupt, secondly because the territory is under the control of armed groups, so-called *Bandas Criminales*, and

thirdly because of the presence of two fronts of the guerilla group FARC (Semana 2014b).

The situation in La Guajira is highly complex as a result of its isolated geographical location and a difficult socio-economic and political context, and is characterised by a number of multifaceted problems. The department does not provide an easy environment for the establishment of a large industrial mining business which demands huge spatial capacity and the displacement of the local community.

### 1.2 The Cerrejón Coal Mine: A Multinational Enterprise

The mining sector in Colombia has grown significantly over the past few decades. The most important resources are coal, oil, natural gas, emeralds, gold and nickel (Hudson 2010: 158). 25.7 percent of Colombian exports were generated by the mining sector in 1995, increasing to 56.9 percent in 2012 (DANE 2013).

The output of coal grew substantially from 4 million tons in 1981 to 65.5 million tons in 2006, comprising 1.4 percent of the world's coal production (Hudson 2010: 158). Coal has been Colombia's second largest export product since 2001 (Hudson 2010: 158). The largest and most productive coal mines are located in the northern departments of Colombia, in La Guajira and César. The Cerrejón open-cast coal mine is situated in the southern part of La Guajira and is considered as one of the largest of its kind in the world (Hudson 2010: 158; see figure 1).

The Cerrejón mining project started in 1976. After an international competitive bid for 32,000 hectares suitable for coal mining, Intercore (a subsidiary of U.S.-based company Exxon) and the Colombian State-owned Carbocol (Carbones de Colombia S.A.) were contracted to develop the mining project. The creation of the mining infrastructure was carried out between 1980 and 1986, including the construction of the Bolíva port, a 4km-long channel, and a 150km train track connecting the mine, the port and the residential unit Mushaisa, constructed to accommodate the mining personnel (Cerrejón 2015 d). This settlement has good infrastructure consisting of a school, recreational facilities (e.g. a swimming pool, tennis courts), restaurants and hotels (Suhner 2015, see figure 1).

In the context of this construction work more than 1,000 indigenous Wayuu were displaced (Leech 2009: 203). At the same time, the villages and settlements of the area experienced an increase in population as people moved there in search of the new jobs the mine would offer (González Perafán 2015). As it was one of the first open-cast coal mines in Colombia, people were unaware of the potential negative impacts that a mine of such magnitude could bring about, such as environmental pollution or displacement.

Mining activities began in 1985. Coal production grew progressively, from 4 million tons in 1985 to 32.8 million tons in 2012, amounting to a total of 540 million tons since extraction commenced. Most of the Cerrejón coal (58 percent) is exported to Europe, 12 percent goes to Central and Latin America, 9 percent to North America and the remaining 21 percent to Asia and other countries in the world (Cerrejón 2012c). In 1999, the contract was renewed, granting an extension of the concession contract until 2034 (Cerrejón 2015d).

As part of the economic reforms required by the International Monetary Fund, the Colombian government sold its 50 percent share of Carbocol to a multinational mining consortium of Anglo American, BHP Billiton and Glencore in 2000. Two years later, the consortium bought Exxon's remaining 50 percent share (Leech 2009: 202). Glencore sold its shares to Xstrata in 2006, but six years later Xstrata merged with Glencore (Brinded 2013). In 2013, Glencore was the biggest mining company worldwide with \$200 billion in revenue from its activities in metals, minerals, coal and oil extraction; BHP Billiton was the second largest player with \$67.83 billion in revenue from coal, metal and minerals; and Anglo American the fifth biggest with \$33.06 billion in revenue in the same sectors (Spence 2014). The three multinational

companies are active worldwide with headquarters in the United Kingdom, Switzerland, Australia and South Africa (Spence 2014).

The Cerrejón mine is operated independently through the two subsidiaries Carbones del Cerrejón Limited and Cerrejón Zona Norte S.A., which have registered addresses in the British West Indies and Colombia. Each of the consortium's three companies holds a 33 percent share of the mine (Hora 2014: 53; Cerrejón 2015f). Figure 2 provides an overview of Cerrejón's development and indicates major resettlement events that are addressed in the following chapters.

## **2. MEASURES FOR MITIGATION: GUIDELINES AND LEGAL FRAMEWORK FOR DEVELOPMENT-INDUCED RESETTLEMENT**

Before assessing the current resettlement processes related to the Cerrejón mine, it is important to understand the internationally acknowledged standards for development-induced resettlements, the Colombian legal framework for mining and resettlement, and Cerrejón's resettlement policy.

### **2.1. International standards: World Bank and IFC policy guidelines**

From the 1980s onwards, the World Bank had to deal with public concerns about displacements caused by development projects which it fully or partly financed (Price 2009: 274). Consequently, anthropologists and other social scientists within the World Bank, led by the well-known expert on development-induced displacement and resettlement Michael Cernea, drew on the body of existing case studies documenting displacement disasters to develop guidelines for the Bank's operational manual (Price 2009: 274). In 1988, Cernea published the book "Involuntary Resettlement in Development Projects. Policy Guidelines in World Bank-Financed Projects" which was henceforth used to address social issues in involuntary resettlement worldwide. Price highlights that these guidelines conceptualised

"displaced people as a group temporarily victimised by development – to be treated with special measures that recognised their losses, as well as the importance of their social organization and identity, in the form of involuntary resettlement" (2009: 275).

The World Bank's policies require efforts to avoid and minimise displacement wherever possible. In cases where displacement has to take place despite such efforts, the policies require mitigation measures, deployed through time-bound action plans which address the social and economic losses caused by the displacement using the methods of baseline social census and survey work. The World Bank's Operational Policy on Involuntary Resettlement (OP) 4.12 (2001, updated 2007, paragraph 2c) underlines that

"[d]isplaced persons should be assisted on their efforts to improve their livelihoods and standards of living or at least to restore them, in general terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher".

Therefore, compensation alone is insufficient; restoring standards of living after resettlement can be considered as a minimum objective. Yet, successful resettlement should achieve substantial improvement in the living conditions of those displaced (Cernea 2008: 3).

