



**GLOBAL  
INITIATIVE**  
AGAINST TRANSNATIONAL  
ORGANIZED CRIME

# 'WE JUST WANT TO FIND OUR CHILDREN'

UNDERSTANDING DISAPPEARANCES  
AS A TOOL OF ORGANIZED CRIME

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**RESILIENCE  
FUND**

Supporting community  
responses to organized crime

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# CONTENTS

- Executive summary** ..... 2
  - Key findings ..... 3
- Introduction** ..... 5
  - Disappearances in Latin America..... 6
- The causes and consequences of disappearances** ..... 8
  - Instrumental use of disappearances..... 8
  - Disappearances as human exploitation..... 10
- Mexico** ..... 11
  - Drugs and migrant trafficking ..... 11
  - Resilience strategies and responses..... 13
- Venezuela**..... 14
  - Illegal mining..... 14
  - Resilience strategies and responses..... 16
- Legal implications** ..... 17
- Policy implications** ..... 20
- Recommendations** ..... 21
- Notes** ..... 23



## EXECUTIVE SUMMARY

People from all walks of life have disappeared during Mexico's so-called 'war on drugs'; many others become victims of the growing global human trafficking industry; migrants go missing as they travel to seek a better life elsewhere, often displaced by criminal groups. Vulnerable youth, particularly young boys, are co-opted by criminal interests and then 'disappeared' to forcibly join gangs, often groomed to provide gang 'muscle' or traffic drugs.<sup>1</sup> Women and children are often trafficked for sexual exploitation and forced labour.<sup>2</sup> Many activists, journalists, politicians and whistle-blowers who campaign against organized crime or corruption have disappeared.

Disappearances – as we define the phenomenon in this paper – are deployed for various reasons: to silence the voices of social and political leaders, activists and journalists; to assert violent control over criminal territories and illicit markets; or to monetize vulnerable people as a tradeable commodity. In all these cases, criminal groups have a hand, and although organized crime-related disappearances vary in motive and scope, they disproportionately affect the most marginalized communities.

Criminal groups therefore instrumentalize disappearances for different objectives. But a fundamental challenge of dealing with this widespread problem is that cases are rarely differentiated and often assumed by law enforcement authorities to be one-off isolated incidents. However, when examining this issue closely, there is a more menacing pattern behind them, namely that they are often perpetrated by organized criminal groups operating in a particular community or controlling a market territory. By not discerning this broader picture of underlying criminal intent, by focusing on the what and ignoring the why, the phenomenon tends to receive limited attention in public policy agendas. There is also inadequate institutional support and investigative work, which has the effect of impeding victims' access to justice.

The international framework designed to address enforced disappearances – the International Convention for Protection of All Persons from Enforced Disappearances (ICPPED)<sup>3</sup> – requires that state involvement in the act (in the form of collusion, authorization or acquiescence) is proven in order to trigger its obligations. Compounding this, the conditions of state involvement and the role of organized crime actors are not clearly set out in the wording of the convention, so cases of disappearances linked to illicit economies tend to be confined to the margins of national and international agendas.

Meanwhile, the international human rights discourse on disappearances perpetrated by non-state actors (e.g. criminal groups or networks) has progressed to a certain degree, but it, too, remains ill-equipped to determine the conditions and factors of collusion between organized crime and state actors that would amount to authorization, acquiescence or omission.

These imprecisions and gaps in the legal framework result in a general lack of institutional support for victims and their families. Despite this, individuals and communities affected by this crime have developed mechanisms to respond. Since 2019, the Global Initiative Against Transnational Organized Crime (GI-TOC), through its Resilience Fund, has supported over 50 community-based initiatives and activists searching for people who have disappeared, including relatives seeking justice and journalists investigating disappearances related to organized crime around the world.<sup>4</sup> The Resilience Fund has documented first-hand experiences through interviews and dialogues, and provided financial and capacity-building support.<sup>5</sup>

This brief draws from the work and perspectives of such civil society and community members who live in environments that are exposed to disappearances. It assesses this form of organized crime as a serious human rights violation. While informed by the global dynamics of this criminal market, it focuses on contexts in which disappearances occur in Latin America, analyzing in particular the cases of Mexico and Venezuela. The first setting examines how criminal groups strategically deploy disappearances to fulfil various objectives; the other considers how disappearances occur in the mining sector, which experiences a high prevalence of criminality. This policy brief therefore aims to bring these specific local perspectives to the broader global policymaking agenda, and is intended to inform government officials and policymakers, as well as civil society groups working in this field.

While some of the evidence in the brief is anecdotal, the authors have corroborated it with open-source data and a literature review. The analysis is exploratory and is designed to add to a small yet growing body of literature on disappearances among vulnerable communities exposed to organized crime and amplify understanding of the pressing nature of the problem in policy circles.

## Key findings

- Disappearances in Mexico and Venezuela – the country case studies in this paper – often occur in contexts of criminal governance, where organized crime groups are engaged in targeted killings, kidnapping for ransom, extortion, human trafficking and smuggling, and drug trafficking – all markets that exploit the structural vulnerabilities of marginalized populations.
- In Mexico, the dynamics of disappearances are inextricably linked to both the state and organized criminal groups, sometimes acting in collusion. Despite legal measures adopted to address the country's high levels of disappearances, it often falls to families and civil society to shoulder the burden of preventive and responsive action in the absence of adequate legal and state responses.
- The dynamics of Venezuela's extractive industry – both legal and illegal – have led to a humanitarian crisis where vulnerable populations are drawn into illegal mining operations and subjected to forms of modern slavery. Many disappear in mining sites. This phenomenon in Venezuela is relatively recent.

