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RIGHTS
WATCH

THE RISK OF RETURNING HOME

Violence and Threats against Displaced People
Reclaiming Land in Colombia

SUMMARY AND RECOMMENDATIONS

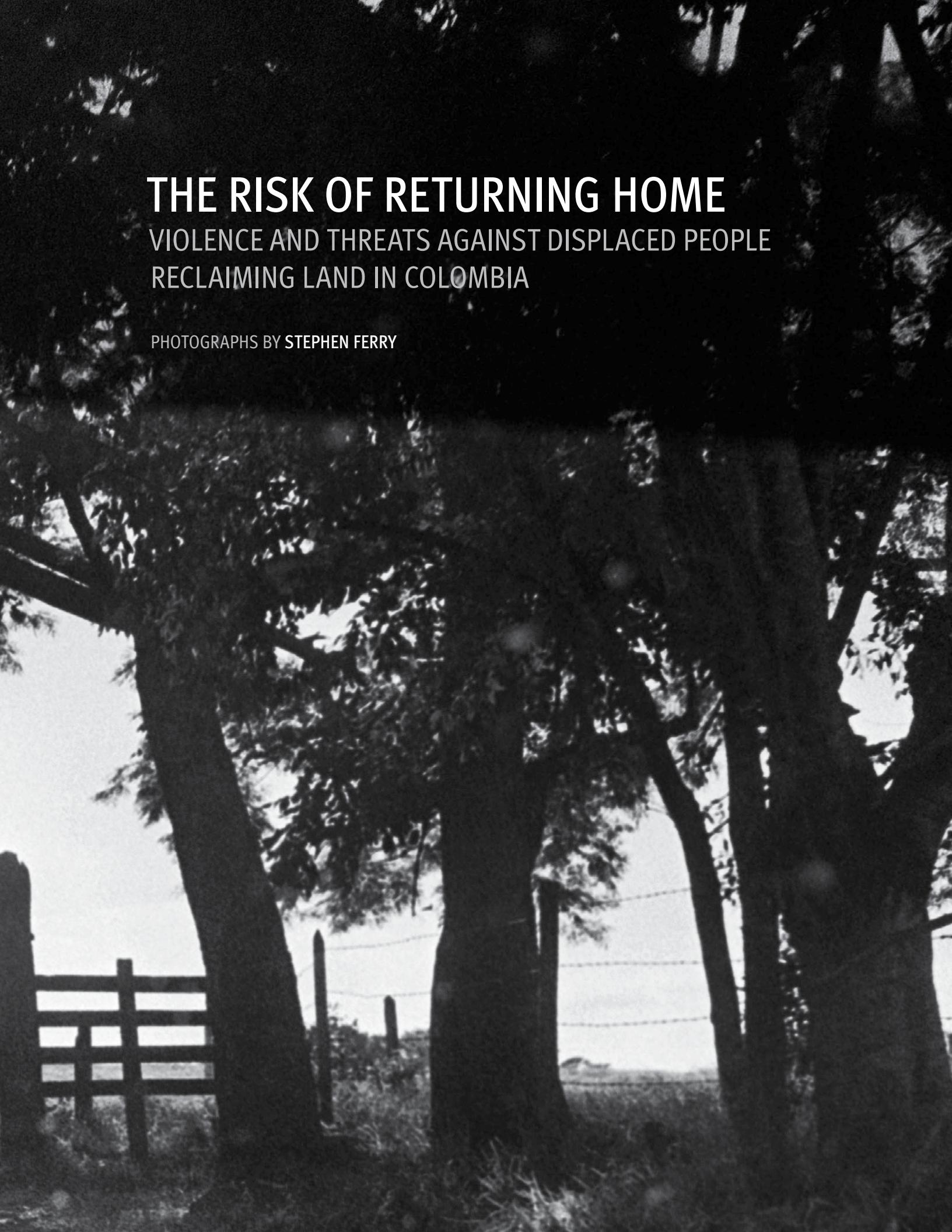


Police escort Mario Cuitiva to visit the 1,195-hectare Santa Paula farm, which paramilitaries and their allies seized from residents between roughly 1996 and 2006. Leticia, Córdoba, July 2012.

THE RISK OF RETURNING HOME

VIOLENCE AND THREATS AGAINST DISPLACED PEOPLE
RECLAIMING LAND IN COLOMBIA

PHOTOGRAPHS BY STEPHEN FERRY



Over the past 30 years, abuses and violence associated with Colombia's internal armed conflict have driven more than 4.8 million Colombians from their homes, generating the world's largest population of internally displaced persons (IDPs).

Mostly fleeing from rural to urban areas, Colombian IDPs are estimated to have left behind 6 million hectares of land—roughly the area of Massachusetts and Maryland combined—much of which armed groups, their allies, and others seized in land grabs and continue to hold. Dispossessed of their land and livelihoods, the vast majority of Colombian IDPs live in poverty and lack adequate housing.

IN June 2011, the administration of President Juan Manuel Santos took an unprecedented step toward redressing this immense human rights and humanitarian problem by securing passage of the Victims and Land Restitution Law (Victims Law). The law established a hybrid administrative and judicial process intended to return millions of hectares of stolen and abandoned land to IDPs over the course of a decade.



The land restitution program represents the most important human rights initiative of the Santos administration. If implemented effectively, it will help thousands of families who have been devastated by the conflict to return home and rebuild their lives, while also undercutting the power of armed groups and criminal mafias. Already, the government's Restitution Unit has made notable gains in carrying out the law in some regions.