The World Bank guidelines influenced policies of other institutions around the world and within short time, the Organization for Economic Development and



several regional banks developed similar policy principles (Price 2009: 275). The International Finance Corporation (IFC) established a Safeguard Policy on Involuntary Resettlement in 1990, which was replaced by the Performance Standard for Land Acquisition and Involuntary Resettlement within the broader framework of the IFC's Environmental and Social Performance Standards (IFC 2015a). The IFC's Performance Standard has several objectives (IFC 2015b):

- “To avoid, and when avoidance is not possible, minimize displacement by exploring alternative project designs.
- To avoid forced eviction.
- To anticipate and avoid, or where avoidance is not possible, minimize adverse social and economic impacts from land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement cost and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.
- To improve, or restore, the livelihoods and standards of living of displaced persons. To improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure at resettlement sites.”

In the case of mining activities, such international standards are of special importance because these activities are rarely national businesses, but often of a multinational nature. Yet, they have three obvious limitations. Firstly, they are not very detailed and cannot be applied to all local realities as there are huge differences between development projects and the environment and communities in which they are deployed. Secondly, it is not easy to assess whether “substantial improvement” in the living conditions of the displaced persons has been achieved and to what extent. Thirdly, the IFC standards have no binding character and there is no international agency that monitors and ensures these processes.

## 2.2. Colombian legislation

At the national level there are several separate laws and regulations which deal with resettlement in a broader frame and address rights concerning property and land acquisition, compensation, health, territory and ethnic communities, and pre-consultation of communities in Colombia (González Perafán 2011: 10). This body of regulation protects the rights of displaced and resettled persons and communities to a certain extent, but there is no comprehensive legislation regulating resettlement in sufficient detail (González Perafán 2011: 7, 10). Different national laws and rulings are essential to the discussion around development-induced resettlement and demonstrate the dilemma between development projects for the common good and the welfare of the individual.

Article 1 of the Colombian constitution of 1999 states that “Colombia is a social state under the rule of law, [...] based on the respect of human dignity [...], and the prevalence of the general interest”. Article 2 furthermore underlines that “[t]he essential goals of the State are to serve the community, [and to] promote general prosperity”. These first two constitutional articles establish the importance of the general interest and the promotion of national prosperity as well as the protection of human dignity and the community, hinting at the balancing act between these sometimes contradictory principles. Article 58 of the constitution stipulates that “[p]rivate property and the other rights acquired in accordance with civil laws are guaranteed and may neither be disregarded nor infringed by subsequent laws”. Yet, the article also specifies that “[w]hen in the application of a law enacted for reasons of public utility or social interest a conflict between the rights of individuals and the interests recognized by the law arises, the private interest shall yield to the public or social interest” and gives priority to the common good. In the case of expropriation because of this reason, the same article underlines that “compensation will be determined by taking into account the interests of the community and of the individual concerned”.

Regarding the protection of vulnerable communities, special legislative provisions have been determined. The Constitution of 1991 recognised the plurality of the Colombian nation (article 1) for the first time and stipulates the adoption of affirmative measures for discriminated or marginalised groups (article 13). Indigenous people and afro-Colombians enjoy a higher degree of protection (González Perafán 2011: 27)

The Colombian Mining Code (Law 685 of 2001, modified by Law 1382 of 2010) complements the possibility of land expropriation for mining activities. Article 5 (Law 685 of 2001) establishes that all minerals in the soil and subsoil are exclusive properties of the State, regardless of the ownership of the territory in which the minerals are located. In accordance with Article 58 of the Constitution, the mining industry is declared as being of public utility and of social interest by Article 13 (Law 685 of 2001). Article 22 (Law 1382 of 2010) stipulates the procedure of land easement and expropriation, also in the case of objection to the expropriation. However, Article 168 (Law 685 of 2001) claims that land easement for extraction activities is legal or obligatory, meaning that expropriation can take place even against the will of the concerned owner. Article 27 (Law 1382 of 2010) brought about an important modification to the 2001 version of the Mining Code, which determines the social responsibility of mining companies (corporate social responsibility policies). Companies are called upon to act voluntarily to improve the quality of life of the residents of the mining region as well as to prevent and compensate environmental damage.

Additionally, Law 56 of 1981 and its decrees provide guidelines for dealing with expropriations due to infrastructure projects and therefore provide a legal basis for involuntary resettlement at the legislative level. However, the effectiveness of the law is fairly limited as it does not establish proceedings for the design and execution of resettlement programmes, nor does it define eligibility criteria for resettlement and the commitments and responsibilities of the parties to the resettlement process (González 2011: 9).

### **2.3. Cerrejón's resettlement guidelines**

Partly under State ownership up until 2000, the company had no resettlement scheme in place but instead a compulsory land acquisition scheme, i.e. the company bought the necessary land and the previous owner had to move – mostly to urban areas in the surroundings of the mine (Hora 2014: 68). In 1983, more than 1,100 indigenous Wayuu were displaced in such a fashion (Leech 2010: 203). During that time affected person stated that neither government authorities nor non-governmental organisations assisted the people who were forced to leave. They mostly moved to the bigger towns in the area and many of them fell into poverty (Hora 2014: 68).

In August 2001, more than 25 families of the rural and mostly afro-Colombian community of Tabaco were expropriated and forcibly evicted from their homes by State security forces and the private guards of the Cerrejón mine without prior warning (Leech 2010: 203). This incident attracted broad public attention and marked a turning point in Cerrejón's human rights and resettlement policy, leading to the introduction of a human rights office in 2006. One year later, Cerrejón and its stakeholders requested an independent review of its social responsibility practices and of its relation with the communities in the mining area (Harker/Kalmonovitz/Killick/Serrano 2008: 2). This third party review was conducted by a panel of four experts, supported by a team from an international consulting firm, which had no links to the Cerrejón mine (Harker et al. 2008: 14). The result of this review was the establishment of a visible corporate social responsibility policy (CSR), in accordance with Colombia's legislation. Cerrejón included the introduction of human rights training for soldiers of the Colombian army and private security forces employed to protect the mine and its infrastructure, the creation of complaints office, and a foundation system (Hora 2014: 61-65).

The third party review recommended that resettlements should be based on international standards and implemented not only when physical resettlement is necessary but also if a community regards itself as strongly impacted by the proximity of mining activities. Cerrejón was thus advised to establish a broader conception of “affected communities” (Harker et al. 2008: 5-6). Cerrejón subsequently introduced guidelines for resettlement which correspond to the World Bank standards and the International Financial Cooperation (IFC) guidelines for resettlement, including the stipulation that resettlement may be appropriate when a community is affected by the indirect impacts of the mine that result in a decrease in living standards. Furthermore, the company promised to develop indicators measuring the living standards of each community and to identify key actions to improve them (Cerrejón 2008). Since 2008, Cerrejón has published a progress report on its social commitments up to twice per year.