- The legal distinction between enforced disappearances and other forms of disappearances may limit the scope of application of international human rights law and therefore restrict victims' access to mechanisms of redress. Although discussions on how to interpret the ICCPED have progressed, from the victims' perspective these are often theoretical and ultimately irrelevant, as the harms they are subjected to are the same, regardless of whether the perpetrator is the state or a criminal group, or both working in collusion. Nevertheless, the international legal framework is a useful way to hold states accountable and bring international attention to the problem. Therefore, efforts to better document evidence of organized crime-related disappearances, and how they may fall under the convention's scope and engage the international community, are welcomed.
- The alarm needs to be sounded on the prevalence of disappearances in organized crime hotspots and hubs at the global level. Innovative solutions must be created that are rooted in local perspectives, with accountability measures that safeguard community rights and are based on established care routes.



## INTRODUCTION

*We searched for our daughter for many years in the hope of finding her alive, until we saw that they were burying people in the countryside, in the hillside ... It's a very remote place, far away ... I imagine them there, screaming, and no one heard them. Who heard them? Who could help? We wrote down the places we found and planned how we'd start the search. Because it's so big, so big that how do you start? The world is very big when you're searching for your disappeared.*

SILVIA ORTIZ, FANNY'S MOTHER. SEARCHING IN TORREÓN, MÉXICO<sup>6</sup>

The GI-TOC started documenting community-based responses to organized crime in Sinaloa, Mexico, in 2016. The aim at the time was to explore and assess what community resilience may mean in the context of organized crime and violence. One of the first documented initiatives was led by Mirna Medina, whose son Roberto disappeared in Sinaloa in 2014. The lack of institutional support, mistrust of law enforcement and exposure to revictimization impelled her and mothers like her whose children had gone missing to search for their loved ones themselves. Medina would lead her *rastreadoras*, or trackers, collectively known as las Rastreadoras del Fuerte (searchers from El Fuerte), in territories disputed between heavily armed factions of the Sinaloa Cartel. They would dig for human remains in the hope of finding their family members. Medina discovered her son's remains in 2017, three years after he had disappeared. While the Rastreadoras del Fuerte have claimed to have recovered remains of over 200 people in northern Sinaloa, many more remain undiscovered, leaving families, relatives and their communities unable to find closure.

These mothers as well as other movements and initiatives around the world responding to a lived experience of organized crime led to the GI-TOC launching the Resilience Fund in 2019. The Fund's mission is to support community-based responses to organized crime. In 2020, the Fund launched its first international fellowship focusing on disappearances related to organized crime, selecting three fellows from Latin America who had experienced disappearances first hand – as family members or civil society actors belonging to communities with numerous disappearances – and were leading effective responses. Between 2020 and 2022, these Latin American fellows worked with a multi-disciplinary group of fellows from the Philippines, the Democratic Republic of the Congo, Romania, Kenya and Cambodia. The Resilience Fund has continued to support other individuals and organizations in Latin America and beyond, addressing disappearances in the context of organized crime through other fellowship programmes, capacity building sessions, international engagement platforms and small grants.



Two women comb the land in search of the remains of their disappeared relatives, Sinaloa, Mexico. © *Rastreadoras del Fuerte*

## Disappearances in Latin America

The Latin American region has grappled with disappearances for more than half a century. Its military dictatorships 'disappeared' people in an attempt to crush political resistance and assert power over populations. Today, the landscapes of disappearances in Latin America have changed, reflecting the rise of illicit economies. While countries across the continent have ended their authoritarian regimes, some forms of state-sponsored disappearances have merely changed shape. This is particularly true in terms of securitized and covert responses to organized crime.

In contexts where disappearances are intertwined with illicit economies, they can be understood as a phenomenon that contributes to criminal dynamics in a certain geography – whether as a force of territorial control or an impact of an illegal economy – and an act that is committed by organized criminal groups often in collusion with, or with the acquiescence of, the state. Grantees of the Resilience Fund interviewed for this brief perceived disappearances as an integral part of an ecosystem of criminality and violence. Disappeared people are not always killed; direct victims may be kidnapped or duped into being trafficked or forced to work in illicit operations.

These disappearances exploit the structural vulnerabilities of the most marginalized sections of society and leave a trail of despair and suffering. In several Latin American countries, the problem is pronounced. Disappearances occur in criminal ecosystems characterized by trafficking and uneven gender dynamics, and can amount to gross human rights violations, leaving victims with little institutional or legal response. These involuntary disappearances do not fit neatly into the definition of 'enforced disappearances', as set out in international law. That definition was primarily drafted to address the repressive practices of military dictatorships without taking into account the activities of non-state organized criminal groups.



## Defining disappearances in the context of illicit economies

A disappearance, for the purpose of this brief, is defined as an act or instance in which a person has been arrested, detained or abducted, or has in any form experienced a restriction of their liberty by organized crime groups, alone or in collusion with state actors, and whose fate or whereabouts are unknown by their families and acquaintances. It also includes cases where a disappearance is believed to be linked to the acts of an organized criminal group or is a consequence of illicit economic activity. Victims may have disappeared when forced into modern forms of slavery in mining sites, for example, while forcibly displaced from their communities or when falling into the hands of trafficking syndicates. Regardless of the context, they suffer numerous forms of aggravated discrimination.

