

# **We Are Bruno: Citizens Caught Between An Absentee State And A State-Like Corporation During Water Conflicts In La Guajira, Colombia**

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**ABSTRACT:** In natural resource frontiers, local communities are on the frontlines of resisting corporate takeover of their lands. Based on ongoing fieldwork in La Guajira, a frontier region on Colombia's Northeast coast, this article describes how indigenous groups, Afro-Colombian communities, labor unions, and urban social movements have united to oppose the impacts of coal mining on local water sources. Since 2014, these actors have come together to oppose the Cerrejón Corporation's plan to divert the Arroyo Bruno stream in order to access the coal reserves that lie underneath. This article argues that in opposing the Bruno project, local people are demanding a more accountable state that checks corporate power. However, Cerrejón has often stood in for the state in providing water access to local communities, complicating where corporate responsibility ends and state responsibility begins. Cerrejón administrators and pro-mining civic actors argue that the corporation is more accountable to local needs than state institutions. Thus the struggle over the Arroyo Bruno reflects a deep ambivalence and uncertainty about the nature of state power in La Guajira. This

article concludes that the literature on state formation should take into account how corporations shape the ways in which people imagine, experience, and understand state power.

“We have suffered for 30 years under what they call ‘social development,’ but it has really been 30 years of suffering, 30 years of pain, 30 years of uprooting,” explains Samuel Arrogocés, an Afro-Colombian leader from La Guajira, Colombia (La Guajira Habla 2016). He appears in a video from a Change.org campaign started by local activists: the Non-Governmental Organizations (NGOs) Friends of the Earth Colombia (CENSAT) and The Center for Investigation and Popular Education (CINEP). By the end of 2016, the petition earned more than 33,000 signatures and was sent to President Juan Manuel Santos and the Constitutional Court to demand that the government revoke the Cerrejón Corporation’s license to divert the Arroyo Bruno, an important regional tributary stream that feeds the Ranchería River, to access coal underneath. This diversion is particularly offensive to *Guajiros* given that state institutions have failed to provide basic needs to the department, including aqueduct coverage and sewer systems.

The Wayúu indigenous communities who live in the hills near the Bruno have preserved the water and forest resources. Water is integral to the spiritual life of the Wayúu, symbolizing the human connection to *Wounmainkat* (Mother Earth). One activist from the community of La Horqueta II on the banks of the river told me, “God makes the water and land and it is now for humans to take. So we oppose the diversion. Human brings should not destroy what God has created” (translated from author’s notes). The Arroyo Bruno is one of the only zones in La Guajira that preserves the delicate dry tropical forest ecosystem, since Cerrejón has deforested over 13, 000 hectares beginning in the 1980s (CENSAT Agua Viva and Sintracarbon 2015: 8). I first visited the Arroyo Bruno in 2014 with Samuel, a group of

local activists, and CENSAT allies to collect information for an environmental impact study. The lush green forest we visited, upstream of the diversion, was a sharp contrast to parched earth in the communities bordering Cerrejón's active mining zone. We spotted monkeys, parrots, iguanas, and butterflies in abundance. The Arroyo Bruno provides water for nearby communities, the municipality of Albania, and water trucks that transport water to rural communities in the neighboring municipality of Maicao. This ecosystem and water management strategy will be badly damaged by the planned diversion of the Arroyo Bruno.

In this article, I argue that socio-environmental conflicts (Bebbington et al. 2013) are key moments of state formation in which competing actors seek to legitimize the rational use and management of resources. La Guajira's condition is marked by three principal characteristics: the absence, neglect, and corruption of state institutions in the region have empowered Cerrejón's control of territory and resources; state institutions have conflicting priorities, which makes the state a legitimate vehicle both for Cerrejón's rights to divert the river and for local resistance movements attempting to stop the diversion; and Guajiros are both ambivalent and hopeful about the state. The presence of the mine has made local people more reliant on an outside authority to regulate corporate behavior and guarantee their basic rights.

Those who oppose the diversion of the Arroyo Bruno include Wayúu indigenous and Afro-Colombian communities who have been displaced by mining, university student unions, civic organizations, environmentalist organizations, and labor unions. The Arroyo Bruno is a tributary stream of the Ranchería River, which is the principal water source for the majority of La Guajira's municipalities. Cerrejón is currently completing a project to divert 3.3 km of the Bruno in order to access 35 million metric tons of coal that lie underneath the water. The company has the license to divert an additional 9.6

km upstream in 2020, which would impact the stream close to its source in the Sierra de Perijá mountain range. When Guajiros protest the diversion of the Arroyo Bruno, they point not only to the immediate impacts of the project, but also to the disastrous implications in allowing a corporation to monopolize water resources. In La Guajira, not a single municipality has potable water or sufficient aqueduct coverage. Between 2012 and 2016, the region suffered an extreme drought caused by climate change, El Niño, and deforestation.

The Arroyo Bruno has become a highly visible struggle because it exemplifies how the Colombian state has left locals at the mercy of a corporation for over thirty years, leading to the region's socioeconomic inequality and crisis. The Cerrejón Corporation Ltd., co-owned by Glencore/Xstrata, Anglo American, and BHP Billiton, operates one of the world's largest open pit coal mines on a 69,000-hectare concession. This operation has displaced thousands of people, transformed the regional economy, and reduced local people's access to land and water resources. The first time I visited La Guajira in 2013, I felt as if I had landed in a different country. Coming from Colombia's capital Bogotá, a thriving metropolis with modern conveniences, to a drought-stricken territory without potable water and limited roads was a shock. While coal mining has contributed to a rapid rise in La Guajira's gross domestic product (GDP), the increase in wealth has not translated to improvements in the quality of life. In 1964, agriculture accounted for 39.6% of La Guajira's GDP; by 2012 it accounted for only 6.1% while mining accounted for 54.4% (Rodríguez 2016). The mining sector employs only 3% of La Guajira's population and has not absorbed the loss of agricultural and industrial jobs (Bayona Velásquez 2016). When Cerrejón began exporting coal in 1984, La Guajira was largely isolated from the rest of the country with little air traffic, poor roads, and a dispersed population living in small settlements throughout the territory. The mine has brought a railway, new roads, and even an airport to the

region, yet the majority of this infrastructure is private and thus inaccessible to local people.