Despite this progress, major obstacles stand in the way of effective implementation of the law. IDPs who have sought to recover land through the Victims Law and other restitution mechanisms thus far have faced widespread abuses tied to their efforts, including killings, new incidents of forced displacement, and death threats. Since January 2012, more than 500 land restitution claimants and leaders have reported being threatened.

Mario Cuitiva, leader of internally displaced families reclaiming the Santa Paula farm in Leticia, Córdoba, points to a land map of the municipality of Montería. Montería, July 2012.



Gustavo Arrieta, one of the leaders of the Carmen de Bolívar Mesa de Víctimas—a municipal committee created to ensure victims' participation in Victims Law implementation—received repeated threats in 2012 and 2013, ultimately forcing him to flee the town. Arrieta stands on what used to be a school in Verdun, Carmen de Bolívar, a farm from which paramilitaries displaced residents in 2000. In 2008, Arrieta led fellow community members' return to Verdun. He said that upon returning, they found that the school, health care post, latrines, and 14 homes had been destroyed. Verdun, Carmen de Bolívar, Bolívar, July 2012.

This report—based on research between February 2012 and July 2013, including hundreds of interviews, more than 130 of them with land restitution claimants and leaders—details those abuses, assesses the government's response to date, and recommends additional steps authorities should take.

The government has consistently denounced attacks against IDPs seeking restitution, and provided hundreds of at-risk claimants with protection measures, including cell phones and bodyguards. However, we found that while important, these measures have not been complemented by sufficient efforts to hold perpetrators accountable, which are absolutely critical to stemming the ongoing source of threats to claimants' lives and preventing attacks.

The threats and attacks are entirely predictable given Colombia's chronic failure to deliver justice for both current and past abuses against IDP claimants. Crimes targeting IDPs in retaliation for their restitution efforts almost always go unpunished: prosecutors have not

charged a single suspect in any of their investigations into threats against land claimants and leaders.

Justice authorities also rarely have prosecuted the people who originally displaced claimants and stole their land. Of the more than 17,000 open investigations into cases of forced displacement handled by the main prosecutorial unit dedicated to pursuing such crimes, less than 1 percent have led to a conviction. The lack of justice for these crimes is a root cause of the current abuses against IDP claimants: those most interested in retaining control of the wrongfully acquired land often remain at large and are more readily able to violently thwart the return of the original occupants.

Colombia's failure to significantly curb the power of paramilitary successor groups also poses a direct threat to land claimants' security, while more broadly undermining the rule of law in areas where IDPs seek to return. These groups inherited the criminal operations of the United Self-Defense Forces of Colombia (AUC) paramilitary coalition, which carried out widespread land takeovers prior to the government's deeply flawed demobilization process. Thus far, successor groups have carried out a large share of the threats and attacks targeting IDP claimants and leaders. In addition, third parties who moved onto or acquired the land after the original occupants were forced out, as well as Revolutionary Armed Forces of Colombia (FARC) guerrillas, have also targeted claimants for their restitution efforts.

Over the next eight years, the government intends to address land restitution claims filed by hundreds of thousands of displaced people. Unless Colombia ensures justice for current and past abuses against IDP claimants and makes substantial progress in dismantling paramilitary successor groups, many of these families will suffer more threats, episodes of displacement, and killings. And the Santos administration's signature human rights initiative could be fundamentally undermined.

WIDESPREAD ABUSES

IDP land claimants and leaders have been subject to widespread abuses due to their restitution efforts, including killings, intimidation and threats, and new



AUTODEFENSAS GAITANISTAS DE
COLOMBIA A.G.C.

USTEDES PARTIDA DE,
MALPARIDOS AN CREIDO QUE POR QUE
TIENEN A UNOS HIJUPUTAS DE TRAS
DE USTEDES CUIDANDOLES EL CULO.
CREN QUE POR ESO HEMOS PARADO EL
AXIONAR ARMADO CONTRA USTEDES. Y
LO QUE ANDA DICIENDO ESA GORDA
MALPARIDA EN CONTRA DE NOSOTROS
MENSIONANDO A UNO DE NUESTROS
COMANDANTES PUES NO NOS
QUEDAREMOS CON LOS BRAZOS
CRUZADOS PARA QUE AHORA SI VALLA
A LA PRENSA Y SIGA HABLANDO
MIERDA DE NOSOTROS PERO QUE HABLE
CON GANAS MALPARIDOS, HIJUEPUTAS
Y APARTIR DE LA FECHA LOS
LIDERES Y COLABORADORES DE TIERRA
Y VIDA LOS DECLARAMOS OBJETIVOS

MILITARES A: CARMEN PALENCIA

ALFRANIO
LOZANO
CARLOS PAEZ
MANUEL MERCADO
JOSE MIGUEL PADILLA
MUERTE A LOS SAPOS,
RECUPERADORES DE TIERRA Y NO SE
PREOCUPEN QUE TIERRAS LE VA A
TOCAR PERO EN EL SEMENTERIO
HIJUEPUTAS Y YA SABEN LOS TENEMOS
EN LA MIRA.

A death threat signed by the "Autodefensas Gaitanistas de Colombia"—a name used by the Urabéños—and delivered on March 13, 2012, to the Urabá office of Tierra y Vida, an association of internally displaced people seeking land restitution. The threat declared Tierra y Vida leaders as "military targets."

incidents of forced displacement. This report documents such cases involving victims reclaiming land through the Victims Law—and other restitution mechanisms—from the departments of Antioquia, Bolívar, Cesar, Chocó, Córdoba, La Guajira, Sucre, and Tolima, as well as Bogotá. Official data and other forms of evidence reviewed by Human Rights Watch indicate that the pattern of abuses extends throughout the country.