Organized crime groups meanwhile are defined as 'groups or networks acting in concert, by engaging in violence, corruption or related activities in order to obtain, directly or indirectly, a financial or material benefit. Such activities may be carried out both within a country and transnationally.'<sup>7</sup> ■

This policy brief presents Mexico and Venezuela as two case studies. These countries were selected because they represent different manifestations and dynamics of the phenomenon as well as local perceptions of threats, impact and responses. The analysis herein is largely informed by the Resilience Fund's work and engagement with grass-roots civil society actors. Resilience Fund grantees in these settings have worked in contexts of disappearances linked to organized crime through various projects, engaging in dialogue and collaboration with diverse stakeholders, including private businesses, government officials, civil society and the international community. The Fund has documented grantees' diverse perceptions of causes, threats and lived experiences.

In Mexico, organized criminal groups have perpetrated disappearances to assert control over territory and over other criminal groups. Meanwhile, in Venezuela, disappearances have been perpetrated in the context of criminal economies that depend heavily on human labour, including mining and human trafficking. While the two patterns are not exclusive, the case studies delineate how disappearances are a typical form of organized crime that violates the human rights of direct victims, their families and wider communities. Secret mass graves linked to organized crime have been discovered in both countries, and more recently in Venezuela.

The brief first explores dynamics highlighted by the Resilience Fund fellows and current academic research on disappearances, before evaluating locally rooted responses to the phenomenon. It concludes with legal and policy implications for the role of states, and provides recommendations that should be considered with urgency.



# THE CAUSES AND CONSEQUENCES OF DISAPPEARANCES

**T**he Resilience Fund network has identified two distinct ways that organized criminal ecosystems engender disappearances in Latin America. First, criminal actors instrumentalize disappearances as a weapon to terrorize and assert control over populations and economic activities. Second, disappearances occur in contexts of deep structural inequalities that organized criminal groups exploit to fuel illicit economies, such as human trafficking for forced labour.

## Instrumental use of disappearances

Instrumentalizing disappearances serves several strategic purposes for criminal groups: to silence opposition, gain political ownership and maintain territorial control, obfuscate investigations and avoid attention from law enforcement. Entire communities can thus be forced to submit to criminal governance, weakening forms of resistance as criminal groups target political dissidents, community leaders and activists. Resistance networks are severely affected, impacting their participation in public debate and policymaking.

From a law enforcement perspective, the absence of the victim's body makes the crime essentially difficult to investigate and prosecute.<sup>8</sup> Without a body and a visible crime scene, disappearance cases tend to get limited public attention, benefitting perpetrators in asserting power while ensuring impunity. Families of the disappeared are often dismissed when they approach the police to report missing persons in regions with a high prevalence of criminal groups and illicit economies, such as Mexico or Guatemala.<sup>9</sup> In some Latin American countries, organized criminal groups intentionally destroy victims' bodies beyond recognition, making their identification a highly complicated process, in the event that remains are ever located. They use methods, including cremation and acid, to dispose of victims in barrels and pits.<sup>10</sup> Simultaneously, organized criminal groups hamper investigations. The disaggregation of homicide cases from disappearances and missing persons based on identification of bodies can therefore prove a long process, or even impossible.

Executing disappearances requires significant political and financial resources, from planning to disfiguring to hiding the bodies. The link between state machinery and non-state armed actors is not as visible as state-sponsored disappearances reflected in Latin America's authoritarian regimes. In fact, organized crime syndicates are known to be deeply intertwined with the state apparatus and both state and non-state actors commit human rights violations, including forced disappearances.<sup>11</sup> The NGO Fundación de Estudios para la Aplicación del Derecho's claims in a report on disappearances in El Salvador that government actors and the country's main gangs presumably negotiate agreements to reduce homicide rates. The report refers to evidence that indicates gangs would resort to clandestine burials to artificially reduce homicide rates in official statistics. These reductions coincided with critical political events such as presidential elections in 2008 and the lead-up to a gang truce in 2012. Numerous bodies found in mass graves in 2009 and after 2012 were of murdered victims during 2008 and 2012. More recently, a dramatic drop in homicide rates was recorded between 2018 and 2020.<sup>12</sup>

Militarization and over-securitized policies against organized crime characterized by violent confrontations between state and non-state armed actors have led to numerous disappearances and extrajudicial killings around the world.<sup>13</sup> Resilience Fund grantees from Mexico and the Philippines have said how criminalization and punitive laws have been used indiscriminately to profile and detain people, in most cases, targeting marginalized populations.<sup>14</sup> Often the lines between state actors and criminal groups are blurred, with families and relatives referring to perpetrators that take people from their homes, for instance, as 'men in uniform.' Another pattern emerging in Mexico is the alarming rise of gender-based violence in public spaces and disappearances of women, which are being increasingly linked to 'criminal and state forms of violence' and 'militarization of civilian forces.'<sup>15</sup>

Disappeared people are considered neither alive nor dead, which brings a heavy psychological burden to bear on family members searching for their relatives. Interviews with activists from Central America revealed that the uncertainty surrounding a relative's location is compounded by the high likelihood that they are dead.<sup>16</sup> Disappearances are sudden and often come without any warning. Criminal groups at times enter homes and private businesses, and kidnap an entire household to claim their territories. 'If you are lucky, you will receive a call to leave the place in 24 hours,' explained one GI-TOC grantee.<sup>17</sup>