Additionally, Cerrejón implemented a four-phase resettlement scheme (Cerrejón 2015h). These phases are described quite roughly and not much detail is given. The first phase, entitled “community engagement and strengthening of social capital”, includes the disclosure of the social and environmental impact studies which substantiate resettlement, as well as the organisation of preliminary actions to initiate a participative resettlement process. The second phase, “designing a participative resettlement action plan with the community, following IFC guidelines”, implies socio-economic baseline studies (population census and an asset inventory), the characterisation of the population living in the community to be resettled, a formal valuation of all assets, an outline of the compensation plan, an assessment of the assets and people affected, the selection of a new site, the identification of income generating projects which are created in conjunction with the community, and finally the formulation of the resettlement action plan. Cerrejón does not publish the criteria that establish whether a person or family is eligible for resettlement. The third phase consists of “executing the resettlement action plan”, entailing the design and construction of the resettlement site, an agreement on relocation details (e.g. individual compensation scheme and productive projects for resettlement entitled families) and the actual preparation for relocation. The respective resettlement actions plans for the five communities are not publicly available. The fourth and final phase of “relocation and stabilisation in the new location” contains the implementation of the productive and income generating projects, ongoing involvement by Cerrejón in social matters and “psycho-socioeconomic support” to assist the families while they familiarise themselves with their new location. According to Cerrejón’s scheme, all phases should be accompanied by a communication programme, social programmes and an evaluation and monitoring programme.

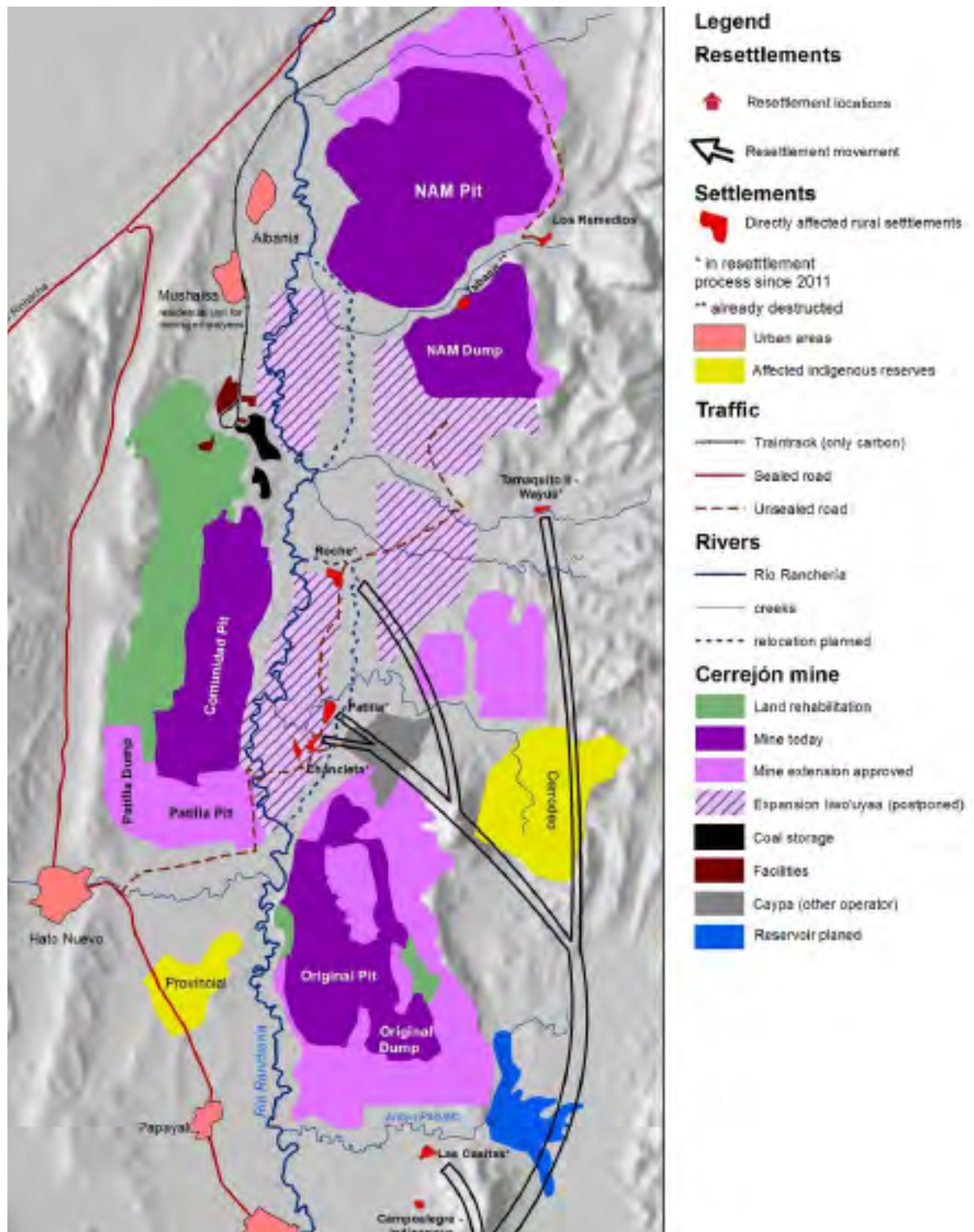
It is remarkable that to date, no State authority has issued a resolution or other policy directive to regulate or at least to guide resettlements in the area surrounding the Cerrejón mine. González Perafán states that the resettlement processes depend heavily on the voluntary commitment of Cerrejón (2015).

#### **4. POST-TABACO RESETTLEMENT PROCESSES: THE CASES OF ROCHE, PATILLA, CHANCLETA, LAS CASITAS AND TAMAQUITOS II**

The following sections will examine the resettlement projects that were initiated after the forced eviction of the Tabaco community and the introduction of the new resettlement guidelines. Each of the resettlements will be assessed against the background of the four phases established by Cerrejón and the IFC standards. Currently, Cerrejón is carrying out five resettlement processes (see figure 3). The communities of Patilla, Chancleta and Roche are located in proximity to the Comunidad pit and potential sites for an extension of the pit. The communities, including the



**Figure 3.** The Cerrejón open-cast mine and its surroundings, including settlements and resettlements



Source: Hora 2014: 58

community of Las Casitas, are rural communities, partly of afro-Colombian descent. The indigenous Tamaquito II community is located further east close to the NAM dump and the Las Casitas community's original location is south of the Oregenal pit, also in the area of potential expansion of the pit (Willis 2014). Tamaquito II does not lie within the area of potential expansion of the mine but is affected negatively by other impacts of the mine such as air and noise pollution, limited freedom of movement, decreased quality of the water and health problems (Gutierrez Torres 2013; González Peráfan/Valenzuela 2013).