In researching this report, Human Rights Watch documented 17 cases of **killings** of IDP land claimants and leaders since 2008—in which 21 people died—where there is compelling evidence that the attacks were motivated by the victims’ land restitution efforts or activism. In four additional cases it was not clear, based on available information, whether the killing was related to the victim’s restitution efforts, though there are signs that it may have been. We also documented two attempted killings and one kidnapping of a restitution leader. The victims of these killings and attacks—committed in five different departments—include grassroots leaders, individual claimants, their family members and lawyers.



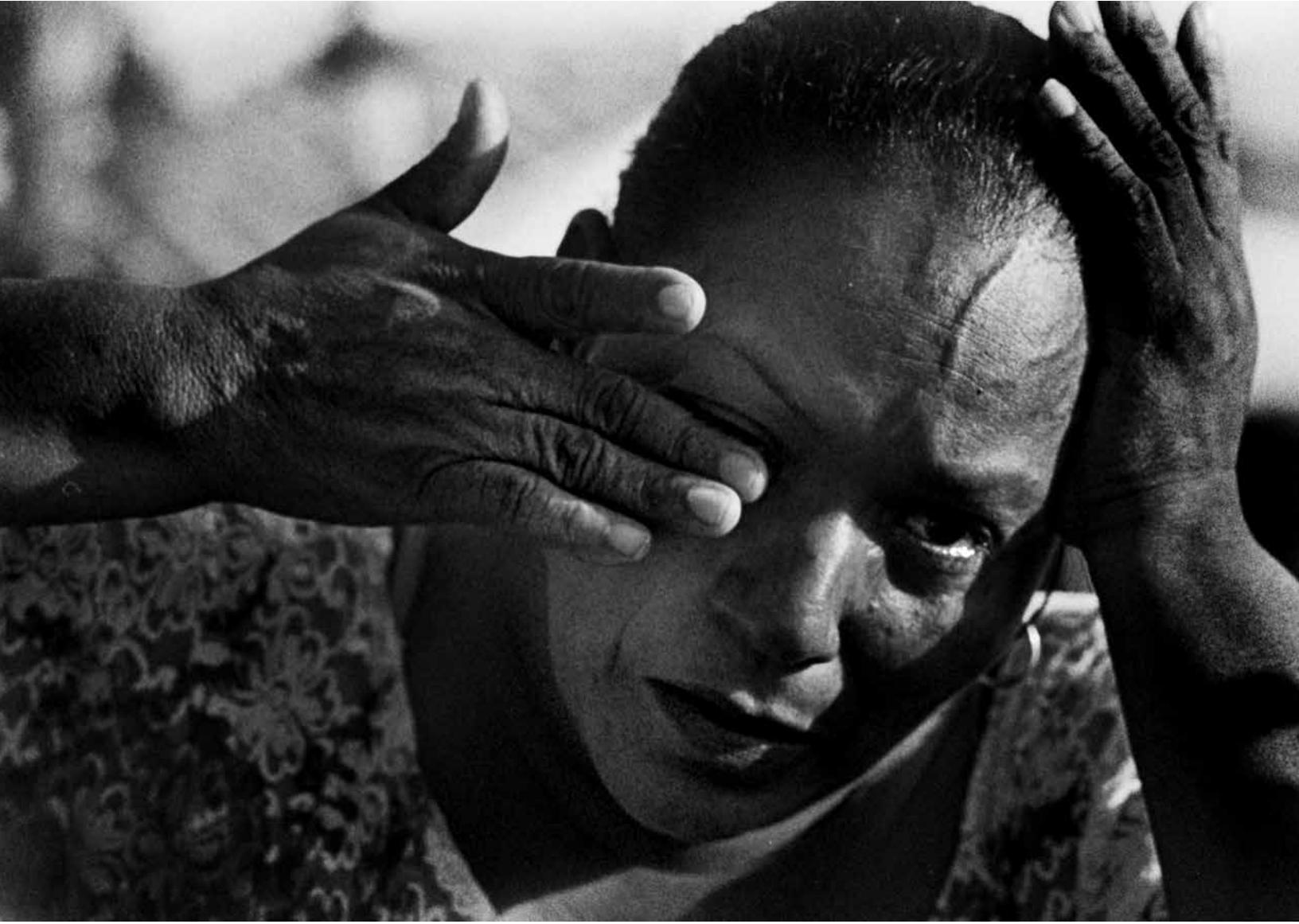
The front page of the April 10, 2013, edition of *El Meridiano*—Córdoba department’s main newspaper—shows the body of Ever Cordero Oviedo, a prominent victims’ leader from Valencia, Córdoba, who was killed the previous day. The headline reads: “Challenge to Santos: ... 24 hours before the Head of State would arrive in Córdoba to hand over land to those displaced by violence, yesterday one of the top leaders of victims in the Alto Sinú [region] was killed.”

Reports by government authorities and international bodies indicate that killings of land restitution claimants and leaders have occurred on an even greater scale. For example, as of August 2013, the Attorney General’s Office reported that it was investigating 49 cases of killings of “leaders, claimants, or participants in land restitution matters” committed in 16 departments since 2000, in which 56 people were murdered. The government’s Ombudsman’s Office reported at least 71 killings of land restitution leaders in 14 departments between 2006 and 2011.