Between January 2016 and January 2017, the department has had three different governors, the latest appointed by the central government rather than elected by popular vote. Unemployment, poverty, and violence rack the region. The poor environmental conditions in the department have led to food insecurity and a childhood malnutrition crisis. Over the last several years, reports of Wayúu children dying of malnutrition have repeatedly made national news. A recent investigation revealed that La Guajira has a childhood mortality rate of 50 per 1000 live births, putting it on par with Rwanda (Daniels 2017). Despite Cerrejón being the most important mine in Colombia in terms of its contribution to the national GDP, the majority of locals have been forced to sacrifice their way of life without seeing any benefits. As Samuel observes, Guajiros are largely victims of resource extraction development rather than beneficiaries.

This article is based on 18 months of fieldwork in La Guajira between 2013 and 2017. I draw on semi-structured interviews with community leaders, participant observation from community forums and meetings, and conversations with mine officials and local state officials. I also use quotations and videos from blogs, regional news sources, activist organizations, websites, and Facebook groups to illustrate the diverse opinions about water politics in La Guajira. I have read and analyzed Constitutional Court decisions and other legal proceedings pertaining to water provision.

In the first section of this paper, I describe the particularities of state formation in La Guajira in which a corporation over-determines how local people experience, shape, and understand the state. First, I tease out the tension between an absent and repressive state that has allowed the corporation to take on state-like power and responsibilities. This situation magnifies the corporation's power and allows state institutions to shirk

responsibilities. Next, I show how the Colombian state is fractured between state institutions that support both corporate and community rights to territorial and social power. Third, I describe how Guajiros are both ambivalent and hopeful about the state. Before the arrival of the mine, in the absence of institutions, the state had limited effect on people's everyday lives. Now Guajiros need the state to regulate their relationship to the corporation. In the second section, I show how local people are caught between the corporation and the state for regional water infrastructure and access. I then analyze the movement to save the Arroyo Bruno, focusing on a social forum held in Albania that showcases how diverse social actors challenge the complicity of the state in granting great power to a corporation. This movement holds both the state and corporation responsible for La Guajira's current socioeconomic crisis and demands a new kind of state that would uphold local sovereignty and check corporate power. In the fourth section, I discuss how both Cerrejón administrators and civil society groups who support the diversion project see the corporation as more accountable to the local population than to state institutions. The corporation becomes a kind of savior that provides employment, development, education, and infrastructure. My fieldwork in La Guajira demonstrates that corporations in areas of limited institutional state presence have an enormous impact on how local people experience, understand, and shape the state.

### **Ambivalence, Absence, Aspirations: The State-Corporate Complex in La Guajira**

The conflicts over water in La Guajira demonstrate how natural resource conflicts (Bebbington et al. 2013; Bebbington and Bury 2013; Kirsch 2014; Sawyer and Gomez 2012) produce new frameworks through which people judge the meaning and limits of state power and responsibility. In Colombia,

the state has long aligned with or competed against de-facto authorities to impose territorial and social rule, compromising its legitimacy. In many frontier regions of Colombia, the state has supported paramilitary groups to assume territorial control (Ballvé 2012; Gill 2016; Romero and Martínez 2011) or intentionally abandoned “red zones” to guerilla rule (Ramírez 2011; Tate 2015). The Colombian state’s violence against its citizens and abandonment of rural areas has compromised its legitimacy and led to uneven rule over national territory. In La Guajira, the institutional state has marginalized its citizens and legitimized Cerrejón’s state-like power. State formation in La Guajira has three primary characteristics: intentional absence of state institutions and replacement by corporate power, fragmentation between institutions, and local ambivalence and hope for the future of the state.

Like other frontier regions, de-facto authorities engaged in state processes have long defined La Guajira’s history. In the sixteenth and seventeenth centuries, Dutch and British traders competed to control the pearl trade, while the indigenous Wayúu established their dominance over ports and agricultural land (Polo Acuña and Gutiérrez 2011). Freed and escaped slaves formed autonomous Afro-descendant settlements that live on today (Munera Monte et al. 2014). In the twentieth century, the rise of the marijuana trade and other illegal economic activities shifted the balance of power away from Wayúu, peasant, and Afro-descendant communities to outsiders who dominated the drug smuggling business (Britto 2010). This shift coincided with the state’s opening up coal mining concession in the 1970s to investors. Initially, Cerrejón was co-operated by the state via the Carbocol Corporation. In 2001, the state sold its 50% stake in Cerrejón to BHP Billiton, Glencore, and Anglo American. The Mining Code of 2001, passed under the Andrés Pastrana administration, divided national territory into “strategic mining zones” and loosened state control of mining revenues. Pastrana and his successor Alvaro Uribe both promised that

mining and energy would help move frontier regions into the future by providing much needed infrastructure, employment, and development. These changes have granted increased power to corporations in managing water and other resources within their concessions while loosening state responsibility for financing social services and infrastructure projects.