The lack of a resolution process leaves relatives and friends without access to justice, increasing their psychological trauma.<sup>18</sup> Family members often take it upon themselves to investigate a disappearance, which can then trigger other forms of violence, such as physical attacks against or even the murder of family members or others who were close to the disappeared.<sup>19</sup> As was the case with Medina, the mother cited earlier in this report, frustrations with systemic obstacles push relatives to search for their disappeared relatives independently. Their advocacy and investigations then lead them into ecosystems of criminal activities, making them a direct threat to criminal groups, and thus the cycle of violence is perpetuated.<sup>20</sup>

## Disappearances as human exploitation

***'You have to be suspicious of everybody, because that's the only way to survive, that's the only way to protect yourself.'***

RESILIENCE FUND GRANTEE, 2023

Disappearances are not only used as an instrumental form of violence, but are also a common occurrence in contexts of criminal markets. Criminal groups take advantage of structural vulnerabilities to exploit marginalized people, such as youth in low-income areas, migrants, refugees or displaced persons. They go missing after being tricked into what is initially presented to them as seemingly legitimate employment, including in call centres. In Latin America, people who find themselves working in such operations can be killed if they resist or try to leave their jobs.<sup>21</sup>

Disappearances are becoming increasingly frequent on migration routes along the Mexican–US border, for instance. The International Organization for Migration recorded 686 deaths and disappearances in 2022, noting that this figure is likely to be an undercount.<sup>22</sup> Many reported cases in the border region have been of migrants trafficked and commodified as they try to avoid guarded border security areas.<sup>23</sup> Resilience Fund grantees distinguish between two groups that are vulnerable to disappearances linked to organized crime: firstly, migrants and, secondly, forcibly displaced persons, such as victims of extortion in Central America.<sup>24</sup> People are trafficked to fuel a range of objectives in illicit economies, from sexual exploitation to forced labour, organ theft and production, and distribution of child sex abuse material.<sup>25</sup> Often, family members do not realize that their relatives have been trafficked, believing that their loved one has found employment abroad. In such cases, victims are often duped with promises of lucrative jobs and then forced to work for a criminal operation. Reports from grantees explain that a criminal operation's first contact with the victim is often through relatives or other people they know. Women are particularly vulnerable to trafficking traps disguised as romantic relationships. Others who initially disappear voluntarily, such as runaway children, are likewise vulnerable to sex trafficking and other forms of extreme abuse.

While women and children are largely acknowledged as vulnerable groups and account for a disproportionate number of trafficking victims, the scale of exploitation of men and other gender identities is likely to be understated, evident in the lack of data and discourse. Several grantees in Latin America have reported that criminal groups target at-risk young men and boys with offers to help them cross the border into the US, only to force them into work for gangs once they reach their destination.<sup>26</sup> The subsequent work varies but can be violent and incredibly risky, from kidnapping people and selling drugs to murder.<sup>27</sup> 'Few remain alive, and if they are alive, they go into hiding,' according to grantees working with at-risk youth in Latin America. Some successfully turn themselves in to the US authorities to protect themselves from these criminal gangs.<sup>28</sup>

Forced recruitment of vulnerable young men and youth into criminal organizations can be strategic.<sup>29</sup> Whether they are Venezuelan migrants who travel to Colombia or Brazil in desperate search of work, or teenagers in Mexican rehabilitation centres, youth vulnerability is an advantage to criminal groups. Men can be invisible victims to extreme human rights violations that are not taken into account by policy or other government actions. For instance, rescue missions in Venezuelan mines were focused on women and children who were sexually exploited, but overlooked the exploitation of adult men and underage males working in poor conditions.<sup>30</sup>



# MEXICO

## Drugs and migrant trafficking

Forced disappearances have long been a feature of Mexican society, documented during its military dictatorships from the 1960s to the 1980s, followed by cartel violence in the 1990s and the 'war on drugs' since 2006. In fact, the disappearance of government critics was a key feature of the country's one-party rule, and Mexico's 'dirty war'. Disappearances in the era of organized crime have been more widely documented mainly by local journalists who have established solidarity networks with victims and who contribute to raising awareness about the issue. More than 4 000 clandestine mass graves have been found since 2006 while around 52 000 nameless bodies lie in morgues and countless others are burnt beyond recognition in extermination sites.<sup>31</sup> Criminal groups occupy run-down buildings in remote locations where people are tortured and their bodies burnt after they have been killed.<sup>32</sup>

In 2020, the highest number of disappearances took place in states controlled by criminal organizations or disputed between them – Tamaulipas, Chihuahua, Guerrero, Sinaloa, Zacatecas and Jalisco.<sup>33</sup> In April 2022, the United Nations Committee on Enforced Disappearance released its country report after visiting 13 Mexican states, citing organized crime and corrupt state officials as responsible for the extraordinary number of disappearances.<sup>34</sup> To a certain extent, Mexican authorities have exploited the discourse that links organized crime to forced disappearances, allowing them to evade scrutiny for systemic corruption – corruption that extends to criminal organizations becoming intertwined with authorities. Exploiting the discourse also helps to exculpate the Mexican state's role in the unfettered violence of the country's 'war on drugs', which very much feeds into the scale of forced disappearances.

