

Borders as Disappearance Devices. A Look at Cross-Border Enforced Disappearance Between Colombia and Venezuela

Las fronteras como dispositivos de desaparición. Una mirada a las desapariciones forzadas transfronterizas entre Colombia y Venezuela

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ABSTRACT

This work aims at showing how the border between Norte de Santander (Colombia) and the state of Táchira (Venezuela) has consolidated in the last decade as a disappearance device from a practice known as *cross-border enforced disappearance*. The article develops a contextualization of the economic and violence dynamics recorded in this territory, which facilitate the consolidation of said crime. From the analysis of 43 files of reported cases of these disappearances, it became possible to establish their characterization, clearly identify the actors (victims and perpetrators), and define the intentions circumscribed to this practice. In this way, a dimension is identified that stands out from the original conceptual categories of disappearance to stress the infringement on the victims by hindering the search for truth, justice and reparation for their relatives.

Keywords: 1. cross-border enforced disappearance, 2. human rights, 3. illegal economies, 4. Colombia, 5. Venezuela.

RESUMEN

El objetivo de este trabajo es mostrar cómo el borde fronterizo entre Norte de Santander (Colombia) y el estado de Táchira (Venezuela) se ha consolidado en la última década como un dispositivo de desaparición a partir de una práctica denominada *desaparición forzada transfronteriza*. El artículo desarrolla una contextualización de las dinámicas económicas y de violencia que se inscriben en este territorio y que facilitan la consolidación de dicho delito. Es a partir del análisis de 43 expedientes de casos denunciados de estas desapariciones que se logra establecer su caracterización, delimitar los actores (víctimas y victimarios) y definir las intencionalidades que se circunscriben a esta práctica. De esta manera, se identifica una dimensión que se desmarca de las categorías conceptuales de la desaparición originaria y que agudiza la vulneración de las víctimas al dificultar las condiciones de búsqueda de verdad, justicia y reparación para sus familiares.

Palabras clave: 1. desaparición forzada transfronteriza, 2. derechos humanos, 3. economías ilegales, 4. Colombia, 5. Venezuela.

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INTRODUCTION

The International Convention for the Protection of All Persons from Enforced Disappearance defines *enforced disappearance* as:

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 (Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos [OACNU], 2012).

This Convention, ratified in Colombia in 2007, laid the foundations for the definition of the normative frameworks that, within Colombian legislation, have sought to classify this crime. Certain laws stand out in this regard: *Law 1408* was enacted in 2010, through which homage is paid to the victims of forced disappearance and measures are issued for their location and identification, and *Law 1448 of 2011*, known as the Victims and Land Restitution's Law, which places this practice within the categories of victimizing acts, in order to guarantee victims the right to search, truth, justice and reparation processes.

Within the framework of this legislation, forced disappearance characterizes a crime associated with the original category⁴ that takes into account as a central element the participation by direct or indirect action of State or State-owned forces. However, the dynamics of the globalized world added to the structural violence of many Latin American countries have had an impact on the exacerbation of “the deep and violent inequalities that characterize the modern, industrialized and urbanized world” (Fassin, 1999, p. 32), resulting in new forms of violence and disappearance for which the characterization accounted for in the criminal legal frameworks turns out to be insufficient.

These transformations are most visible in those spaces that comprise border areas, as they are territories where a “violence other than gender, youth or urban violence (...) takes place, [derived] from the complementary asymmetries that arise in spaces where two or more States meet-separate” (Carrión Mena, 2013, p. 61). This reconfiguration of violence is associated with the dynamics of transnational crimes characteristic to borders areas; crimes such as smuggling, drug trafficking and human trafficking, where disappearance becomes a recurring practice, but with elements that differentiate it from the original category.

⁴ The interpretive paradigm for understanding the crime of forced disappearance had as a genealogical milestone the use of this practice as an expression of violence during the Southern Cone dictatorships of the 1970s. This criminal legal category managed to become transnational from the original figure of the disappeared that emerged in clandestine detention centers, and has currently branched off into two new categories that broaden their interpretive frameworks: the transnational disappeared, which includes victims of ethnic genocide, and the social disappeared, which includes migrants and refugees who become missing in their journey.