The relationship between the Colombian state and natural resource extraction corporations complicates how people evaluate practices of governance. In some ways, corporations have become a state proxy (Krupa 2010) at the extractive frontier by assuming sovereignty over land and resources. Cerrejón is both the institution that most directly threatens their survival and the most readily available target for their frustrations. Mine officials meet with community members on a regular basis, attend forums, and hold outreach events. Cerrejón's name appears on billboards for community development, on high school team's soccer jerseys, and on the side of water trucks in remote communities. Local interactions with state institutions are far more limited. As Cerrejón continues to expand its operations and impact local lives, Guajiros realize they need a mediating force to tip the balance of power between themselves and the corporation. Communities increasingly rely on state institutions to legitimate their rights to natural resources. Alex Golub (2014:13), drawing on Gallon and Latour (1981) observes how corporations, states, and communities become leviathans when group of individuals transform into abstract ideas through normalization and legitimation. Corporations and states are both invented entities made tangible through people's everyday interactions with them (Golub 2014; Welker 2014). In La Guajira, the corporation and state are co-enacted in the struggles over water.

In Colombia, government reforms in the 1980s and 1990s shifted power from the Bogota-based central government to departmental and municipal governments, leading to direct elections of mayors and representatives. In La Guajira, this

shift, coupled with the state's dependence on royalty income, allowed Cerrejón informal control of municipal and departmental state institutions. Government officials largely refused to criticize or discipline Cerrejón, because they depend on Cerrejón's royalties to fund government programs and have personal ties to the company. Before 2012, municipal and departmental governments received between 80% and 90% of royalties from mining projects in their jurisdiction. These royalties were supposed to improve education and health programs, build and maintain infrastructure, and invest in local development projects in underfunded regions. The Juan Manuel Santos administration changed the split of royalties from natural resource extraction in 2012. The bulk of royalty money now sits in a national fund, and local and departmental governments must apply for funding. Under the old law, La Guajira should have received around \$297 million USD per year from coal mining royalties under the old law; under the new law it received between \$45 and 90 million USD between 2012 and 2014 (Acosta Medina 2016).

The combination of decentralization of responsibilities and recentralization of economic power has also led to the alienation of municipal and departmental governments from the central governments. During a forum on La Guajira's social crisis, then Governor Oneida Pinto said: "The state has abandoned La Guajira, it has not done the proper consultations. We have the right to govern our own territory" (translated from author's notes). Pinto is a state representative, yet she imagined La Guajira as an autonomous region, with little connection to the national institutions in Bogotá. Rather than assume responsibility for fiscal mismanagement, local corruption, or administrative incompetence, Pinto placed the blame on the central government in Bogota. At the forum, the audience cheered for Pinto because they share her frustrations with the central government that benefits from resource extraction in La Guajira without taking responsibility for the consequences.

At the beginning of 2017, the national government took over La Guajira's government after two governors were forced to resign over corruption charges. The Santos administration installed Weidler Guerra as governor and gave him the task of replacing all the departmental ministers. While the national government is quick to blame local and departmental government corruption, it has refused to acknowledge how the change in allocation of royalties and lack of national support for regional development have led to La Guajira's political mismanagement, corruption, and inefficiency.

The decentralization of state power across Latin America has made citizens more anxious and ambivalent about their states (Krupa and Nugent 2015). At the same time, the state remains a powerful container for civil society's hopes and dreams (Corrigan 1994; Mitchell 1991; Nugent 1997). While La Guajira is a frontier region with low institutional state presence, it is replete with state processes. Winifred Tate (2015) describes how people marginalized by the institutional state enact an "aspirational state" by building alliances with both state and non-state actors. In La Guajira, local water activists are connected to national NGOs, international solidarity networks, labor unions, and sympathetic state officials. They compete with corporate, state, and pro-mining civil society actors to legitimize their vision of a state that privileges local over corporate and state management of water resources. Cerrejón's presence has made people both more reliant on the state to solve their problems and more aware of their marginalization by the institutional state. The same state that has violated their rights to territory and resources has also become the vehicle through which they demand these rights. The justification for their demands is found within the state itself, particularly the 1991 Constitution that upholds marginalized groups' rights to development, indigenous and Afro-descendant rights to territorial sovereignty, and fundamental rights to a healthy environment. Thus, Guajiros are both ambivalent about the

state and hopeful that they can tip the balance of power in their favor.

### **Between the Corporation and the State: Water Politics in La Guajira**

Water conflicts in La Guajira are highly visible struggles to define and control state and corporate power. Like the Colombian coca growers described by Maria Clemencia Ramírez (2011) as “between the guerillas and the state,” Guajiros often find themselves between the corporation and the state. Guajiros are painfully aware that the corporation’s presence legitimizes the state’s absence and lack of responsibility. The state does not intervene on their behalf to regulate Cerrejón’s monopoly of water resources.

Cerrejón’s operations have had a dramatic impact on La Guajira’s freshwater reserves. Open pit coal mining requires hundreds of thousand of cubic meters of water per day in order to put out fires when coal is exposed to air, to maintain heavy machinery, to water roads to keep dust down, and to supply the needs of workers inside the mine. According to a report released by Sintracarbon, the mining operations uses 14,000 cubic meters per day just to water down the dirt roads where heavy machinery kicks up dust (CENSAT Agua Viva and Sintracarbon 2015). The mining complex has 18 ground-water wells and a private dam on the Ranchería River. The only places in La Guajira with 24-hour access to potable water are Cerrejón’s main mining complex and port. Because La Guajira is a drought-prone region with two rainy seasons that are unpredictable and inconsistent, people are dependent on tributary streams and their corresponding aquifers as a water source for agriculture, household use, and animal ranching (CENSAT Agua Viva and Sintracarbon 2015). Cerrejón’s use and management of these vital water sources has exacerbated

the effects of the extreme drought of the last five years, because it has cut off access to regular water sources on which locals rely during dry seasons.

Before the arrival of Cerrejón, locals were long able to meet their needs for water with little state intervention by relying on migration during times of drought, water reservoirs, and the use of wells and tributaries to gather water. The privatization of land and the capturing of water resources by mining have made these practices difficult or impossible. Guajiros have lost their control over their water resources, and now require the intervention of the state to provide water. The presence of the corporation has increased local need for state intervention in water management for people to fulfill their basic needs.