The new sites of Patilla, Chancleta, Roche and Las Casitas are located in close proximity to one another next to the highway Ruta Nacional 88, only 1.5 km away from the city of Barrancas, which has around 200,000 inhabitants (Hora 2014: 76; see figure 4). The proximity to the highway allows for easy access to Barrancas and other cities in La Guajira, which contrasts greatly with the remote locations of the original communities. The new resettlement areas of the four communities are identically designed with small terraced houses built from cement or bricks with a small inner courtyard. The houses in the original settlements were detached and had around 200 meters between them, leaving space for agricultural activities (Suhner 2015).

The indigenous community of Tamaquito II is located elsewhere as well as being designed in a specific way, closely coordinated with the community. It is 3.5 km away from the other resettlement sites and only accessible via a dirt road (Hora 2014: 76).

The baselines for resettlements defined by Cerrejón are shown in table 1. Roche has 25 families defined by Cerrejón as eligible for relocation and their new site comprises a total area of 33 hectares. In Patilla 73 families were eligible for relocation and the new site has a total area of 69 hectares. 57 families were eligible for resettlement in Chancleta and their settlement comprises 52 hectares. There are currently 31 families defined as eligible for resettlement by Cerrejón in Las Casitas, but the size of the new site is still unknown. In Tamaquito II 31 families were eligible for resettlement to a 300-hectare lot.

**Table 1. Characteristics of the communities participating in the recent resettlements**

	Roche	Patilla	Chancleta	Las Casitas	Tamaquito II
Family units eligible for relocation	25	73	57	31	31
Ethnic or population group	Rural communities, partly afro-descendent				Wayuu indigenous
Relocation beginning	2011	2012	2012	2014	2013
Community area (ha) in resettlement	25	48	43	TBC	300
Area for agricultural projects (ha) in resettlement	5	6	8	TBC	93
Area for livestock projects (ha) in resettlement	3	15	1	TBC	wood pasture

Source: Compiled from Hora 2014: 71; Cerrejón 2012: 55

Each of the processes followed a different sequence and no coherent strategy is discernable. The resettlement processes are currently at different stages; the pace of operations varied greatly and none of the resettlements (i.e. the relocation of the eligible families to the new site) is fully completed – except for the Tamaquito II resettlement. The following section of the paper presents and evaluates the five

**Figure 4.** Locations of the five resettlements



Source: Hora 2014: 77

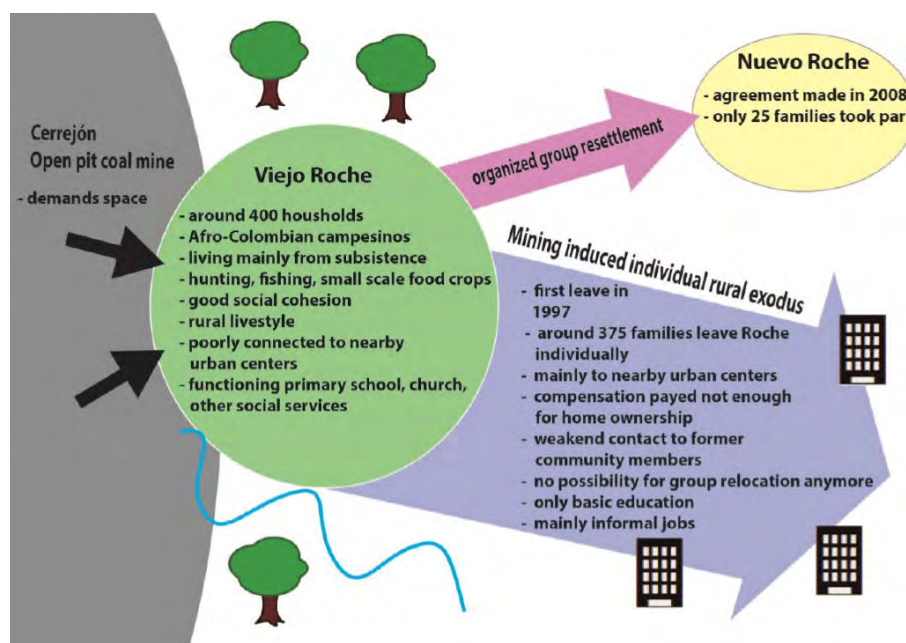


resettlement processes, considering the situation of the village prior to resettlement, the resettlement negotiations and process, and the situation at the new site for the relocated families.<sup>1</sup>

### 3.1 The resettlement of the Roche community

The community of Roche is of afro-Colombian origin (González Perafán 2015). Prior to the mining activities in the region, the original settlement of Roche had around 400 inhabitants, a primary school and a health care unit (Ramírez 2010; Hora 2014: 78). The inhabitants were predominantly subsistence farmers. From 1997 onwards, Cerrejón started to buy land in and around the Roche community (Hora 2014: 78). Prices for the purchased land were negotiated on an individual basis and not publicly available (Hora 2014: 78-79). Many inhabitants of Roche sold their properties and moved to nearby communities (see figure 5). As a result of this rural to urban movement, they often faced indebtedness (as they could not afford new housing with the money they received for their former dwelling), unemployment, and marginalisation in their new location (Hora 2014: 79). It only became apparent in 2006 that Cerrejón would implement a group resettlement, initially designating 15 families for relocation and compensation. 374 families of the original Roche community were not included in this resettlement scheme and therefore founded the association Asoroche to have a stronger voice in claiming their right to be included in Cerrejón's resettlement and social schemes (Ramírez 2010; González Perafán/Valenzuela 2013).

**Figure 5. Process of the depopulation of Roche Viejo**



Source : Hora 2014 : 81.

1. Due to a lack of material on the resettlement processes of Patilla and Chancleta, both communities are examined in the same section.

The available online documentation of the resettlement process reports activities up to June 2012 (Cerrejón 2015j). The following events of the process are derived from Cerrejón's progress reports on its social commitment, material published by NGOs, and the interviews undertaken in the framework of this study.