The foregoing is revealed in the documentary analysis of the complaints filed on the Norte de Santander border,⁵ on a form of disappearance that was first recorded in 2003 in this territory,⁶ and which has modes of execution and profiles different from those of disappearances that occurred in other times. This forced the researchers to go beyond the legal frameworks that typify this practice, and thus approach the analysis from new categories of disappearance that would allow us to think about the serious human violations not taking place in a context of historical rupture, but rather derived from ordinary social catastrophes (Gatti, 2017) associated with precarious social conditions and legal and illegal economic dynamics characteristic to border territories. In this context, the figure of the social disappeared emerges (Gatti, 2017), wherein a large part of the excluded population converges, “which today abounds, both on the borders of the world (...) and at its center (in any of the places of containment of disorder: migrant centers, exception camps, precarious ghettos)” (Gatti, 2017, p. 29).

The practice that has been called cross-border enforced disappearance will be analyzed in light of these theoretical approaches that establish new categories for the understanding of disappearance, in order to characterize the elements associated with it. Thus, this article is structured into four sections. In the first, a theoretical framework related to the categories of disappearance is developed and, in turn, the methodological structure employed in this investigation is described. In the second, we present a brief genealogy of forced disappearance in Colombia, highlighting the particularities of this practice in Norte de Santander. The third section presents a contextualization of the characteristics of this border where these events take place, highlighting its economic dynamics, as well as the incidence of this type of disappearance. Likewise, the characteristics of the actors –victims and perpetrators– are identified, as well as the intentions that underlie this crime. Finally, some reflections are presented on how the border becomes, in light of this practice, a disappearance device where the image of victims is configured from new categories for their classification.

⁵ Norte de Santander is one of the 32 departments that make up the Republic of Colombia, located in the northeast of the country, on the border with the Táchira and Zulia states of the Bolivarian Republic of Venezuela.

⁶ As part of the methodology, 43 files were reviewed from *Fundación Progresar*, an NGO dedicated to the promotion and defense of human rights, located in the city of Cucuta, department of Norte de Santander, Colombia. It should be noted that the first cases reported to this organization occurred in the 2003-2005 period, according to the publication *So Many Lives Taken Away (Tantas vidas arrebatadas)* (Cañizares, 2010).

METHODOLOGY

This article was elaborated taking into account the results obtained in the investigation entitled *Cross-Border Enforced Disappearance in Norte de Santander in the 2010-2016 Period. Documentation, Denunciation and Memory Construction Actions*, carried out as a requirement for the Master's Degree in Human Rights and Culture of Peace from the Javeriana University of Cali. Based on those results, this article was developed from a qualitative perspective and following a phenomenological approach that "has as its main purpose to explore, describe and understand the experiences of people regarding a phenomenon, and to describe the common elements of those experiences" (Hernández, 2014, p. 493).

In its methodological phase, the work was carried out in two stages: in the first, 43 files of cases of cross-border enforced disappearance were reviewed, as documented by a non-governmental human rights organization with presence in Cucuta, capital of Norte de Santander. From this process, the second stage consisted of systematizing the information in a matrix where the variables of the cases were recorded: name of the victim, gender, age, date of disappearance, possible place of disappearance, presumed perpetrator, complainant, and a detailed description of the case based on what is documented in the criminal complaint attached to the file.

The study of the variables and how they relate to the particularities of violence specific to the context allowed proposing a characterization of the elements associated with this type of disappearance, based on three categories: profile of the victims, of the perpetrators, and intent. Further on, in the second stage, the information obtained in the files was complemented by carrying out in-depth interviews with family members of the victims of cross-border disappearance. The information obtained was systematized in the Atlas.Ti software, which favored the analysis of categories such as reparations and memory, proposed in the research for the Master's.

The analysis of the cases, in addition to facilitating the understanding of a crime that has a number of particularities apart from the original category of forced disappearance, allowed us to establish how borders are constituted into "a territory of death", according to Calveiro (2020), this in a context of illegal activities, dominated by illegal actors who decide on the life or death of anyone who opposes their economic interests. Disappearance at the border implies not only the evasion of responsibilities by the perpetrators, in the complete lack of State control, but also involves enormous complexities in terms of the legal mechanisms that must be triggered for legal proceedings, as it involves two countries whose diplomatic relations have been severed since 2015.