The inequalities in water access between communities and Cerrejón have made palpable the state's historical neglect of this region. In a 2009 report, the Colombian Human Rights Ombudsman office found that aqueduct coverage is vastly inadequate in La Guajira, and that it is worse in the coal mining municipalities. For example, Barrancas, the municipality where the majority of people displaced and resettled by Cerrejón live, has enough water for only half the year (Defensoría del Pueblo 2009). Water arrives only twice a week to the municipality. Local residents must fill their tanks and cisterns in order to have enough water during the dry days. This rationing entails showering, doing dishes, and washing clothes without running water. Hatonuevo and Albania (the other two municipalities in Cerrejón's impact zone) have the same system. In many rural communities, residents rely on water trucks, which collect water from tributaries such as the Arroyo Bruno, to fill household tanks. Cerrejón owns and operates many of these tankers, part of the work of Cerrejón's Water Foundation. In these communities, Cerrejón has been more efficient and responsive in providing water than the state. Cerrejón uses these projects to legitimize its presence in La Guajira by presenting itself as a benevolent actor that contributes to local development. The

state benefits by not having to assume full responsibility or provide the financing for these projects. Given the inefficiency and corruption of the departmental and municipal governments, which are responsible for water management, this arrangement benefits both state institutions and the corporation. It allows Cerrejón to monopolize water use while giving some water back, legitimizing its presence as a benevolent and socially responsible authority.

State institutions have not properly maintained or updated rural communities' windmill groundwater pumps, which were originally built in the 1920s and 1930s. Cerrejón's Water Foundation actually provides more technical assistance than the state in maintaining these windmill systems. The foundation has also updated some of these old well systems with solar pumps, providing a more efficient and immediate solution than state institutions. However, some community members report that Cerrejón is interfering in state maintenance of wells. During a water workshop hosted by Cerrejón, Aura Robles, a well-known Wayúu activist from the community of Paradero, complained to the mine's administration that because Cerrejón had come in to maintain Paradero's windmill system, and had painted it with the Cerrejón logo, state institutions now refused to touch it because the windmill "belonged to the mine now." Robles points out the way that local and departmental state institutions benefit from Cerrejón's Corporate Social Responsibility (CSR) programs by distancing themselves from service provision and social problems. Cerrejón administrators assured Robles that this incident must just be a misunderstanding since Cerrejón does not own any windmills. Paradero currently has no working windmill pump and is caught between the inefficient and neglectful state and the Cerrejón's CSR programs that have no official responsibility to help. Cerrejón's CSR programs have at times allowed state institutions to further neglect the responsibility to provide sustainable access to water, while allowing the mine to legitimize its presence by being more responsive

than the state to local needs for water. Cerrejón monopolizes La Guajira's water reserves, giving back to local communities when it is convenient and easy to maintain its public image as a model corporate citizen. Municipal and departmental governments allow these transactions because they lack the organization and budget necessary to provide adequate aqueduct and sewer coverage. Historically, governors and mayors have made small concessions to voters such as building new parks or fixing local churches. These petty forms of clientelism and corruption have been enough to keep them in power without tackling larger issues such as the water crisis.

Cerrejón is legally responsible for providing water access to communities in its impact zone, especially in cases where the corporation has forcibly resettled communities. When I ask locals about water shortages, they see the government as being complicit in pressuring them to sell their lands to the mine, because state institutions have consistently failed to provide wells, aqueducts, or sewer lines in the lands they live on within the Cerrejón concession. During fieldwork, multiple communities in the process of forced resettlement asserted that Cerrejón threatens to limit water provision in order to pressure them to sign resettlement agreements. Community members worry that the corporation will stop providing water to their communities if they do not sign agreements and relocate by the specified timeline. Many local residents resent being dependent on Cerrejón for water, when they used to have enough water for their daily needs by collecting from nearby rivers, streams, and windmill pumps.

### Local Legal Demands: Water as a Fundamental Right

In 2016, the Colombian Constitutional Court found Cerrejón and the Colombian state had violated "the fundamental right to water" in Afro-Colombian resettlements, and by extension all

vulnerable communities in the Southern Guajira. The plaintiffs (a group of Afro-descendants from the Patilla and Chancleta communities) presented a convincing case that they were entitled to both potable water and agricultural water for their crops and animals. The court extended this ruling, which was filed as a petition for Prior Consultation rights by 62 families in Cerrejón's concession zone, to force state institutions and the Cerrejón Corporation to provide potable water in all "ethnic communities" in the Southern Guajira. The Constitutional Court magistrates saw the opportunity to resolve La Guajira's water crisis by expanding Chancleta and Patilla's complaints about water to all of Cerrejón's impact zone. Multiple state institutions and NGOs backed up this decision and the communities' claims for protection. The Human Rights Ombudsman and the Ministry of Mining testified that water in resettlements was insufficient in quality and quantity. The Ombudsman office also testified that Cerrejón has improperly managed chemical runoff (Colombian Constitutional Court 2016).

The responsibility for water provision in La Guajira is split between the regional water company, municipal and departmental governments, national state institutions, the Cerrejón Corporation, and community associations. The Court's decision states that all parties must cooperate rather than fight over responsibilities since the need for water is a pressing concern (Colombian Constitutional Court 2016: 261). The Constitutional Court also upheld the state's legal obligations to protect the rights of its citizens above its commitment to expand the national economy through the exploitation of natural resources. The Court magistrates wrote: "The system of economic production cannot extract natural resources nor produce limitless waste, so it must privilege general (social and collective) interests, the environment and potable water as a strategic State resource and national cultural patrimony, above particular interests" (Colombian Constitutional Court 2016: 252). The Court's decision, while providing a practical solution to water problems,

falls short of fulfilling local communities' and their allies' call for "re-territorialization": recognizing communal ownership of land and resources in zones de-territorialized by mining (CENSAT Agua Viva and Sintracarbon 2015; Munera Monte et al. 2014). The Constitutional Court legitimizes Cerrejón's state-like presence by treating Cerrejón as a co-responsible party. Furthermore, the court does not order the mine to stop diverting, overusing, or contaminating water sources. Thus, it upholds the right of the state and corporation to control water sources, as long as these entities also provide water to communities.