The killings have instilled an enduring fear of attack not only in the victims’ family members and fellow claimants, but also among authorities working on restitution. In a March 2013 letter to President Santos, dozens of specialized land restitution judges from across the country requested protection measures and expressed serious concern for their safety, stating, “The attacks against victim claimants, their leaders, and members of the organizations that have supported them are well known. As justice officials, we are equally or even more exposed [to attacks], because we are the ones who order the legal and material restitution.” As described by the director of the government’s protection program, the strategy of the perpetrators is to “kill a few people in order to send a message to many.”

Pressure on those seeking restitution comes not only from the killings, but—much more widely—from **death threats** against claimants, their families, and those who advocate for them. In March 2013, the national director of the Restitution Unit identified such threats as the most common way people have attempted to torpedo the land restitution process.

Human Rights Watch documented serious, credible threats against more than 80 IDP land claimants and leaders from Bogotá and eight other departments since 2008, and this is a small portion of the total reported number. According to government data, at least 500 IDP land claimants and their leaders from more than 25 departments have reported such threats to authorities since January 2012. Based on individual evaluations, authorities have found upwards of 360 threatened claimants and leaders to be at “extraordinary risk” due to their land restitution activities—a determination that requires



the risk to be, among other criteria, “concrete,” “serious” and “exceptional.”

The threats—which are crimes in Colombia—are conveyed in a variety of ways: in writing, by text message, by phone, or by verbal face-to-face warning. The content varies, but many of the messages include threats to kill the victims or their family members if they do not give up their attempts to reclaim their land or leave the region.

Usually, the threats appear credible and are terrifying. Many are directed at victims traumatized in the past by paramilitaries or guerrillas, including by the very attacks on themselves, their families, or their neighbors that induced them to flee their land in the first place. Guer-

Maritza Salabarría recounts how her family attempted to return to Mundo Nuevo, Córdoba, on two separate occasions in 2006 and 2012—including as the result of a high-profile land restitution ceremony attended by the agricultural minister—but were forced to flee their land both times due to threats by armed men. Montería, Córdoba, July 2012.

illas and successor groups to paramilitaries frequently maintain a presence in the areas where victims are reclaiming land, and the latter in particular have demonstrated a willingness to kill restitution claimants and leaders. Many victims believe, with good reason, that the current threats are from individuals or groups directly linked to the long chain of violence and land theft that they and their families have experienced.

For example, Lina Rivera (pseudonym) reported that paramilitaries displaced her and her family from their farm in Cesar department in 1999, and subsequently killed her husband, brother, and son. Evidence strongly suggests that a paramilitary commander's brother acquired their farm and repeatedly threatened Rivera and her children for attempting to reclaim it. In a 2011 phone call, the paramilitary's brother told her, "Remember what happened to your brother, remember what happened to your son." Continued threats against Rivera's family led her to flee the region once again in late 2012.

Like Rivera, many IDP land claimants and leaders have fled their places of residence, **displaced yet again** due to threats or attacks related to their restitution efforts or activism. In researching this report, Human Rights Watch documented more than 30 such cases from seven departments since 2008. For example, in the first restitution cases under the Victims Law in Bolívar, Cesar, and Córdoba departments, repeated threats against IDP leaders caused them to flee their homes once again. Official data indicates that the problem is more common. Since January 2012, the government's protection program has temporarily relocated more than 90 land claimants and leaders to new areas because of grave threats to their lives due to their activism.

When threats force leaders to abandon their homes, the community or region loses a trusted spokesperson and bridge between community members and authorities, setting back broader restitution efforts. In many cases, such threats violate a provision in Colombian criminal law defining the crime of forced displacement as coercive acts that cause someone to change homes.

Some authorities have downplayed the problem of threats by arguing that even several hundred threats is a relatively low number given the tens of thousands of claims filed under the Victims Law thus far. While the proportion is small, there are several reasons to conclude that the problem is not.

First, threats often instill a lasting sense of insecurity and fear among victims, pressuring them to consider abandoning their efforts to reclaim their land. Second, threats targeting leaders have a multiplier effect because they inhibit them from working on others' behalf, while

also sending an intimidating message to the community members they represent. Third, it is not uncommon for threats to induce IDP claimants and leaders to flee the places where they are living, often with family members, forcing them to confront yet again the economic and social hardships that arise from displacement. These new incidents of displacement directly undermine one of the key principles enshrined by the Victims Law: the right to non-repetition of abuses.

And if it is not addressed the problem is likely to get much worse. The Victims Law is still in its initial stage of implementation. As of June 2013, the Restitution Unit had started to examine less than 20 percent of the more than 43,500 land claims it had received, and obtained rulings ordering restitution in roughly 450 of them. Just one family had returned to live on their land as a result of these rulings under the Victims Law and with the support of the government office coordinating IDPs' return home (though many other beneficiaries of the rulings were visiting their land to use it for farming). By 2021, the government estimated that it would hand down land restitution rulings concerning hundreds of thousands of claims, implying the return of tens of thousands of families. It is reasonable to expect that the level of threats will significantly increase as the thousands of pending claims progress, families return home, and those intent on retaining wrongfully acquired land see their interests more directly affected.