The first phase of "community engagement and strengthening of social capital" stretched from 2003 to 2012 and comprised according to Cerrejón a socio-economic census (conducted by the Interdisciplinary Center for Regional Studies of the University of the Andes), an inventory of public goods and several trips of the Roche community to cities in Colombia in 2011 and 2012 as community building measures (Cerrejón 2015j). Since 2009, the NGO Indepaz has been assisting and advising the community (González Perafán 2015).

For the second phase, "designing a participative resettlement action plan with the community, following IFC guidelines", Cerrejón states that an agreement on the new settlement site, meeting the needs of agricultural land, was reached in a "participatory and systematic way" in 2007 (Cerrejón 2015j). After several community meetings in 2008, ten additional families were included in the relocation process, so that the official number of 25 families eligible for relocation was established. In the same year, a formalised agreement between the community, Cerrejón, and the representatives of the Town Hall and the Barrancas Ombudsman was concluded to rubber stamp the resettlement process (Cerrejón 2015j).

During the third phase of "executing the resettlement action plan", the Barrancas municipality authorised the construction of the new location in 2009, with construction subsequently beginning (Cerrejón 2015j). Ten final relocation agreements were signed in January 2011 of which eight had already been resettled to the new Roche site before April 2011 (Cerrejón 2011a).

**Figure 6. A street in the new settlement site of Roche**



Source: Ask! 2014: 6

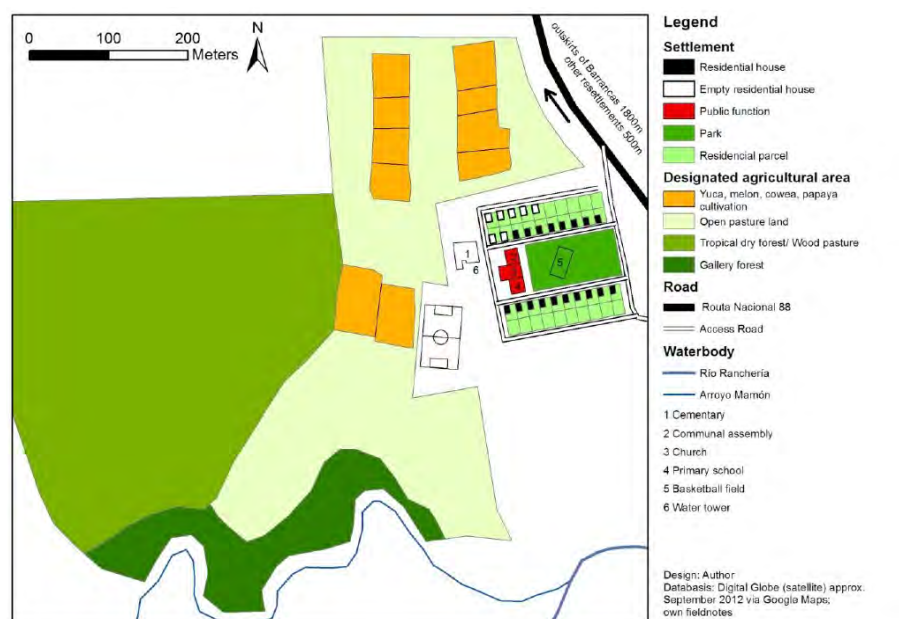
Cerrejón states that for the fourth phase of "relocation and stabilization in the new location" 16 families moved to the new site up to January 2011 (Cerrejón 2011b) and that in August 2011 the first agricultural project showed results. Another family moved to the new site in October 2012, while no agreement could be reached with the remaining eight families. Cerrejón set an initial deadline in February for the end of March 2012 which expired without results. Cerrejón states that it wanted to petition the Ministry of Mines to declare the property plots of public use and social interest to pave the way for expropriation but highlights its willingness to negotiate further (Cerrejón 2012a). In October 2012, the Ministry of Mines and Energy issued the declaration of public use and social interest of the Roche plots (Cerrejón 2012b).



Parallel activities carried out by Cerrejón to implement income generation projects in 2011 and 2012 included the provision of educational software, a training session for mothers on educational matters, the support of the creation of a motor-bike garage, training in early childhood care for some women of the community, and the planned development of handicraft projects. Up to May 2013, Cerrejón reports the implementation of productive projects for 17 families at the new site. New negotiations with the remaining families started without results; yet no expropriation was carried out (Cerrejón 2013). Up to May 2014, Cerrejón contends that agreements with the remaining eight families were reached and that six of them moved to the new site (Cerrejón 2014a). In April 2015, the two remaining families were still rejecting resettlement, arguing that they raise livestock and therefore cannot accept alternatives. Cerrejón is not seeking eviction (Cerrejón 2015a).

Although not all the families eligible for resettlement have moved to the new site, 23 families now permanently live there. The houses at the new settlement are all of similar style (see figure 6), built out of bricks and cement, comprising two bedrooms, one bathroom and a living room combined with a kitchen. All houses are equipped with electricity, air-conditioning and a natural gas oven (Hora 2014: 83). There are several community buildings: an assembly hall, a Catholic church, a primary school and a small health centre (Hora 2014: 84; see figure 7). The community has an area of 25 hectares for agricultural activities. Only 2.5 hectares are used for agricultural production, farmed by seven families (Hora 2014: 86). Some inhabitants of the new settlement complain that their properties are not big enough for horticulture and the raising of small livestock (Hora 2014: 89). The tap water has a salty taste and is not of drinking quality; therefore water has to be delivered by trucks.<sup>2</sup>

**Figure 7. Resettlement of Roche including area designated for agricultural production**



Hora 2014: 83; González Perafán/Valenzuela 2013.

2. Due to a lack of material on the resettlement processes of Patilla and Chancleta, both communities are examined in the same section.

The proximity to the highway and the city of Barrancas has both advantages and disadvantages for the community. On the one hand, public services such as a hospital and a high school as well as other everyday necessities are reachable within a few minutes by taxi. On the other hand, there have been incidents of burglary, presumably originating from the city, which have caused anxiety among the residents of the new settlements (Hora 2014: 85). In addition to the lack of space for horticulture and small livestock and the security and water issues, the residents of the new community are critical of the fact that the productive projects are not satisfying, that early child care is lacking, and that school is too small (González Perafán/Valenzuela 2013). The NGO Ask! adds that the lack of functioning productive and income generating projects distresses the residents of the new site all the more given that the four-year period of post-resettlement subsidies from Cerrejón will run out in 2015 (Suhner 2015). However, the community is satisfied with the higher education programme.<sup>3</sup> (González Perafán/Valenzuela 2013).