### **We Are Bruno**

The struggle to halt the Arroyo Bruno diversion has been the most visible conflict in La Guajira in recent years. The Bruno conflict follows from the 2012 protests over Cerrejón's bid to divert 26 km of the Ranchería River to exploit 500 million metric tons of coal underneath the riverbed. While many protests in La Guajira have been based on individual community struggles, and therefore small-scale, the fight to save the Ranchería and the Bruno has united multiple civil society groups. In these struggles, local activists seek to enact an aspirational state that upholds their rights before corporate interests.

In 2012, grassroots activists clashed with Cerrejón over the plans to divert 26 km of the Ranchería River. The Colombian government never approved the project. Mass protest and public outrage helped convince state institutions that the social and environmental impacts would be devastating. Wayúu spokesperson Jazmin Romero Epiayu was one of the principal organizers against the Ranchería diversion and has since turned her energies to defending the Arroyo Bruno. In a video interview she describes the success of multiple social sectors in defending the Ranchería:

In 2012, the proposal of this multinational was to divert the Ranchería River, the principal river we have in our department, and the principal river that feeds the whole department of La Guajira... Since before colonialism this [river] has represented the veins of Mother Earth, *Woun-mainkat*, which is to say, it's the blood of the earth. And one of the proposals in 2012 was to divert this river we have because below it there were 500 million tons of coal. But what did we say? Us, Wayúu communities, Afro-descendant communities, campesino communities, the union, the magistrates...all these sectors united in protest to stop the diversion of this river" (Arias 2015).

Romero is now part of the Civic Committee for La Guajira's Dignity, which led the protests against the Ranchería River diversion in 2012. The Civic Committee is a loose and ever shifting coalition of Wayúu leaders, urban intellectuals, Afro-Colombian representatives, unionists, and university students who first came together to protest the proposed changes to Colombian royalty law in 2010. The central state now takes a more active role in regulating the profits from mining, creating friction with municipal and departmental governments.

The state has granted Cerrejón the right to use water, including to divert the Arroyo Bruno. A diversion requires three stages of approval to move forward: an environmental license from the National Authority of Environmental Licenses (ANLA), approval from the Ministry of the Interior for Prior Consultation with ethnic communities impacted by the project, and permission from the Regional Autonomous Corporation (in this case CorpoGuajira) for secondary environmental impacts such as deforestation. Corporations hire their own contractors to carry out technical studies on the environmental impacts of projects, and the studies are evaluated by ANLA. Jazmin describes how state actors come into conflict with each other, and how the Santos administration is responsible for allowing Cerrejón to seize resources:

One of the primary allies of the multinational is Juan Manuel Santos, along with his politicians, his ministers, those who are under order of the government who operate always against our economic and cultural rights. At this moment, ANLA has given permission for an environmental license to the corporation that says it can divert the Arroyo Bruno. But, even there obviously, Juan Manuel Santos is coming to La Guajira for the Festival of the Virgin Carmen. We know that he did this with the double intention of pressuring the director of CorpoGuajira to give approval [for the diversion]. ...They are thinking of violating all these environmental norms, go around them, because this is a strategy of the mine. The best ally they have is the government who every day sells our sovereignty. That's part of the discussion we are having, that we cannot trust a government that is selling our sovereignty...As a spokesperson for the Wayúu people, today we publicly denounce the actions of this government of Juan Manuel Santos, we denounce this multinational that is getting rich at the cost of our lives, at the cost of the Wayúu people, at seizing land (Arias 2015).

Jazmin highlights how state institutions are often in conflict. She believes that the CorpoGuajira officials were going to do the right thing, but the president overrode that decision. While the Colombian state has decentralized responsibilities, political power remains centralized. Jazmin also clearly identifies how the Santos administration legitimizes Cerrejón's destructive practices in the name of shared economic interests. She proposes a new kind of state that recognizes and honors indigenous sovereignty as the most legitimate and rational means of preserving La Guajira's water sources.

The Arroyo Bruno protests have united urban and rural activists groups in demanding that natural resource extraction produce national and local benefits while doing the least harm possible. Sintracarbon, the Cerrejón workers' union, firmly opposes the Arroyo Bruno diversion. While they acknowledge it will initially create more jobs, once the diversion is complete,

the mine will actually need fewer heavy machinery operators in the La Puente pit, leading to future job cuts. Additionally, the union has long opposed all irresponsible use of water sources in the region, and holds a firmly nationalist ideology that states natural resources should serve Colombia as a whole (Chomsky and Striffler 2014). The Sintracarbon union and the Civic Committee uphold a nationalist stance on resources: that they belong to and should benefit all citizens. Afro-Colombian and Wayúu communities uphold local sovereignty: that they should have autonomous control of water resources in their territories and that this right historically precedes the granting of mining licenses. These visions of sovereignty are compatible because both groups seek to protect water resources, to ration use, and to prevent privatization.

Local social movements both rely on state institutions for legitimacy and oppose the actions of the government, revealing the internal contradictions of the Colombian state. Colombia's extractivist model co-exists with the state's commitment to uphold the rights of its most marginalized citizens enshrined in the 1991 Constitution. In La Guajira, there is a tension between the legal limits of state responsibility in providing and managing water access and grassroots aspirations for a state that guarantees local sovereignty over water resources. At key moments, these conflicts over water reveal the discrepancy between real state actions and decisions, and citizen's desires for a state that redistributes natural resource benefits.