PERPETRATORS

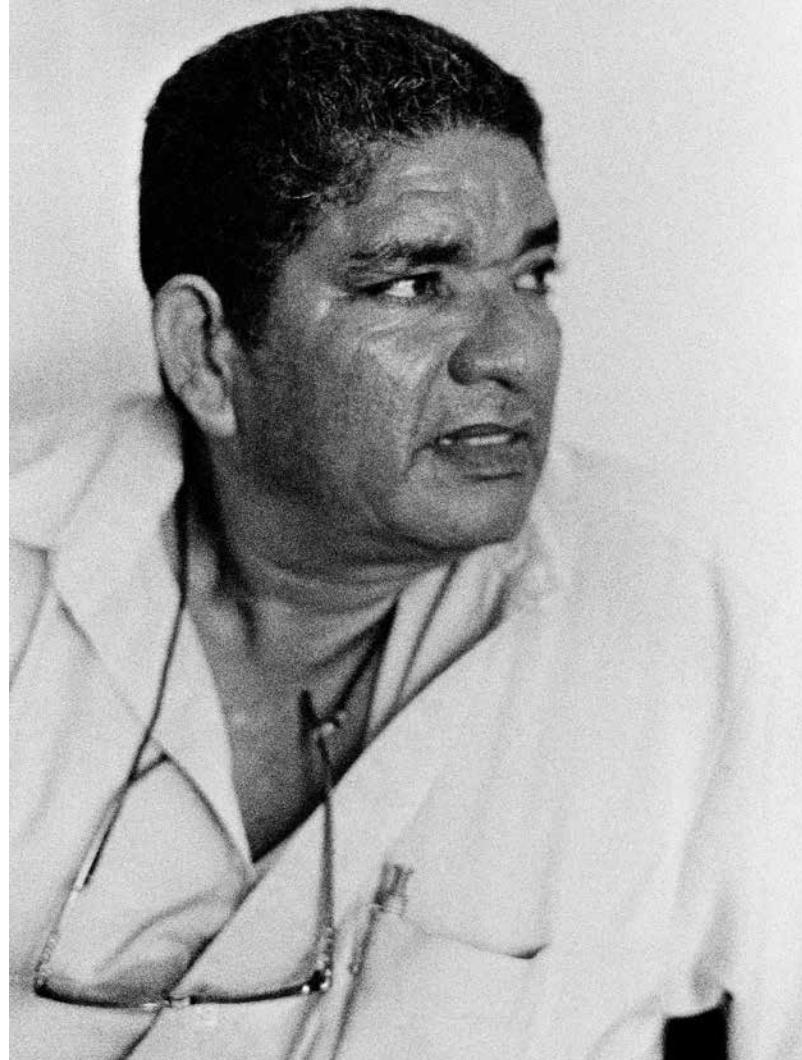
In a July 2012 speech, President Santos identified the principal perpetrators of threats against land claimants: "Many of the people making threats ... are the owners or supposed owners of the pieces of land that have been reclaimed.... There are other sectors. Sectors that I have called of the extreme left ... and of the extreme right, who are linked to the old paramilitaries, who do not want the land they wrongfully appropriated to be taken away from them." Human Rights Watch similarly found that paramilitary successor groups, third parties who took over the IDPs' land—sometimes in collusion with paramilitaries—and, in certain areas, FARC guerrillas, are the main perpetrators of abuses targeting land claimants and leaders.

In the majority of the cases of killings, attempted killings, and new incidents of forced displacement that we documented, the evidence strongly suggests that paramilitary successor groups—particularly the Urabeños—are responsible; the same groups are also responsible for a significant portion of threats. Information provided to Human Rights Watch by a range of government offices bolsters these findings. Paramilitary successor groups engage in drug trafficking and other mafia-like criminal activities in many of the areas where paramilitary networks previously carried out land grabs, such as Córdoba and Urabá, where a large share of the killings of IDP claimants and leaders have been committed.

The November 2011 abduction of Héctor Cavadía, a restitution leader from the town of Totumo, Antioquia, is a prime example of a targeted attack by the Urabeños. While abducted, Cavadía said that Urabeños members told him the land he was reclaiming had an owner and interrogated him about other restitution leaders from his IDP association. During a 2011 meeting in the region, an Urabeños commander ordered that “anyone who was going to reclaim land … would be disappeared,” according to the judicial testimony of an ex-Urabeños member.

Third parties who acquired or occupied the land after the original inhabitants were forced out have also been responsible for many of the abuses. These third parties range from cattle ranchers and businesspersons to demobilized paramilitaries. Evidence strongly suggests that successor groups and others have intimidated, threatened, and, in a few cases, even killed claimants on behalf of third parties.

Finally, in some areas FARC guerrillas have threatened and killed IDPs seeking restitution. Germán Bernal, for example, a man active in campaigning for the return of IDPs to Santiago Pérez, a town in southern Tolima department, said that the FARC’s 21st Front has repeatedly threatened him due to his efforts. Bernal and other IDP leaders reported that during obligatory meetings held by the FARC in rural areas of southern Tolima, the guerrillas, apparently motivated by their desire to maintain control there, announced their opposition to IDPs returning home and declared that IDP leaders were “military targets.” Government statistics indicate that guerrilla threats extend to other parts of the country: since January



Héctor Cavadía, a land restitution leader from the town of Totumo in Necoclí, Antioquia, survived a November 2011 abduction and subsequently fled the region with his family. Location withheld at the request of Cavadía, July 2012.

2012, more than 50 claimants and leaders from at least 13 departments seeking restitution through the Victims Law have told authorities they were threatened by guerrillas.