### **3.2 The resettlement processes of La Patilla and Chancleta**

There is no exact information available concerning the number of families living in the Patilla and Chancleta communities before the mine arrived or when the mining activities started. In both communities, people were notified in 2003 that Cerrejón had intentions to resettle their villages because of a potential expansion of the pit (Harker et al. 2008: 24). None of the communities wanted to be assisted by the NGO Indepaz, they preferred instead to negotiate on their own or through a representative (González Perafán 2015). Also in 2003, the University of the Andes' interdisciplinary research centre produced a socio-economic report on the Patilla and Chancleta communities, including a population census (Cerrejón 2015g). In 2006, as part of the first phase of resettlement, round table dialogues were established (Cerrejón 2015g). For the second phase two years later, a new resettlement site was chosen and the assessment defining the families to be resettled was undertaken (Cerrejón 2015g). In 2011, the construction of the houses and infrastructure for both new settlements began, starting the third phase of "execution of the resettlement" (Cerrejón 2011a). Up to October 2011, 40 relocation agreements out of 46 had been signed for the Patilla community. In April 2012, the housing construction was completed in Patilla and the 45 families that had agreed to resettle started to relocate (Cerrejón 2012a). In May 2014, 33 livelihood projects were implemented at the new site and seven families were showing good progress in developing these projects, while six families demonstrated minimal progress (Cerrejón 2014a), showing some involvement in the fourth phase of stabilisation. In April 2015, Cerrejón stated that it had additionally reached agreements with 28 out of 35 families which were originally not entitled to resettlement, and that negotiations were ongoing with the remaining 13 families. At the new site, 38 projects have been implemented of which 25 are active. Six families still remain at the original site and negotiations are continuing (Cerrejón 2015a).

Up to October 2011, 40 out of 57 Chancleta families had agreed on resettlement (Cerrejón 2011b) the first 28 of which had moved to the new site by October 2012 (Cerrejón 2012b). Long negotiation processes followed, resulting in the inclusion of some families that had not originally been defined as eligible. In the first quarter of 2015, 47 out of the 57 originally eligible families had agreed on relocation and moved to the new site, six out of nine originally ineligible families had been moved to the new site and five families remained at the old site, still in the process of negotiating with Cerrejón (Cerrejón 2015a).

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3. Households in the urban centers in the region obtain their drinking water the same way (Hora 2014: 83).

The NGO Ask! states that the refusal of some families in Patilla and Chancleta to accept relocation is due to the fact that the new settlement is not rural enough (Suhner 2015). Indepaz explains that an additional reason is the changing nature of the family structure (e.g. people marry or have children) during the prolonged resettlement process (González Perafán 2015). This protracted resettlement process, internal community conflicts and non-transparent individual negotiations have harmed the social fabric of the two communities (González Perafán 2015). Information on the living situation at the new sites of Patilla and Chancleta is not available, yet their structure is similar to Roche's and therefore comparable conditions can be expected.

### 3.3 The Resettlement of Las Casitas: Negotiations in process

The original Las Casitas site was founded in 1905 and was characterised by the agricultural and livestock activities of its residents (Cerrejón 2015e). In 2008, Cerrejón documented the decision to resettle the community because of the expected worsening of the air quality due to dust particles (Cerrejón 2015e). Yet, in 2014, it transpired that the residents of Casitas had to be moved because of the planned expansion of the pit, attracting the attention of international media and NGOs (Willis 2014; Suhner 2014).

The first phase of "community engagement and strengthening of social capital" included the formal process initiated in June 2009, followed by a census of the population that identified all residents at that time and several community activities and excursions in 2011 and 2012 (Cerrejón 2015e). The NGO Indepaz carried out an additional census in the same year with different results (González Perafán/Valenzuela 2013).

In the second phase of "participative design of the resettlement", a consultative committee for the relocation of Las Casitas was formed in January 2010 and some months later the property for the new settlement was selected (Cerrejón 2015e). The company states that "Cerrejón and the community agreed that the criteria for determining the right to compensation for resettlement were: (1) being a permanent resident in Las Casitas from before June 16 of 2009, (2) owning a house or property, and (3) being an independent household". Due to the request of the community of Las Casitas nine families were additionally included even though they did not meet the initial criteria (Cerrejón 2014c). The families eligible for relocation at this stage numbered 31 (Cerrejón 2015e). In July 2012, the community voted on the design of the new village.

Concerning the third phase of "execution of resettlement", Cerrejón highlights in its online documentation of the resettlement process that community members entitled for resettlement participated in training and education programs and that income generating projects were in planning in 2011 and 2012 (Cerrejón 2015e).

In March 2012, all Cerrejón activities concerning the resettlement of Las Casitas were suspended, as some persons related to Las Casitas wanted the resettlement process to be reviewed (Cerrejón 2012a). Yet, the construction of houses started in October 2012 and impact identification meetings were carried out with 17 out of the 31 selected families (Cerrejón 2012b). In 2014, Cerrejón states that nine agreements were reached with families at the original site and that the dialogue with 55 remaining families was ongoing (Cerrejón 2014a). The NGO Indepaz started advising the community in 2012 (González 2015). In a joint letter by the Las Casitas community action board in July 2014, the community proclaimed several points of dissatisfaction and disagreement with the current resettlement process (Indepaz 2014). They made complaints about the negotiation process which they consider to be neither fair nor transparent, deteriorating the social fabric of the community (Indepaz 2014).

The construction of the new site was concluded prior to April 2015 and 11 of the 15 families that had already reached an agreement have moved to the new site (Cerrejón 2015a). Five of the relocated families have implemented their productive projects. Agreements (although their nature is unclear) have been reached with 11 of 13 families

that were not eligible for relocation and negotiation talks with the remaining families and ten additional rural families are continuing (Cerrejón 2015a). In July 2014, Cerrejón issued a demand for expropriation (Cerrejón 2015a). However, it remains to be seen how the resettlement negotiations will unfold and whether Cerrejón will in fact expropriate the remaining families.