## Connecting the Bruno and Socioeconomic Crisis at the Social Forum

On May 23, 2016, I walk up to the school building that will host a social forum in the town of Albania, the seat of the main municipality that relies on the Arroyo Bruno for water. Arriving at the scheduled start time, which in La Guajira is always

far too early, I marvel at the level of security set up outside of Albania's public school. Armored military cars block the road in front of the school and the local military unit stands guard. To enter the school, I have to pass a military check at the door before heading to the auditorium. This high security is for members of the Second Commission from the Lower House and key representatives from the Santos Administration who are arriving from Bogotá as part of a fact-finding mission on the crisis in La Guajira. The Albania Mayor's office and concerned civic organizations have invited these representatives to analyze La Guajira's problems: chronic childhood malnutrition, border insecurity caused by contraband smuggling from Venezuela, and the impact of drought on food security. After the forum, the Second Commission will write a report and make recommendations to the Santos administration. The audience members include Afro-Colombians from nearby displaced communities, Wayúu activists from La Fuerza de Mujeres Wayúu, leaders from the Civic Committee for La Guajira's Dignity, Sintracarbon unionists, university students, and residents of Albania. Several local indigenous and union activists wear t-shirts adorned with an "I am Bruno" slogan.

The first to take their seats at the speakers' table on stage are the military officials in uniform. As it turns out, they never actually speak, but we feel their presence, a reminder to the crowd that the state is here to provide order and security. Guajiros are accustomed to military presence in the region. The military has removed, threatened, and extorted local people to make room for natural resource extraction corporations. The women among them wear a uniform version of *mantas* (a traditional loose dress worn by Wayúu women) as a means of appearing part of La Guajira society rather than as an external threat. They are a reminder of the "hearts and minds" strategy to reinstall civil society's trust in the military by sending the rank and file to do development work and public service.

After introductions, then governor of La Guajira Oneida Pinto (who was forced to resign in June 2016 and then arrested for corruption charges in March 2017) gives a presentation that critiques the injustice done to La Guajira by the Bogotá-based central state. She explains how there are 600,000 hectares that can be auctioned for future mining concession. She expressed her concern that these projects will impact water sources, leading to greater food insecurity. Later, a local Afro-Colombian representative gives a rousing speech in which he declares that the state has allowed a corporation to operate with impunity and that the government has the responsibility to revoke the environmental license for the Arroyo Bruno project. In the days following their visit, the Second Commission does indeed make this recommendation, but the responsible agencies argue for keeping the diversion project alive.

When House Representative Tatiana Cabello attempts to deliver a speech on FARC presence in La Guajira, and the need for increased border security on the Venezuelan border, the crowd boos so loudly she cannot continue. A Civic Committee for La Guajira's Dignity member stands up and yells, "The FARC did not kill those children, neither did the ELN." He is referring to La Guajira's high childhood malnutrition rate. It seems that every week the national media reports on another case of a Wayúu child starving to death. By November 2016, there were 69 confirmed deaths by malnutrition (*El Heraldo* 2016). Local indigenous leaders have argued that official statistics are too low and that almost 5,000 children have died of malnutrition since 2008 (*Telesur* 2016). Grassroots movements claim that the mine's control of their territory has transformed La Guajira from an agriculturally productive region to a food-insecure one. Later in the event, Wayúu leader Delaida Vangrieken, dressed in an elaborately embroidered manta, states: "This has always been a productive land, where we had food sovereignty, because families dedicated themselves to herding, agriculture, and ranching, but today we are ashamed that we have to depend

on bags of food that are only a bit of rice, a liter of oil, and flour from which we do not even know what to prepare" (Guerrero Barriga 2016). People have become dependent on government handouts and thus more conscious of their marginalization by the state. The biggest threat to people's survival is not the presence of extra-state armed groups, but the presence of a coal mine, and by extension, the structure of the extractivist state. Most national media and the Santos administration have pointed to the embezzlement of government money destined for nutrition programs by local and departmental government officials as causing childhood malnutrition. Activists like Delaida have a different explanation that tackles the structural reasons why local communities are now dependent on government handouts to survive. Cerrejón has displaced thousands of farming families, privatized land, contributed to drought, and cut off traditional migration routes that allowed rural peoples to maintain croplands, graze their animals, hunt, fish, and gather medicinal and food plants. The takeover of their territory by coal mining has made them dependent on the state and more aware of their marginalization by state institutions. Standing up to address the second commission, a resident of Albania declares, "Cerrejón is not going to solve our problems...we are tired of being in service to the mine. Santos is selling the country to mining. The environmental license is not only a license to exploit natural resource but also to threaten us" (translated from author's notes).

The crowd chants: "No to the diversion! No more consultations! It's a trap!" Many of those in the room have been involved in pressuring the Ministry of the Interior to halt the diversion and carry out consultations with all of the Wayúu communities who live near the Arroyo Bruno. Colombia's 1991 Constitution adopted the International Labor Organization's Convention 169 on the rights of indigenous people to Prior Consultation. The Constitutional Court has expanded this right to give all indigenous and Afro-descendant communities the right to Free,

Prior, and Informed Consent, adopted from the United Nations Declaration on the Rights of Indigenous Peoples. Ideally, these consultations are long and complex negotiation between communities, corporations, and the Ministry of the Interior over the impacts, compensation, and mitigation strategies for natural resource extraction projects.