The FARC as well as National Liberation Army (ELN) rebels also have a long history of using antipersonnel landmines, and the presence of landmines in areas where such groups are or were active poses a serious obstacle to the safe return of IDPs. Roughly 70 percent of the municipalities where restitution claims have been filed are places where the government has previously reported accidents or incidents related to antipersonnel landmines or unexploded ordnance, according to the Restitution Unit.

THE GOVERNMENT'S RESPONSE

The Colombian government's response to abuses against IDP land claimants and leaders has largely consisted of high-level officials condemning the attacks and threats, and protection measures provided by the National Protection Unit (UNP). While the UNP has flaws, it is the most advanced program of its kind in the region, and its protection measures—particularly bodyguards—are potentially lifesaving.

The condemnations of such attacks by officials and UNP protection, however, are essentially palliative measures. They do not help rein in and hold accountable perpetrators, the source of ongoing threats to claimants' lives. Indeed, the UNP's inherent limitations are evidenced by the fact that the program often has to relocate threatened claimants because their safety cannot be guaranteed where they live.

Colombia has fallen short in three key areas that are at the root of violence and threats against IDP land claimants and leaders:

- There has been very little accountability for threats and attacks targeting IDP claimants in retaliation for their restitution efforts. This means little effective deterrence for such crimes.
- Justice authorities have consistently failed to prosecute those responsible for the original forced displacement of people and related land takeovers. This exposes claimants to attack, because it often means that the individuals, groups, or criminal mafias with a vested interest in maintaining control of the land are off the radar of law enforcement authorities and more readily able to oppose restitution through violence and intimidation.
- The government's failure to effectively dismantle paramilitary successor organizations in different regions of the country allows these groups to carry out ongoing abuses against claimants.





Remains of a primary school that was destroyed after paramilitaries forced Santa Paula residents off their land. Leticia, Córdoba, July 2012.



Gustavo Arrieta puts on his bullet proof vest, provided by the government's protection program, in a church in Carmen de Bolívar where he was then living after having fled his home due to threats and intimidation. Carmen de Bolívar, Bolívar, July 2012.

Added to this, authorities in different regions, including police, have downplayed the seriousness of threats and prematurely assumed that attacks are unrelated to the victims' activism. This attitude is reflected in the lack of action on the part of some regional authorities to provide meaningful protection for IDPs who have received credible threats and to vigorously pursue the perpetrators of crimes against them.

Lack of Accountability for Threats and Killings

The Attorney General's Office has prioritized the investigations of killings allegedly tied to land restitution efforts by assigning many of them to the Human Rights Unit and other specialized prosecutors based in Bogotá and Medellín, who are less vulnerable to intimidation. This has led to substantial progress in some important cases. Overall, however, the results have been modest: as of August 2013, prosecutors had obtained convictions in eight of the 49 cases of killings of land claimants and leaders the Attorney General's Office reported it was investigating, and in more than two-thirds of the cases, no suspects had been charged. Prosecutions have been

impeded by long delays in moving cases to specialized prosecutors in Bogotá and Medellín and, according to some prosecutors we spoke with, the failure to take basic steps to advance investigations.

There has been even less accountability for perpetrators of threats. The Attorney General's Office reported that all of its investigations into threats against IDP land claimants and leaders are only at a preliminary stage, which means that no one has been charged in a single case. Threats are unquestionably difficult to investigate, but victims say they face an array of unnecessary obstacles when seeking justice, particularly outside of Colombia's main cities. These include justice authorities downplaying the nature of the threats, failing to contact them after they file a criminal complaint, or even refusing to accept a criminal complaint in the first place. Such responses show that some authorities lack the will to pursue these cases, exacerbating victims' distrust of authorities, leading to under-reporting of threats, and virtually eliminating any chance for accountability.

Along with sending a message to perpetrators that they will not face consequences, the lack of adequate criminal investigations into threats also makes it difficult to evaluate their relative urgency and seriousness. This impedes the government's protection program from efficiently assigning protection measures in accordance with the claimants' level of risk.

Lack of Accountability for the Original Forced Displacement and Land Takeovers

Under the Victims Law, restitution claims are registered in an administrative process and resolved by civil courts that do not establish criminal liability for those responsible for the forced displacement and land takeovers in individual cases. The advantage of this approach is that it allows cases to be expeditiously processed. But it also gives rise to a fundamental gap in the law's implementation: claims are advanced and land is returned without a parallel process to hold accountable the individuals, groups, and criminal networks responsible for the forced displacement and land theft.

This accountability gap poses a serious threat to the safe return of thousands of IDPs. However, justice authorities, in a position to fill this gap, have made little progress in pursuing the perpetrators of forced displacement and illegal land acquisitions that originally drove the claimants from their homes.

- As of January 2013, Colombia's main prosecutorial unit dedicated to pursuing forced displacement, the National Unit against the Crimes of Enforced Disappearance and Displacement (UNCDES), had obtained convictions in less than 1 percent of its more than 17,000 open investigations into cases of forced displacement. More than 99 percent of the investigations were at a preliminary stage, meaning that no suspects had been charged.
- As of March 2013, nearly eight years after the Justice and Peace paramilitary demobilization law took effect, defendants participating in the process had confessed to more than 11,000 cases of forced displacement. Yet Justice and Peace unit prosecutors had obtained convictions for just six cases of forced displacement.
- As of January 2013, of the nearly 21,000 open investigations into cases of forced displacement handled by prosecutors outside of the UNCDES or Justice and Peace unit, more than 99 percent were at a preliminary stage. In Córdoba and Chocó departments, all of such prosecutors' more than 3,400 open investigations into cases of forced displacement were at a preliminary stage.
- The UNCDES also identifies itself as the main office tasked with conducting criminal investigations of the illegal takeovers of land that IDPs left behind. As of January 2013, it had produced even fewer results in this area, having obtained just three convictions for crimes related to land takeovers.