THEORETICAL FRAMEWORK

In Latin America, forced disappearance is a crime that first emerged as part of the State-centric repression strategies of the dictatorships of the 1970s, framed by the Cold War and the National Security Doctrine promoted by the United States. This scenario resulted in “a doctrinal and jurisprudential environment favorable to the international classification of this crime as a ‘crime against humanity’” (USAID & OHCHR Colombia, 2009, p. 12). This typification responds to two components: the first is related to the widespread practice of acts of disappearance and the number of victims; the second is associated with the systematic nature and the purposes pursued upon committing this crime (Centro Nacional de Memoria Histórica [CNMH], 2016).

In this context, and due to the high number of forced disappearance events in the Southern Cone, different international organizations made recommendations to South American governments meant to prevent or stop this practice (CNMH, 2016). In terms of this, the Inter-American Commission on Human Rights, established in 1959, “created the Working Group on Enforced or Involuntary Disappearances, and in 1982 the Organization of American States (OAS), through resolution *AG/RES. 618* (XII-0/82), classified forced disappearance as a very serious violation of human rights” (CNMH, 2016, p. 38). This group marked a precedent in the promulgation of inter-American regulations on forced disappearance.

It is so that in 1994 the Inter-American Convention on Forced Disappearance of Persons was promulgated, based on which the participating States agree not to practice or allow forced disappearance, and to elaborate legislations relevant for its punishment. In 2010, the International Convention for the Protection of All Persons from Enforced Disappearance entered into force (OHCHR, 2012), which in Colombia is approved by Law 1408 of 2010.

Reviewing these regulatory frameworks makes it possible to identify five common elements associated with this crime: 1) confinement; 2) participation of the State (or of a political group according to the Rome Statute);⁷ 3) concealment of the victim; 4) co-participation, and 5) intent (Gómez Camacho, 2006, p. 33). The practice of enforced disappearance also involves a spatiality determined by the place where the practice was carried out, which, in the case of original disappearances, were clandestine detention centers. Places such as the Navy School of Mechanics in Argentina, Villa Grimaldi in Chile and, in Colombia, areas such as the Belén Station in Medellín—former headquarters of the F2 police intelligence—(Estrada, 2020), served as devices of the State apparatus to materialize disappearances. These spaces, although part of political contexts different

⁷ The Rome Statute is the legal instrument on which the International Criminal Court is based. It was adopted on July 17, 1998 in Rome in order to “judge the individuals responsible for the most serious crimes that affect the entire world, such as genocide, war crimes, and crimes against humanity” (Departamento de Información Pública [DPI], 1998). This document is part of the international regulatory framework that defines forced disappearance as a crime against humanity (according to article 7, subsection i), which must be investigated to prevent the impunity and reoccurrence of these events.

from each other,⁸ all served the purpose of “maintaining and sustaining the disappearing apparatus, the concentration-extermination machine” (Calveiro, 2008, p. 18).

In this sense, disappearance –since its inception– has had the nature of a device coming forth from State or State-owned power networks as a form of violent repression and/or elimination of political dissent. Still, this connotation has undergone changes in the last two decades, a condition that forces us to rethink disappearance beyond the legal-political conceptions of the original category, placing it now in contexts with particularities that derive from the socio-economic dynamics of liberal societies.

The phenomenon of disappearance brings together a number of elements. Under a new meaning reshaped by these elements, mainly those related to the profile of the perpetrators, the intent of the crime, and, especially, the profile of the victim, a profile that transitioned from the figure of the detained-disappeared to the social disappeared, faced with the former:

(...) is similar in its topical features, that is, in the absence, the invisibility, the lack of representation, the impossibility of speaking out and having a name (...) but it is also different from the former, (...) in quantity (there are many and massive, as opposed to limited and selected, who have been expelled from the very notion of being, of individual, of identity, of meaning, and of the normative frameworks that define such notions), in scope (the former were the product of a systematic practice against selected political enemies; the latter can even occupy the entire social spaces (...)) and in intensity (just like the original category, the new one implies a catastrophe, but one that cannot be pinpointed and is rather structural and affects all aspects of existence) (Gatti et al., 2019, p. 150).