The complexities inherent in Mexico's numerous disappearances cloud the legal classification of such violence. The sheer numbers of victims resemble the statistics associated with conflict, but authorities have not declared the existence of an armed conflict. Perpetrators and victims are from diverse groups and walks of life. Many civilians who are not involved in any criminal activity are reported to have disappeared. Disappearances occur in diverse rural and urban environments, varying according to each state or geographical territory and the different illicit economies. For instance, in San Luis Potosí, a state that has two superhighways that connect to Mexico's border with the US, disappearances reportedly spiked since 2020, with 318 people recorded missing. Seventy per cent were young men aged between 15 and 39 years of age. The rest were girls and young women, ranging from 10 to 29 years old. Most cases were attributed to territorial clashes, but this border access also favours migrant smuggling.

Mexico's border regions and highways make fertile grounds for disappearances. According to a Resilience Fund grantee, in the state of Veracruz, criminal groups and state-embedded actors reportedly act in collusion because of their proximity to the port and the Gulf of Mexico. Not only do corrupt state actors influence territorial disputes between criminal groups, the police allegedly detain people on false charges, with criminal groups reportedly handing their captives over.<sup>35</sup> 'There has been systematic complicity and acquiescence between the state government and organized crime to disappear people, mainly in order to appropriate territory,' said the grantee.<sup>36</sup>

## Ayotzinapa and militarization



A demonstration to commemorate the eighth anniversary of the disappearance of the Ayotzinapa students, Mexico City, 2022. © Manuel Velasquez via Getty Images

The disappearance of 43 students and teachers from Ayotzinapa Rural Teachers' College in 2014 in the state of Guerrero shook the world. This case is emblematic of the links between Mexico's criminal groups, government officials and security forces, including the military. The authorities' response to this mass disappearance laid bare the rampant corruption in the investigation of disappearances at all levels, and the dangers of increasingly militarized responses to organized crime in Mexico.

An internationally appointed panel, the Interdisciplinary Group of Independent Experts, said in a final report that security forces were complicit in this mass kidnapping and subsequently concealed documents containing information on where abductees were taken. The army and navy did not comment on this report.<sup>37</sup> The students were reportedly kidnapped by a gang that suspected the college had been infiltrated by a rival outfit; the gang then killed the abductees and burned their bodies, according to the group. Relatives reacted with despair to this report. The current administration has further extended the role of the army in addressing organized crime in territories where disappearances are becoming increasingly common. ■

## Resilience strategies and responses

Civil society organizations – including networks of journalists, activists, artists, relatives of the disappeared and other groups – have for decades documented cases and called attention to disappearances linked to organized crime. In January 2018, Mexico passed the General Law on disappearances. This national legislation meets the standards of international human rights law, and mandates the creation of a national search system and a national search commission. The law has also modified procedures and introduced guidelines for investigations and victims' access to justice, alongside establishing a framework for compensation. Since the law came into effect, however, it has been mired in problems surrounding its interpretation, affecting its implementation. Ultimately, this law has also fallen victim to the prevailing culture of impunity that surrounds the issue of forced disappearances.<sup>38</sup>

Despite institutional measures, the burden of searching for disappeared persons still predominantly falls on associations of relatives who are mostly mothers of missing people of a wide range of ages.<sup>39</sup> Operating locally, they search for clandestine graves looking for the bodies of relatives all over the country.<sup>40</sup> Negligence on the part of law enforcement drives the formation of many of these groups. Relatives even register the disappearance of their loved ones with these groups before they approach law enforcement. They work with various stakeholders, including journalists, to collect and investigate data and to advocate for institutional change.



Forensic workers bury one of 40 unidentified bodies at a cemetery in Ciudad Juárez, Chihuahua, 2018.

© Carlos Sanchez/AFP via Getty Images.

Journalism has played a key role in amplifying the voices of victims and communities, challenging official narratives and forcing authorities to address the issue. The Narrativas Dignas (Dignified Narratives) project in San Luis Potosí documents the perspectives and voices of relatives of the disappeared and femicide victims to advocate for justice and memorialize them in public spaces through murals and art festivals. They developed a handbook based on families' experiences to support relatives of the disappeared in their search and in navigating the justice system. This manual will support families of the disappeared in identifying when their rights and their children's rights are being violated and what they can do about it. It also contains helpful legal and media resources for the families of the disappeared.

Narrativas Dignas members occupy public spaces to create memorials of victims at strategic points in different municipalities of San Luis Potosí. Intended to be meeting places for the victims' families and their communities, these locations are significant because these are the places where victims' bodies were found or where they disappeared. The project gives a voice to the families and wider community, challenging the dominant narrative that violates the victim's dignity, erases their identity and blames the victim for their disappearance.<sup>41</sup> Their advocacy also challenges dominant narratives of blaming the victim and their families that inevitably lead to 're-victimization' of families. In contrast, the state and municipal governments have tried to deny the increase in violence and disappearances despite evidence to the contrary.<sup>42</sup>



# VENEZUELA

## Illegal mining

In 2016, President Nicolás Maduro's government declared northern Bolívar a special mining zone, establishing the Orinoco Mining Arc Strategic Development Zone. The area encompasses the territories of 14 indigenous communities over a large stretch of rugged mountains and forests, the site of highly sought-after precious minerals such as gold, diamonds and coltan. What was once one of the most biodiverse ecosystems of the Amazon is now engulfed in conflict and turf wars between organized criminal groups.<sup>43</sup> In 2018, Maduro deployed security forces in northern Bolívar, which is reportedly exploited by a mix of legal and illegal miners. However, according to a recent UN fact-finding mission, the Venezuelan state and armed forces are complicit in the smuggling of minerals and participate in violence against civilians in the form of disappearances, including kidnapping and murder, in these mining areas.<sup>44</sup>

