

Declaration for the dignity of communities affected by transnational coal mining in Cesar, Colombia

(December, 2020)

The people and organizations who sign this declaration reject and denounce the humanitarian crisis being suffered by the village of El Hatillo and other communities affected by coal mining in the department of Cesar, Colombia. Currently, the population faces a dire situation as transnational mining companies disregard their commitments and obligations in a context in which the State has proven to be ineffective in guaranteeing the fundamental rights of Colombian citizens.

El Hatillo is a rural community located in the township of La Loma in the municipality of Paso, in the center of the department of Cesar. It is surrounded by five open-pit mines (El Hatillo, Calenturitas, La France, El Descanso and Pribbenow-La Loma), as well as a palm oil extraction plant. These companies have caused serious damage to the health and livelihoods of the population, as well as the environment due to high concentration levels of particulate matter in the air and the alteration of ecosystems; most notably water sources. These situations led the Ministry of the Environment to order the companies to relocate the communities surrounding the mines, through Resolutions 970 and 1525 of 2010, which modified the Environmental Management Plan of the mining operation [1].

The health, livelihood and environmental impacts have had differential impacts on children, adolescents and young people, who have been forced to be born, grow up and live in a polluted environment, without the rights that as a child population they are entitled to. This was identified by the [Committee on the Rights of the Child in 2015](#), which required the Colombian State and the companies to perform evaluations and develop plans to mitigate the impacts of corporate activities on the environment, health and human rights of children in El Hatillo, among other actions. The aim of the foregoing was to ensure the population's timely resettlement in accordance with international standards and provide them with adequate compensation [2].

Following a lengthy consultation process in which the power structures between the companies and the affected community [3] were unequal, the Resettlement Action Plan (RAP) was signed in 2018, which states that it would take effective within ten years. The plan entails an initial five-year period during which transaction contracts for compensation and other indemnification measures for the damage caused would be prepared. However, the compensatory measures agreed within the RAP were suspended a mere two years after they were signed, due to a decision made by the company Colombian Natural Resources (CNR) in October 2020, to undergo a business reorganization process pursuant to Law 1116 of 2006 on the grounds that its insolvency would prevent it from fulfilling its obligations to creditors.

The decision made by Colombian Natural Resources (CNR) immediately impacted the resettlement process, given that the money earmarked to comply with the agreements contained in the RAP must be deposited in a trust in which the three companies respond proportionally to the impacts caused by their business operations. Currently, the monetary resources that should be deposited by the companies on a quarterly basis are frozen, and as a result, the RAP has been suspended. This situation demonstrates clear non-compliance with the obligations that both the Colombian State and these companies undertook with the communities of Boquerón, Plan Bonito and El Hatillo. Currently, these communities face a new humanitarian crisis from the extractive model that for decades has been consolidated in their territory, which has transformed soil use and agricultural vocations, while preventing the rural population from enjoying the human right to adequate food.

The communities in the center of the department of Cesar need national and international solidarity so that this case does not remain in a state of impunity. These communities need their rights to be restored and the resettlement to be carried out as per the terms established in the administrative orders in accordance with international human rights standards.

In light of the foregoing, the signatories demand the following from the Colombian State:

- Ensure effective compliance with the administrative orders contained in Resolutions 970 and 1525 of 2010, issued by the Ministry of Environment.
- Advance the continuous monitoring and evaluation of the implementation process for the Resettlement Action Plan (RAP), pursuant to Resolutions 970 and 1525 of 2010, as part of the validity and reliability review of the Environmental Management Plan.
- Guarantee the right to health and adequate food for the community, especially children and young people who will be affected by the suspension of the measures to restore the population's living conditions mandated by the above-mentioned resolutions.
- Monitor and comply with the recommendations that the Committee on the Rights of the Child in 2015 made to the Colombian State; given that in the context of mining, the rights to health, a healthy environment, education and recreation, among others, are not recognized or taken into account.
- Verify and guarantee the implementation and compliance of the technical, social and environmental obligations required as part of mine closure plans, in addition to the environmental instruments established in national mining legislation.
- Prevent that the suspension of activities and early mine closures due to the decline in global demand for coal, specifically in Europe, results in disregarding the obligations assumed by the companies, circumventing the reconstruction and comprehensive reparation of the territory, while omitting the effective integration of the actors involved and affected by coal mining.
- Advance the normative expansion and institutional capacity building in the area of mine closures to respond to national and local public interests, promote social

participation, and evaluate the impacts in every dimension in the territory. These efforts need to establish the responsibilities and rights of the public sector, local communities, workers, companies and importing countries to ensure funding, management and adequate evaluation of the process.