During audience comments at the closing of the forum, Lorenza Pérez Pushaina, leader of the Wayúu community of La Horqueta II, speaks in Wayúunaiké, stating, “I had to present this *tutela* with a lawyer because we are tired of Cerrejón’s abuse during all these years and we hope to use this month to stop the machinery” (Guerrero Barriga 2016). The week prior, she won a petition to the departmental court proving that Cerrejón was violating the community’s cultural and religious rights by invading their territory. The heavy machinery used to dig for the diversion disturbed their sleep. For Wayúu, dreaming is a direct connection to their ancestors. If their sleep is interrupted, they report losing this connection, which violates their right to practice spiritual traditions. A Guajira departmental court suspended CorpoGuajira’s approval for 30 days, ordering Cerrejón and the Ministry of the Interior to begin consultations with La Horqueta II. For La Horqueta II and other Wayúu communities, Prior Consultation should be about restoring indigenous sovereignty and revalorizing traditional practices and beliefs about land and resources. However, they are often disappointed about the outcomes and processes of Prior Consultation. Cerrejón has since consulted with La Horqueta II, promising to provide additional land and development resources as compensation. Members of La Horqueta II continue to reject the diversion plan because they see diverting the river as a violation of their fundamental rights to territory, water, and spiritual practice. Despite the multiple court orders for Prior Consultation, the state never ordered Cerrejón to stop construction on the diversion project. Wayúu activists Jaqueline Romero Epiayu (sister of Jazmin) compares

Prior Consultation to cutting off someone's arm: the mine and state ask you to choose your left or right arm, but do not give you the option of refusing the amputation. While these communities have filed several petitions for Prior Consultation, they remain skeptical of the state's willingness to regulate and stop the mine's takeover of territory and water.

Other communities near the Arroyo Bruno were initially more ambivalent about the diversion. When I first met leaders of El Rocio, a neighboring community, they were not uniformly against the diversion (at least not the initial 3.3 km); they simply wanted compensation and consultation. Six people from the community were hired to work on this project. For some, that was a fair compensation for the disruption the diversion construction would cause. For others, it was an attempt to prevent the community's resistance. Community leaders expressed their concern that the diversion, though downstream of their community, will change the Arroyo's current, leading to more drought and water insecurity. They told me that the deforestation that accompanies the diversion would dry out water tables. Additionally, the community remains concerned about increased urbanization and more outsiders or "tourists" coming to take water or swim in their community, which will cause greater environmental damage. As part of the compensation package from Cerrejón, El Rocio is demanding development projects and jobs. One leader gestured to the school building in which we were meeting (no more than old chairs and a tin roof over wood poles) and commented that he feels abandoned by the state. "Guajira is its own country," he said. "We should collect signatures to separate" (translated from author's notes). If the state cannot even provide a school building, how can it protect the community from the diversion? El Rocio's negotiation strategy focused on brokering a better deal with the corporation to provide security and development. The state has never upheld their rights, so why would it now? Instead, they have pursued a strategy of making state-like demands

on Cerrejón to fulfill social responsibilities that are outside the purview of operating a coal mine. However, in late 2016, a private landowner declared that El Rocio was squatting on lands to which she held a title. She is currently pursuing a legal process against the community to force them off so that she can sell the land to Cerrejón. Mine officials insist they have nothing to do with this transaction and do not intend to intervene in the areas. However, community members and local activists claim that El Rocio's land lies in the second-stage of diversion planned for 2020. This expansion would displace El Rocio. As a result, community members have begun organizing a more intense resistance movement to reclaim their rights to Prior Consultation with the hopes of stopping the second diversion and their expulsion from their land.

### **Replacing the State: Cerrejón as Savior**

Local supporters of the Arroyo Bruno diversion and Cerrejón's administrators share with opponents ambivalence about the effectiveness of state institutions. Like those who oppose the diversion, supporters acknowledge that state abandonment has led to the socioeconomic crisis in La Guajira. However, they see Cerrejón as providing education, jobs, and development in the absence of the state. Rather than call on the state to resolve their conflict with Cerrejón, they call on the corporation to fulfill state-like responsibilities. Both the supporters and opponents of the Arroyo Bruno project reveal how natural resource corporations are increasingly important to the process of state formation in regions with historically low government intervention. In this section, I show how the supporters of the project and mine administrators make a case for the superiority of CSR programming over state interventions.

Cerrejón offers local youth the chance for education and employment, an attractive alternative to limited state resources

for scholarships and job training. A group of students in Albania who study at Cerrejón's technical school have come out to support the Arroyo Bruno diversion because they want to work in the project. During the "Technical Forum for Socialization and Judicial Process of the Arroyo Bruno" hosted by CorpoGuajira in June 2016, many of these young people came to La Guajira's capital Riohacha to lend their support. The Riohacha forum was a sharp contrast to the May forum in Albania. Riohacha is the only major city in La Guajira. Over the last five years, the city has boomed with eco-tourism operations, luxury hotels, upscale restaurants, and shopping centers. Albania remains a dusty coal town, whose main attractions are tours of the Cerrejón mine and the Cerrejón-operated Waya eco-tourism hotel. The featured speakers in the Riohacha Forum came from Cerrejón, CorpoGuajira, the Ministry of the Interior, and ANLA, all of whom were invited to the Albania community-organized forum but never appeared. Many community members from the impact zone and the Civic Committee did not find out about the Riohacha forum event in time to attend. The June Forum was held in Riohacha's most modern convention center with a catered lunch and white tablecloths. The community leaders who did make it, wearing "I am Bruno" polo shirts, demanded they be allowed to participate at the very beginning. The moderator granted three representatives 5 minutes each, for a total of 15 minutes. They expressed their indignation at this inequity since the other speakers delivered long PowerPoint presentations.