The Las Casitas resettlement process seems to be even more unsystematic and conflictual than the previously discussed cases. The negotiation process is proving very lengthy and it seems that the positions of the negotiating parties have become more and more entrenched. The majority of the population still lives at the original site and only 11 families have moved to the new settlement. The conditions at the new site are similar to those in the new settlements of Roche, Patilla and Chancleta (Suhner 2015).

### **3.4 The resettlement process of the indigenous community Tamaquito II**

The original settlement of Tamaquito II was founded in 1965 and was home 31 families prior to the resettlement carried out by Cerrejón in 2013. The residents of the site used up to 5,000 hectares – owned by the Colombian government but available for public use – for their livestock and hunting. Besides these activities, their livelihoods depended on subsistence horticulture, fishing and handicraft production (Hora 2014: 92). The mining operations would not have affected the old site directly, yet the depopulation of the neighbouring communities such as Tabaco and Roche and the air and noise pollution had severe negative impacts on Tamaquito II (Hora 2014: 92). Because of these changed conditions, the community collectively decided to resettle (Gutierrez Torres 2014).

The resettlement of Tamaquito II was handled differently from the other resettlements as it is the only community officially recognised as being of indigenous origin. The Ministry of Interior and Justice granted this status through Resolution 0047 in 2008 (Cerrejón 2015j).

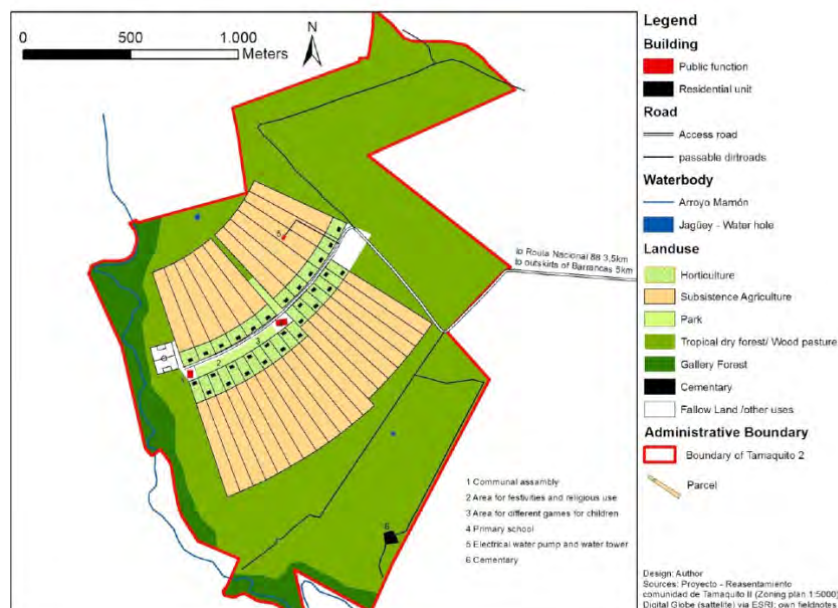
The online published documentation of the resettlement process by Cerrejón covers three of the four resettlement phases of Cerrejón's resettlement scheme. According to the documentation, the phases run in parallel.

Regarding the first phase of "community engagement and strengthening of social capital", Cerrejón highlighted certain points. In April 2007, Cerrejón announced the official start of the resettlement process to the Tamaquito II community. Shortly afterwards, Cerrejón held a meeting with the state agency Incoder (the Colombian institute for rural development), the Municipal Ombudsman and the Tamaquito II community in which the latter explicitly expressed the wish to be relocated to a place which can be recognised as an indigenous reserve (Cerrejón 2015j). Later that year, Incoder proposed a site for the new settlement which was refused by the community because it was too small and did not meet their expectations. The community preferred to search on their own for an adequate resettlement location (Cerrejón 2015j). In the first quarter of 2012, Cerrejón reported several community events (New Year's celebration, painting workshop, excursion, radio workshop for teenagers) and the training of two women in early childhood education (Cerrejón 2015j).

The second phase "participative design of the resettlement action plan" began in April 2008 with the proposal of a suitable site for resettlement by the community. The Tamaquito II community initially demanded a territory of 1,000 hectares, and then lowered its demand to 500 hectares (Ramirez 2010). Eleven workshops were held between the community, Cerrejón and the municipality to negotiate the details. In February 2009 the community accepted a terrain of 300 hectares for the new location (Cerrejón 2015f). Between September and October 2009 a population census was carried out to define the families eligible for resettlement. In 2010, the Social Capital Group prepared the resettlement action plan and updated the baseline for resettlement. The NGO Indepaz carried out an additional baseline study in the same

year (Cerrejón 2015j). The two studies were compared and compromise between the two was reached. The specific design of the new community housing and facilities began in October 2010 and an agreement on the final design was reached in May 2011. Cerrejón bought the property for the new site in July 2010 (Cerrejón 2015j).

**Figure 8. Overview of the Tamaquito II resettlement**



Source: Hora 2014: 96

During the third phase “execution of the resettlement plan”, a constructor for the new site was hired with the consent of the representatives of Tamaquito II, and the construction licence was granted until February 2012. In May 2012, a so-called impact response plan was negotiated with the support of Indepaz and community members of Tamaquito II were involved in the fabrication of construction material (Cerrejón 2015j).

In May 2013, Cerrejón states that a general agreement was reached, resolving minor issues on specific compensation (Cerrejón 2013). The construction of the dwellings was finished shortly afterwards. In August 2013, all 31 families of Tamaquito II resettled collectively to the new site and the first three livelihood projects were put in place (Cerrejón 2014a). One year later, Cerrejón reports that ten families had started a collective cattle project and that six families had developed projects in trade and services. In February 2015, Tamaquito II received the land titles for their new settlement site (Cerrejón 2015b).

The new site consists of 31 residential units, each with an adjoining three-hectare parcel of land, houses with public functions, a primary school and a park like area for community events (Hora 2014: 96, 98; see figure 8). The majority of the site is tropical dry forest and is used for cattle farming. There is enough fertile land for agricultural activities. Between each house there is a distance of more than 80 meters (Hora 2014: 97). One residential unit consists of three brick-made houses with an iron roof and one mud-wall house, comparable to the standard buildings in the old Tamaquito II site (Hora 2014: 97; see figure 9). Unlike the original site, the new residential units have bathrooms and are equipped with electricity, water pipes, gas ovens, fridges and televisions but not air-conditioning as in Roche (Hora 2014: 97; Gutierrez Torres



2014). The residents still have to get used to these new features, which also give rise to additional dependency on income generation and support from Cerrejón, as they previously lived relatively autonomously (Gutierrez Torres 2014; Hora 2014: 100).