Southern Bolívar, which the authorities have not officially designated a mining zone, is dotted with illegal mining operations controlled by criminal groups that allegedly work with state acquiescence and sometimes state involvement.<sup>45</sup> Forty-two clandestine air-strips, reportedly for gold smuggling, and 3 718 illegal gold mining operations have been identified in Bolívar and Amazonas states. They are largely concentrated around the border with Guyana, a hotspot for illicit trafficking of many commodities.<sup>46</sup>

Bolívar's conflict-afflicted mining sector has become a primary source of livelihood due to decades of economic mismanagement, political repression and associated international isolation. Numerous desperate Venezuelans from across the country make the decision to travel to one of the most violent regions and work as miners, cooks, vendors or sex workers. In 2016, following the mining decree, 17 miners were shot and buried in a mass grave<sup>47</sup> and in 2020, 50 people in southern Bolívar who left to work at the mines never came back.<sup>48</sup> The coronavirus pandemic deepened the country's humanitarian crisis, and numerous people tried to flee the country or were drawn into Bolívar's mines and its ecosystem of violence and criminal governance.



Illegal mining operations around the Orinoco mining arc are run by transnational illegal armed groups involved in illegal economies such as the Revolutionary Armed Forces of Colombia and the National Liberation Army, heavily armed organized criminal groups such as the Tren de Guayana and the R Organization, and big gangs identified by the nickname of their ringleaders.<sup>49</sup> These organizations extort informal miners and also protect them from a multitude of security threats from other armed groups. They use violence, including kidnapping and murder, to assert territorial control, as well as torture and executions to control and exploit mining labour.<sup>50</sup>



A gold mining site in Bolívar, Venezuela. © Supplied

Disappearances in Bolívar are relatively new but increasingly common, according to a Resilience Fund grantee.<sup>51</sup> The phenomenon was first acknowledged by the Venezuelan government in November 2022, following the discovery of three separate mass graves in southern Bolívar. The government is yet to communicate any meaningful response to this widely prevalent crime in terms of victim support or identification of remains.<sup>52</sup> According to a grantee, victims understand the risk of working in the mines and intend to leave the country once they have saved enough money, since Bolívar's gold mines are close to the border with Brazil. The search for economic lifelines outweighs the risk of being kidnapped and trafficked to other countries for forced labour or sexual exploitation. Women are often duped with false job offers and then sexually exploited in mining areas, to the point where they suffer extreme abuse amounting to torture.<sup>53</sup>

Indigenous communities living in or near mining territories are direct victims of environmental damage caused by deforestation and mercury poisoning.<sup>54</sup> Any resistance and forms of activism are instantly targeted by the criminal gangs, and those involved are often disappeared or murdered, according to the Resilience Fund grantee. Communities become fearful and relatives are so poor that they often do not have the means to travel to the local police to report the disappearances. When they do, the police allegedly warn relatives against formally reporting disappearances; they also reportedly warn victims of reporting other forms of violence such as extortion or land grabbing.<sup>55</sup>

## Resilience strategies and responses

Without much state support and in a heavily militarized context, indigenous communities have organized themselves into unarmed groups called the Guardia Territorial. Their main objective is to discourage and dissuade armed groups and informal miners from exploiting their lands. There are reportedly 86 such groups in the state of Bolívar that monitor mining within their territories through checkpoints.<sup>56</sup> However, firearms create a pronounced power imbalance in favour of heavily armed criminal groups, and without support from the state (in some contexts the state is not even present), community responses such as the Guardia Territorial have not been able to curb illegal mining or protect their people.

While the issue of disappearances and human rights violations remain underreported, with Bolívar's news media effectively dismantled, civil society organizations continue to reach out to communities to document disappearances locally. They collect testimonies and use digital platforms to support those searching for disappeared persons. They also foreground the issue through photo exhibits in churches and schools while raising awareness of trafficking traps within the mining sector.

Environmental activists and organizations have been calling attention to the rapid deforestation and human rights violations plaguing Bolívar. The state's inability to respond to the numerous human rights violations in the mining region is in part down to its own involvement in these illegal extractive operations – a fact repeatedly pointed out by local and international civil society organizations.



## LEGAL IMPLICATIONS

**D**isappearances related to organized crime can constitute various types of offences under domestic and international law. Perhaps the most important, in terms of international frameworks, is the crime of enforced disappearance, considered to be among the most serious crimes and human rights violations.<sup>57</sup> The practice gained some global attention when disappearances were being committed by certain Latin American dictatorships, such as the ones in Argentina or Chile, in the 1960s and 1980s as a way to silence dissent.<sup>58</sup> As part of advocacy efforts by relatives of victims to combat this form of crime, the term ‘enforced disappearances’ was coined and several international and regional mechanisms were created to curb it, such as the 1992 United Nations Declaration on the Protection of all Persons from Enforced Disappearance, the Inter-American Convention on Forced Disappearance of Persons, and the Working Group on Enforced or Involuntary Disappearances, which eventually resulted in adoption of the ICPPED in 2006; the latter entered into force in 2010.<sup>59</sup>

The definition of the crime is set out in Article 2 of the ICPPED, which was inspired by other international instruments, and it contains a key element, namely state involvement in the commission of the crime, which may be either by direct involvement or by authorization, support or – crucially – *acquiescence* on the part of the state. During the negotiations of the convention, there was discussion as to whether non-state actors could be featured as perpetrators of enforced disappearances, and many delegations opposed this.<sup>60</sup> One of the major concerns was to avoid confusion with acts of kidnapping and abduction – a concern that is still shared today by the UN Committee on Enforced Disappearances.<sup>61</sup> The solution was the inclusion of Article 3, which imposes on states an obligation to investigate the conducts described by Article 2 when committed by persons or groups of persons that are not linked to the state.