A technical expert from Cerrejón's administrative team opened his presentation by saying, "All human activity generates impacts" and detailed the careful planning Cerrejón had gone through to divert the Arroyo responsibly, in order to protect it from the mine's planned expansion. Cerrejón has promoted the diversion project as necessary to protect and conserve the Bruno. When the moderator opened the floor to questions, the audience began to debate the limits of corporate

responsibility for water management. Several people brought up the themes of the economic and political crisis in La Guajira. Someone shouted from the crowd, "Without water, we will stay poor and hungry." A young supporter of the project defended the diversion: "Cerrejón is not responsible for our problems, it's our fault for electing people who let this and other problems happen. I invite you to come to Albania and see what our real needs are. If Cerrejón goes tomorrow, there will be no resources left because the state does not care" (translated from author's notes). Another young supporter stated that childhood malnutrition problems are due to the change in the distribution of royalties, not the impacts of mining. She declared that young people want more participation and more education to contribute to their department, and that Cerrejón helps provide those opportunities. A Cerrejón employee took the floor, stating, "I am not speaking as an employee today, but as a Guajiro. So few people have had the resources to become professionals, we are dependent on the only multinational that provides development and employment....All mining has impacts, Cerrejón minimizes them. Cerrejón is a model for other mines" (translated from author's notes). Like those opposing the Bruno project, the supporters who gathered that day pointed out the neglect and abandonment by the state. However, unlike the opponents, these supporters see Cerrejón as fulfilling their needs in a way that the state never has by providing opportunities for employment and education that takes advantage of the resource boom. CSR officials assert that the mine uses resources rationally and responsibly, doing more than the state to protect La Guajira's water.

Carlos Franco, the head of Social Dialogue at Cerrejón, spoke on the legitimacy of the Prior Consultations. He stated that this consultation was done in good faith under the supervision of a third-party Wayúu foundation. A representative from ANLA supported this statement, asking the crowd to look at the "big scale, the integrated picture," assuring opponents that

they would move flora and fauna, and repopulate the new area. Effectively, this representative was asking Guajiros to not focus on the impacts this diversion would have on their everyday lives and instead focus on the big picture of extractivist development for the good of the nation as a whole. Such a statement does nothing to address the socioeconomic crisis in La Guajira that means people are not able to meet their basic needs for water, food, and shelter. This official failed to acknowledge that locals have sacrificed a great deal to coal mining while receiving very few benefits.

During audience questions, one person called the project "discrimination by the state." She stated, "They took away our autonomy, our decision-making. We are here to denounce the state for giving this permission, for not respecting our rights, our words. The national government doesn't respect La Guajira, they are selling us!" (translated from author's notes). In response, Cerrejón officials brought up how the corporation has won prizes for CSR and values its status as a responsible mine. One of them reminded the crowd that if the diversion does not go ahead, they would lose 1,200 new jobs and opportunities to train young people for work. The young supporters cheered for him.

During the forum, mine officials did not express their ambivalence toward state institutions. However, in other meetings with mine officials or during community negotiations, I have repeatedly heard officials bring up the state's negligence in contrast to Cerrejón's determination to provide regional and local development, education, and infrastructure. In November 2016, I attended the "Every Drop of Water Counts" workshop hosted by Cerrejón in their Waya eco hotel. Throughout the event, Cerrejón administrators boasted how their company went above Colombian norms in rationing their use of water. One geologist stated that his team follows European standards from the shareholding companies that are far stricter than Colombian environmental regulations. Employees from the CSR

department and Water Foundation showed several examples of how their teams have been able to work with communities that state institutions have ignored in order to provide water infrastructure.

During a question and answer period, a Wayúu woman from the Uribia municipality thanked Cerrejón for all it had done for her community. She reminded the crowd that the dam in the San Juan municipality (which lies upstream and is thus closer to the Ranchería River's source than the Cerrejón impact zone) captures enough water for the entire department, but does not share with other municipalities. "Water problems are political," she stated, "we must protest the state, not the mine." By separating state and corporate accountability, rather than combining them as do opponents of the diversion do, she imagined Cerrejón as an apolitical and benevolent entity. Yet Cerrejón has proven to be a political actor, engaged in legitimizing itself in contrast to the neglect of the state. Programs like well maintenance allow the mining administration to respond voluntarily to local needs without assuming the same legal or moral responsibilities as a state.

### **Natural Resource Conflicts and State Formation**

Divisions over the Arroyo Bruno project represent how some people have come to see Cerrejón as the solution to the state's absence while others see Cerrejón as a proof of state abandonment and neglect. Cerrejón has stood in for the state by offering support for schools and healthcare, building roads, and funding development projects. For many Guajiros, these programs are a meager response to the devastation that the extractivist economy and the absence of state finance had brought upon them. Both supporters and opponents of the Arroyo Bruno diversion share an ambivalence and mistrust of the state. Both groups recognize that local state misman-

agement and central state marginalization have contributed to the current socioeconomic crisis. Yet these factions differ on their analysis of the solutions. Opponents see Cerrejón as the greatest threat to regional food sovereignty, development, and access to water; supporters see the company as helping to relieve these socioeconomic problems.

The “We are Bruno” slogan encompasses diverse experiences of state neglect and multiple aspirations for a new kind of state. Struggles over natural resources like those in La Guajira are becoming key sites through which marginalized people make the history of state neglect visible. As Anthony Bebbington and Jeffrey Bury observe (2013: 19): “struggles over extraction frequently become overdetermined: they serve as lightning rods for the other struggles that have gone latent for a while but are then reactivated through the tensions and passions aroused by extraction.” The presence of a coal mine has made people more dependent on the state to protect them from socioeconomic dangers, but also more aware of their abandonment by state institutions. Groups attempting to block the diversion are well aware that they will likely fail. At the time of writing this article, the diversion project was about 90% complete. Saving the Bruno is also about reshaping the state from the bottom up. By highlighting the danger the diversion poses to La Guajira’s water sources, activists are denouncing the balance of power between citizens, the state, and the corporation.

Corporations are taking on state-like power in areas of low institutional state presence. Scholars of state formation have not paid sufficient attention to how corporations impact how people understand and experience the state. In La Guajira, people’s ambivalence and hope for the state extend to their feelings about the corporation. Corporations are stepping outside their purview of maximizing shareholder profit to legitimize their territorial and social power. Guajiros find themselves negotiating the intersection of an absentee state and a socially

powerful corporation in realizing their aspirations for a new territorial and social order.

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