To its credit, the Attorney General's Office has taken steps to address one overarching investigative flaw that has thus far impeded accountability for past and current abuses against IDP claimants: the failure to seek evidence of connections between crimes related to the same piece of land, community, or region. The existing

case-by-case approach has prevented prosecutors from establishing patterns that lead to the identification of all responsible parties. In 2012, Attorney General Eduardo Montealegre started to implement a new “contextualized” investigation strategy throughout the office. If effectively carried out in conjunction with the elimination of other obstacles to justice identified in this report, the new strategy could help significantly improve accountability for crimes related to restitution.

Continued Power of Paramilitary Successor Groups

Despite considerable gains in capturing paramilitary successor group leaders, Colombian authorities have failed to significantly curb the power of such groups.

Data from the National Police show that the size of the groups has essentially remained constant over the past four years, dipping slightly from 4,037 members in July 2009 to 3,866 members in May 2013. The Urabeños, Colombia’s largest and most organized paramilitary successor group, has grown in membership in 2013.

Labeled “emerging criminal gangs” (Bacrim) by the government, successor groups continue to commit widespread abuses against civilians, such as massacres, killings, and forced displacement. According to the 2012 annual report of the International Committee of the Red Cross (ICRC), which has an extensive field presence throughout Colombia, successor groups cause at least as many deaths, threats, incidents of displacement, and disappearances as does the internal armed conflict between the FARC and government forces. Successor groups drive thousands of people from their homes each year, including, in some cases, IDPs attempting to return to their land.

For example, Ermes Vidal Osorio and Ever Cordero Oviedo, two recognized IDP leaders from Valencia, Córdoba, were murdered within a 20-day span in March and April 2013, evidence suggests by the Urabeños. Both belonged to a committee created in Valencia to ensure victims’ participation in Victims Law implementation. Shortly after Cordero’s murder, threats and intimidation by presumed Urabeños members forcibly displaced 34 of his family members from Valencia, including 22 children.



The enduring power of paramilitary successor groups poses a direct threat to land claimants and leaders, as evidenced by their track record of attacking such individuals. Furthermore, in a broader sense, their power undermines the rule of law in many of the areas where land restitution is being implemented, corrupting mem-



Road between the city of Montería, Córdoba, and the Santa Paula farm, which paramilitaries and their allies seized from residents between roughly 1996 and 2006. Montería, July 2012.

bers of the security forces and discouraging witnesses from providing information to justice officials. As the Attorney General's Office acknowledges, a primary obstacle to the prosecution of threats against land claimants is the victims' fear that paramilitary successor groups will punish them if they cooperate with investigations.

Effective efforts to combat successor groups—including by breaking their links with security forces in certain regions—should be seen as an essential precondition for effective implementation of the Victims Law.

RECOMMENDATIONS

Currently, there is a fundamental gap in Colombia's restitution policy: the process of returning land is not being accompanied by parallel efforts to ensure justice for abuses against IDPs. Restitution claimants and leaders are frequently targeted in large part due to authorities' chronic failure to prosecute those responsible for displacing them and seizing their land, as well as the threats and attacks aimed at preventing them from returning home. The Attorney General's Office has not consistently conducted investigations that explore patterns across crimes related to the same pieces of land, communities, or suspected perpetrators, and some local justice officials have shown a lack of will to pursue cases of threats altogether.

Strategic interventions by prosecutors, in coordination with restitution efforts, could go a long way toward ensuring justice—and thus protection—for those seeking to return to their land. Under the Victims Law, land restitution is gradually implemented across successively prioritized land plots, towns, and regions. We believe the Attorney General's Office should focus its efforts to prosecute crimes targeting IDPs in the same areas where the Restitution Unit is examining claims. Such coordination would take advantage of the concentration of complaints concerning related cases, allowing prosecutors to carry out systematic investigations of forced displacement, land takeovers, threats, killings, and other abuses against IDPs seeking to reclaim land. This more holistic approach would be a powerful and efficient strategy for filling the current accountability gap in the land restitution process.

Such an approach would need to be complemented by improved efforts to dismantle paramilitary successor groups and protect threatened claimants in a timely fashion. To this end, the government should adopt vigorous measures to root out collusion between paramilitary successor organizations and local officials, bolster its capacity to monitor the risks these groups and others pose to restitution claimants, and ensure that such individuals promptly receive adequate protection when their lives are in danger.

TO THE SANTOS ADMINISTRATION

Ensure Accountability for Abuses against Restitution Claimants and Leaders

- » Provide sufficient resources to the Attorney General's Office so that it can create teams of prosecutors and judicial investigators tasked with pursuing crimes against IDP land claimants and their advocates, including the incidents of forced displacement and land theft they originally suffered, and all killings, attacks, and threats tied to their current efforts to reclaim land. The teams should be based out of Colombia's main cities, but routinely conduct field visits to each city or town where the Restitution Unit has an office in order to receive criminal complaints and investigate them. The teams should also investigate crimes linked to land restitution cases being processed through mechanisms other than the Victims Law. (See more details in recommendations to the Attorney General.)
- » Issue a directive instructing Restitution Unit officials to immediately inform prosecutors when they come across evidence of forced displacement or illegal land takeovers.
- » Ensure that any future implementing legislation for the Legal Framework for Peace, a constitutional amendment enacted in July 2012, does not exempt from criminal investigation cases of forced displacement and other grave violations of human rights and international humanitarian law.