## Defining enforced disappearances

**A**rticle 2 - 'Enforced disappearance' is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.'

Article 3 - 'Each State Party shall take appropriate measures to investigate acts defined in Article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice.'

SOURCE: International Convention for the Protection of All Persons from Enforced Disappearance

The consequence is that there is a legal distinction between enforced disappearances and other forms of disappearances. However, the threshold for what could be considered 'acquiescence, support and tolerance' of the state – a criteria that is critical to ascertain a case as an enforced disappearance – is not clearly defined. Therefore, the recognition of an act of disappearance as 'enforced disappearance' is important, for example, to trigger the full set of states' obligations for an enforced disappearance under international law, including Article 24 of the ICCPED, which provides for the rights to truth, search, compensation and reparation.

Concerns with the practice of disappearances by non-state actors and how the ICCPED framework addresses the problem led international law scholars and human rights bodies to discuss the interpretation of Articles 2 and 3. Proposals to expand the definition, and therefore the interpretation of Article 2, to include all disappearances as enforced disappearances is not widely accepted; there are still a few states, such as Mexico and Argentina, and also activists, who oppose it. From a civil society perspective, the concern has always been that to include non-state actors as perpetrators of enforced disappearances would dilute the responsibility of states and enable them to hide behind the fact that crimes were committed by private actors acting independently.<sup>62</sup>

The Committee on Enforced Disappearances issued a statement on this topic, with the aim of clarifying the scope of application of the convention to acts committed by non-state actors and the obligations of states parties in that regard as well as implications for the Committee itself.<sup>63</sup> According to the Committee, the convention's rules do not apply to all disappearances committed by non-state actors under Article 3. However, for the cases of disappearances that fall on the spectrum of enforced disappearances of Article 2 (meaning authorization, acquiescence and support of the state), the convention may also apply to 'persons involved in organized crime, in particular groups of smugglers or traffickers, and extend to any individuals or groups of individuals, including informal groups or networks, from the moment when they received the authorization, support or acquiescence of a state authority'.<sup>64</sup> This would ensure that the state retains the burden of proving that its agents were not involved, and it must demonstrate that it has taken concrete and effective measures to prevent, investigate and punish the crime.

The interpretation given by the Committee to the conditions that entail the potential involvement of non-state actors under the convention is worth noting. It includes factors such as the conditions created by the state that allowed the commission of the crime; connivance of the state that by action or omission failed to take measures to investigate; or the tolerance of, acceptance by or consent of the state to this crime. Although the reference to the 'creation of conditions' may give room to include criminal groups, in practice, proving these links – in particular when involving organized crime and state-embedded actors – may be extremely difficult and some guidance may still be needed. Civil society actors can be an important ally in documenting these patterns and shedding light on cases where the actions of the state could amount to authorization, support and acquiescence.

In fact, the existing nexus between crime and politics was the main drawback flagged by many of those interviewed for this brief. From a community perspective, the lack of political will to investigate disappearances due to state collusion in organized crime is the key factor preventing victims from accessing justice. Even if there were a legal framework dedicated to disappearances and the burden of proof fell on the state, there is often a lack of incentives for state actors to uphold or embed such legal architecture. In Mexico, for example, reports from Resilience Fund grantees indicate that institutions dedicated to tackling disappearances have been dismantled or politicians have been appointed to lead the work without being familiar with the issues.<sup>65</sup> This would clearly compromise the anti-disappearances machinery.

The importance of triggering obligations under the international legal framework and recognizing the victims of enforced disappearances should not be underestimated. For countries where a legal framework on disappearances does not exist, the ICCPED can be the basis for domestic law to be developed. The ICCPED enshrines an obligation to search for disappeared persons, investigate their disappearance, and provide victims with access to justice and reparation.

The ICCPED is a relevant tool in making states accountable. It can provide support by obliging states to respect and uphold the rights of victims of enforced disappearances.<sup>66</sup> Actions committed by organized armed groups, including criminal groups, may be reviewed by human rights bodies such as the Working Group on Enforced or Involuntary Disappearances and the Committee on Enforced Disappearances if falling within the scope of their mandate.

When the legal framework is indeed in place, the challenge – including in Mexico – lies in effective implementation on the ground. That includes what victims can achieve through the legal tools available to them. In that sense, the international legal framework can also be an important tool for advocacy.



## POLICY IMPLICATIONS

In addition to utilizing the legal framework as a tool for advocacy, two avenues for policy engagement can be identified from the Resilience Fund grantees' experiences.

The first point of departure is to acknowledge and support investigative efforts that clearly identify the link between organized crime and state-embedded actors. According to a grantee, it is important to consider that organized crime encompasses many different types of actors. Organized crime should not be perceived as only perpetrated by private actors – e.g. wearing civilian clothes, displaying weapons and driving armoured vehicles. It must be understood that, in many cases, these private actors act under the orders of others, who may well be state employees. Establishing state involvement depends entirely on evidentiary standards, which differ from case to case, and the state's own willingness to investigate such crimes. Leaving victims to rely on the state's political will to prosecute a disappearance case has marginalized victims and perpetuated impunity.