**Figure 9. Houses in the new settlement of the Tamaquito II community**



Source: Gutierrez Torres 2014, photo credit: Luis Ángel

Residents remain unsatisfied because of the poor water quality, insufficiency of income generation projects and the infrastructure of the houses (Cerrejón 2015a). Cerrejón addressed some of these issues by digging a new underground well, conducting water tests, hiring members of the community to carry out maintenance work at the new settlement site and ordering maintenance work on the houses. Yet, these are temporary solutions that do not respond to the full range of problems.

#### **4. COMPARING THE RESETTLEMENT PROCESSES: WHAT CAN BE LEARNT?**

In this section, the five resettlement processes will be compared and evaluated. It is evident that mining-induced planned resettlements are long-term, complicated and for each community singular processes that need time to be negotiated, carried out and established. Yet, there are some clear differences between the cases of Roche, Patilla, Chancleta and Las Casitas on the one hand and Tamaquito II on the other.

The indigenous community of Tamaquito II was the only community out of the five that managed to reach agreement on collective resettlement to a new site, which corresponds to many of the Tamaquito II residents' needs, and can be considered as the most successful resettlement project out of the five. One reason for this relative success is that the community had a strong leader, stayed firm and united and negotiated as a collective (González Perafán 2015). They were moreover assisted in negotiations by the NGO Indepaz. A second reason is that the community received special treatment because of its status as a vulnerable indigenous group – although the other communities are partly of afro-Colombian decent and therefore belong to an ethnic minority, they were not regarded as such a group. Yet, the resettlement created a state of dependency as the community is no longer self-sufficient, instead now having to rely on Cerrejón's subsidies. The implementation of productive projects has not yet been successful.

The resettlements of the afro-Colombian and rural communities of Roche, Patilla, Chancleta and Las Casitas have proved more problematic. Individual negotiations resulting in lengthy and fragmented resettlement processes are characteristic of these cases. The resettlement processes depended heavily on the individual negotiation skills of the families. This shows that the implementation of the second phase of Cerrejón's resettlement process "designing a participative resettlement action plan with the community, following IFC guidelines" is especially challenging in these cases. Conflicts and uncertainty over the entitlement for collective resettlement and the lack of transparency during that phase of the process are the main concerns of the people of the four communities. Careful pre-studies of the sites and populations as well as publicly negotiated criteria for resettlement eligibility is necessary and the maintenance of a transparent dialogue during the whole process is of particular importance.

Another common experience for these four communities is that the collectively resettled families moved from a rural to semi-urban environment, a fact that significantly changed their lives. Although the new settlements are well equipped with electricity, air conditioning and gas, the residents' financial independence through productive projects is guaranteed merely in individual cases and subsistence agriculture is only possible to a limited extent. These observations demonstrate that the implementation of the fourth phase of "relocation and stabilization in the new location" has also proved problematic. The sufficient development and provision of income generation measures is essential to decrease vulnerability and dependency of the already resettled and soon to be resettled communities. Therefore, such projects should be a top priority. In cooperation with local authorities the resettlement itself could become a community development undertaking, improving the overall situation of the inhabitants of the affected region.

In addition to the issues concerning all four communities, a particularity for Roche is that Cerrejón started to buy land from the Roche families prior to the implementation of a corporate resettlement strategy. The vast majority, around 375 out of 400 people, originally living in Roche have moved individually to urban centres in the surrounding area, many of them becoming impoverished. It was only in 2006, almost ten years later, that Cerrejón offered a collective resettlement to the remaining 25 families, out of which 23 have accepted to move to the new site. Two families remain at the previous site because they are cattle farmers who need more land than that offered by Cerrejón. The group of people who moved on an individual basis before 2006 formed the association Asoroche to demanding further compensation from Cerrejón and the NGO Indepaz began to assist them as well as the resettled collective. The situation of the former has nonetheless shown no improvement to date.

The Las Casitas case is specific because 20 of the 31 families eligible for resettlement still reside at the original site of the village, along with 55 families who were not deemed eligible. Although Cerrejón conducted a population census and established criteria for resettlement, these were not accepted by most of the Las Casitas families. There was no compromise reached between the census conducted by the NGO Indepaz which supports the Las Casitas community and Cerrejón's results. This entrenched situation might be the result of a deficient participatory process, or due to the fact that the residents of Las Casitas were aware of the shortcomings of the new settlements for the Roche, Patilla and Chancleta residents, and therefore demanded better conditions from Cerrejón.

Under Colombian law, it is the responsibility and legal duty of a consortium that belongs to the world's biggest and economically most successful mining companies to conduct thoughtful long-term planning and to demonstrate a strong social commitment towards the people living in the area of the mine. These two qualities can certainly be developed further. Yet, the insufficient involvement of the Colombian State in the resettlement process is evident. The lack of comprehensive legislation

should be resolved by a precise and coherent law or regulation. Additionally, more executive involvement of the State is required. An administrative authority – preferably at the local level – should be tasked with monitoring the entire resettlement process and thus safeguarding the affected people. It is evident that State control in La Guajira as “Colombia’s Wild West” is lacking not only in regulating mining industries but in other respects as well. However, if the national government allows such development projects for the sake of the national interest, it should offer more support to the affected local people.

## **5. OUTLOOK: ROUND TABLE MEETINGS**

To resolve some of the issues connected with resettlements and the sustainable establishment of the communities in their new sites, Cerrejón, the Barrancas municipality and the leaders of the five communities set up regular round table meetings at the beginning of 2014 (González Perafán 2015; Cerrejón 2014a). The different topics of discussion are: “productive projects (emphasis on the water irrigation system and water reservoirs for agricultural use), educational support, drinkable water and infrastructure, employability and income generation, equal treatment for all communities, and change in the public stratification level of the houses and the villages to reduce amount of public utilities charged” (Cerrejón 2014a). Up to April 2015, 46 meetings had been held. The agreement on an education aid programme was reached and a local consultant was hired to assess livelihood projects for the resettled families (Cerrejón 2015a). Whether the round table meetings can contribute to an integral improvement of the communities’ situations remains to be seen over the coming years. It is thus overall fair to conclude that although Cerrejón improved its resettlement strategy after the third party review in 2008 some clear shortcomings remain.

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