- Move forward in adopting progressive administrative and legislative measures that oblige transnational corporations to respect human rights and compensate for damages caused in a timely and adequate manner, in order to ensure that this type of situation, such as what is occurring in Cesar, does not happen again.

Lastly, the signatories demand that the Colombian State force mining companies to fully comply with their obligations. In turn, the signatories call upon national, regional and local entities to quickly address this situation; to use national and international legal instruments to ensure that human rights are respected and protected above the financial interests of transnational corporations.

Signatories:

Colombian organizations

Pensamiento y Acción Social (PAS)

Fundación Chasquis

Movimiento Colombiano en Defensa de los Territorios y Afectados por Represas Ríos Vivos.

Organización Mujeres del Común, Santander

Comité Ambiental en Defensa de la Vida, Tolima

Asociación Minga

Colectivo de Abogados José Alvear Restrepo

Comisión Intereclesial de Justicia y Paz

Observatorio de Expansión Minero - Energética y Re - existencia OMER

Nodo Colombia de Iglesias y Minería

Centro Comunal comunitario Las Colinas, Cali

Corporación convivamos, Medellín

Asociación Juvenil Red de Antorchas, Mahates, Bolívar

Humanidad Vigente Corporación Jurídica, Bogotá

Movimiento Social en Defensa de los Ríos Sogamoso y Chucuri, Santander

Colectivo socioambiental juvenil de Cajamarca (Cosajuca), Tolima

Comité ambiental y campesino de Cajamarca, Tolima

CENSAT Agua Viva - Amigos de la Tierra Colombia

Plataforma Colombiana de organizaciones sociales y populares por el protagonismo de niñas, niños y jóvenes (Plataforma de las Tres Voces)

Centro de Investigación y Educación Popular, Programa por la paz. (CINEP-PPP)

FIAN Colombia

International Organizations

Arbeitsgruppe Schweiz Kolumbien ask!, Switzerland
Public Eye, Zurich, Switzerland
ONG Incomindios, Zurich, Switzerland
Initiative Dortmund - Kolumbien, Germany
Bergbau Menschen Rechte (bmr) Derechos Humanos y Minería (dhm), Lucerna, Switzerland
Terre des Hommes Deutschland e.V., Berlin, Germany
PeaceWomen Across the Globe (PWAG), Switzerland
London Mining Network, England
Colombia Solidarity Campaign, England
Coal Action Network, England
Multiwatch, Switzerland
Solifonds, Switzerland
ALBA-Switzerland, Switzerland
ALBA Basel, Switzerland
Re:common, Italy
Pax for Peace, Netherlands
kolko - Menschenrechte für Kolumbien e.V., Berlín, Germany
OeMe-Kommission de Evang.-ref. Gesamtkirchgemeinde (Comisión de Ecumensimo, Misión y Desarrollo de la Iglesia Evangélica Protestante) Berna, Switzerland

Individuals

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Luisa Franco, Zurich, Switzerland
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Notes:

[1] Resolution 970 of 2010 explicitly states that, "*the health and quality of life of the inhabitants of the population centers located in the area of influence of the mining projects have been seriously affected.*" The Health Secretariat of the Departmental Government of Cesar corroborated the above by stating that in this community, "*water is not suitable for human consumption and 51.48% of the local population suffer from respiratory, skin and eye diseases.*"

[2] Committee on the Rights of the Child. Concluding observations on the combined fourth and fifth periodic reports of Colombia. Approved by the Committee at its 68th session (January 12-30, 2015). CRC/C/COL/CO/4-5. Available at: <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/INEC/INTOR/Informes-4-5-combinado-comite-derechos-nino.pdf>

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[3] In April 2012, the community created a committee to represent the inhabitants of El Hatillo throughout the consultation process for the El Nuevo Hatillo Resettlement Action Plan (RAP). The RAP consultation process began after the Ministry of the Environment, through Resolution No. 540 of March 2011, imposed new sanctions on companies for non-compliance with resolutions 970 and 1525 of 2010. Following six years of dialogue and consultation in unequal negotiation conditions, the community and the mining companies eventually signed the RAP on November 29, 2018.