A second point highlighted by Resilience Fund grantees is the need to facilitate communication and trust between victims and authorities in order to strengthen investigative efforts and the promotion of the right to truth. In many places, this might seem an impossible task. Families, relatives and friends of the disappeared are discouraged from lodging missing persons reports. This leads to under-reporting.<sup>67</sup> In many cases, communities deeply distrust local authorities. Their fears are reinforced by the local knowledge of collusion between organized crime groups and state actors. Advocating for justice is inherently risky for community members. The lack of institutional support leads to a belief that they are putting themselves at risk of the same fate as their relatives. Journalists, alongside human rights defenders, likewise fear reprisals for reporting. Despite the dire situation, with advocacy and community work, it is possible to open avenues for dialogue with state authorities, who are ultimately those responsible for providing criminal justice responses. The international framework could be used as a basis to initiate constructive dialogue between stakeholders. Affected communities mostly rely on creating strong networks that allow them to collectivize their efforts and reach the international community to amplify coverage and access to financial and informational support.

## Recommendations

The international community has taken steps to interpret the convention to reflect the current reality, especially by factoring in the salient role of criminal groups in enforced disappearances. However, there is still a long way ahead. To start with, the ICPPED is not universally ratified.<sup>68</sup> Even when ratified, effective implementation is an issue. There is a lack of disaggregated data on organized crime-related disappearances and research on the topic, and such data is crucial in framing relevant national laws and policies. Policymakers and law enforcement must look at how organized crime and illicit economies feed into disappearances in each individual territory blighted by high rates of criminality. International and national discourses must continue to interpret and adapt relevant human rights conventions to clarify the conditions under which the state's obligations to protect and support victims are triggered.

As the number of disappearances with ambiguous state involvement continues to mount, evading accepted definitions of enforced disappearances, there is an immediate need to reconsider mechanisms that facilitate investigations and prosecutions of state actions and omissions that have allowed organized crime-related disappearances to reach their current extent and scale.

Recommendations for state and non-state actors working in diverse contexts where disappearances occur in Latin America follow below:

- **Consider the implications of militarization and punitive governmental responses on disappearances.** An increasing body of data shows that military responses to organized crime are associated with impunity and serious human rights violations, including disappearances. Excessive securitization has repeatedly exacerbated human rights violations without affecting either the growth or strength of criminal groups. On the contrary, it has increased the exposure of migrants and people forcibly on the move to disappearances, especially women and youth. Efforts to change narratives that prioritize securitized approaches and strengthen advocacy work to raise public awareness about the rights of victims and support relatives of disappeared people are crucial to increase the impact of the work of authorities, promote transparency and provide legitimacy to state efforts. In that sense, media, academia, families' collectives and other actors must join efforts and collaborate through formal and informal mechanisms to support official strategies to address disappearances through a human rights lens. Civil society participation is key to designing responses to disappearances that are not rooted in punitive approaches and to monitoring state mechanisms for addressing disappearances.
- **Connect policy intent with outcomes.** Despite the existence of national laws against disappearances, especially in Mexico, disappearances remain endemic. Policies intended to curb the phenomenon should begin by assessing vulnerabilities. Policymakers must embed a human rights approach with checks and balances to address the corruption that has stymied previous policies and laws on organized criminality. These efforts need to also consider that disappearances affect different genders in different ways. The number of women's collectives responding at the grass-roots level to human rights violations, including disappearances, highlights the need for a gender perspective in public policy at all levels – and the valuable role that such collectives can play in the process of adjusting policy.

- **Strengthen law-enforcement and judiciary capacity to prevent, investigate and prosecute crimes related to disappearances.** In places with high criminal activity, authorities must be adequately trained to respond to disappearances and avoid re-criminalization of victims. Identifying hotspots for illicit economies can help the prevention of disappearances related to organized crime. International cooperation can facilitate exchange between governmental and civil society actors and enhance their capacities at a transnational level on tracking, locating and supporting victims and their relatives, as well as the rehabilitation of survivors, including migrants. The analysis of the political economy of organized crime provides a useful context to address disappearances and can be useful in predicting future hotspots, so enhancing the collection of data on the connection between disappearances and organized criminal activity is crucial.
- **Support civil society, including grass-roots actors working to support victims of disappearances.** Civil society action has been key to uncovering the magnitude of disappearances in different territories affected by criminal governance. Victim-led responses have proven to be successful in bringing a modicum of accountability and uncovering corruption related to the investigation and prosecution of disappearances while also addressing the gaps in services for the families of disappeared people.
- **Support for civil society must include providing technical support and funding for individuals and organizations responding to disappearances, as well as activating protocols for their protection.** Special attention should be given to journalists investigating disappearances related to organized crime. As the results of the 2020 Resilience Fund fellowship show, journalists are key actors in addressing the issue of disappearances. They not only uncover the complexity of this phenomenon in communities at the expense of their own safety, but they also help hold authorities accountable and provide victims with the accompaniment and support that public institutions often fail to deliver.
- **Fund and facilitate hostile environment training and international networking for journalists and other civil society actors.** Investigating and analyzing organized crime comes with inherent risks, especially for civil society actors who do not have access to protection. Journalists, for instance, need international protection networks and preventive security trainings, and a coordinated effort should be made to provide this.





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