Provide Timely and Effective Protection to at-Risk Claimants and Leaders

- » Ensure that the Early Warning System in the Ombudsman's Office has the staff and resources necessary to monitor potential threats to land claimants and leaders in regions where the restitution process is underway.
- » Ensure that the Carabineers division of the National Police, which operates in rural regions, is adequately staffed and funded to maintain security in the communities where IDPs return.

- » To minimize delays in providing protection measures to at-risk restitution claimants and leaders, set time limits between the different stages of the National Protection Unit's (UNP) process for evaluating protection requests and assigning measures. This should include establishing and enforcing limits between the times that the UNP receives a protection request and completes a risk evaluation of the potential beneficiary; as well as time limits between the completion of the risk evaluation, the determination by the Committee for the Evaluation of Risk and Recommendation of Measures (CERREM) as to the appropriate protection measures to be taken, and the UNP's effective implementation of these measures.
- » Address the shortcomings in the UNP's protection measures for women IDP leaders outlined in Constitutional Court order 098 of 2013, including inadequate coverage of the beneficiary's close family members.
- » Ensure that, in accordance with recent Constitutional Court rulings, the Victims Unit registers and provides attention, assistance, and protection to people—including restitution claimants and leaders—who are displaced by paramilitary successor groups or flee their homes due to other situations described in Law 387 of 1997.

TO THE ATTORNEY GENERAL

- » Conduct vigorous, full investigations into all alleged incidents of forced displacement and land takeovers, killings, attempted killings, and threats documented in this report, with a view to prosecuting all parties responsible.
- » Create teams of prosecutors and judicial investigators tasked with investigating crimes against IDP land claimants and their advocates (see above). Pursuant to Directive 01 of 2012, prioritize as “situations” crimes related to land restitution (including incidents of forced displacement and land takeovers, as well as threats and attacks against claimants tied to their reclamation efforts) that have occurred in the same areas where land restitution is being implemented. In coordination with the Restitution Unit and other offices working on restitution,



A demonstration in front of the Colombian Congress demanding land restitution and an end to threats against land activists. Bogotá, July 2012.

the teams should conduct systematic investigations of these “situations,” taking advantage of the concentration of regional complaints to pursue evidence of links between cases in order to identify patterns and all responsible parties. (It is important to note, however, that not all people who moved onto or acquired land being reclaimed by IDPs bear criminal liability for the acquisition of such land.)

- » Immediately assign to the specialized team of prosecutors all future cases of threats, killings, and other attacks against land restitution claimants and leaders.
- » Request that judges expel from the Justice and Peace process and exclude from sentencing benefits any paramilitary or guerrilla defendant who has not provided complete information to prosecutors regarding 1) incidents of forced displacement or associated land takeovers in which they participated or 2) land that they directly or indirectly acquired due to their membership in an irregular armed group.
- » Ensure that the specialized unit of prosecutors dedicated to investigating paramilitary successor groups prioritizes investigations into state agents credibly alleged to have colluded with or tolerated the groups.

THE RISK OF RETURNING HOME

Violence and Threats against Displaced People Reclaiming Land in Colombia

Violence associated with Colombia's long-running internal armed conflict has driven more than 4.8 million Colombians from their homes, generating the world's largest population of internally displaced persons (IDPs). Colombian IDPs are estimated to have left behind 6 million hectares of land, much of which armed groups, their allies, and others seized, and continue to hold. In June 2011, President Juan Manuel Santos took an unprecedented step towards addressing this problem by securing passage of the Victims Law, which aims to return land to hundreds of thousands of displaced families over the course of a decade.

Despite some notable gains in applying the Victims Law, major obstacles stand in the way of its effective implementation. IDPs who have sought to recover land through this new law and other restitution mechanisms have faced widespread abuses tied to their efforts, including killings, new incidents of forced displacement, and death threats. *The Risk of Returning Home*—based on a year and a half of field research—details those abuses and assesses the government's response.

Human Rights Watch found that crimes targeting IDPs for their restitution efforts almost always go unpunished: prosecutors have not charged a single suspect in any of their investigations into threats against land claimants and leaders. Justice authorities also rarely prosecute the people who originally displaced claimants and stole their land. This is a root cause of the current abuses targeting claimants because those most interested in retaining control of the wrongfully acquired land often remain at large and are more readily able to violently thwart restitution. The failure to significantly curb the power of paramilitary successor groups—which have committed many of the abuses against land claimants—also poses a major threat to restitution.

To ensure that IDPs can safely return home, Human Rights Watch recommends that prosecutors work with land restitution authorities to vigorously pursue crimes against claimants in the areas where restitution is being implemented. Unless Colombia delivers justice for current and past abuses against land claimants and makes substantial progress in dismantling paramilitary successor groups, the threats and attacks will continue—and the Santos administration's signature human rights initiative could be fundamentally undermined.



Paola Lance sits on the fallen structure of the house her family started to build in the Caño Manso community along the Curvaradó River basin in Chocó. Displaced in the late 1990s, Caño Manso community members started to return to their land in 2007 in the face of death threats and attacks. The day before this photograph was taken, unidentified men knocked down the structure, in an apparent act of intimidation. Caño Manso, Chocó, March 2011.

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