Thus, that human group exposed to what Gatti (2017) calls a social catastrophe is classified within this category: the undocumented, the excluded, the marginalized, those who risk crossing borders permeated by crime to improve their living conditions, in this way exposing themselves not only to die, but to disappear.

In this sense, the trans-nationalization of the figure of the disappeared arises from violent dynamics derived from economic and social policies inscribed in forms of neoliberal governmentality, where the State becomes a structure fragmented into localized powers permeated by criminal networks of global reach (Calveiro, 2021), networks that control legal and illegal markets. This becomes evident in border spaces that, marginal territories with limited State presence as they are, constitute themselves into contexts favorable for the activities of non-State armed groups (García Pinzón & Trejos, 2021), contexts wherein a system of transnational rules prevails (Ruggie, 1993, as cited in *Flacso Virtual Ecuador*, 2021) determined by weak State governance, the proliferation of illegal economies, and the coexistence of two incompatible judicial and security systems.

⁸ Colombia, unlike Argentina, Chile, Brazil and Paraguay, did not have a military dictatorship in the 1970s. However, the democratic government of Turbay Ayala (1978-1982) was characterized by serious human rights violations on the part of State forces, which emerged within the framework of the Security Statute (*Decree 1923 of 1978*) that this government held as a policy of State repression.

A BRIEF GENEALOGY OF ENFORCED DISAPPEARANCE IN COLOMBIA

The conflict in Colombia, one of the most extensive and complex in the world in terms of actors, interests and transformations, has impacted a large percentage of the population due to its serious humanitarian impact (CNMH, 2013; González, 2014). Although the phenomenon of disappearance itself –due to its intent to hide– makes it greatly difficult to number its victims, the Unit for the Attention and Comprehensive Reparation of Victims of the Armed Conflict (UARIV, acronym in Spanish for *Unidad para la Atención y Reparación Integral a Víctimas del Conflicto Armado*),⁹ through its National Information Network, reports to the publication date of this article a total of 50 960 direct victims and 140 100 indirect victims of the crime of enforced disappearance (UARIV, 2023). Given the transformation of the country’s conflict and the strong presence of different armed actors, this crime has transformed over time, reshaping the elements associated with its execution from the particularities of the context and the dynamics of violence in each of the territories where it takes place. For this reason, the National Center for Historical Memory, in its report *Until We Find Them (Hasta encontrarlos)*, prepared a genealogical reconstruction of disappearance in Colombia, identifying a number of time frames delimited into five periods, as described below:

The first landmark is identified between 1970 and 1981, a period in which the practice of forced disappearance arises as a counterinsurgency strategy of the State against the emergence of guerrillas; here, State security agents constituted themselves as the main perpetrators. Subsequently, between 1982 and 1990, this phenomenon showed growth parallel to that of paramilitary groups, exponentially so in areas of greater social mobilization, where militants from alternative parties achieved high political recognition, which made them victims of this practice. Between 1991 and 1995 there was “a decrease in the occurrence of forced disappearance compared to the critical situation of the previous period” (CNMH, 2016, p. 118), and there was evidence of a greater participation of guerrillas in the commission of this crime, compared to that of State agents and paramilitary groups.

Consecutively, the periods of 1996 and 2005 were considered the most critical due to the consolidation of paramilitarism under the acquiescence of the State. Paramilitary actions were aimed at consolidating themselves in the territories, but instead of resorting to visible actions such as massacres, these groups began to make use of forced disappearance to a greater extent, since this practice made it possible to decrease homicide rates. The transition to disappearance instead of selective assassination was motivated by a factor characteristic of that time, related to the possibility of negotiating with the government for its demobilization. The decrease of the high rates of massacres and murders that had been recorded from 1997 to 2003 favored that these

⁹ The Unit for the Attention and Comprehensive Reparation of Victims of the Armed Conflict (UARIV) is a State institution created in 2012 dedicated to providing comprehensive attention, assistance and reparation measures to victims of the internal armed conflict. It also aims at consolidating the statistical data of the victims in the country through what is called the Registry of Victims, an official instrument to develop public policies and centralize the attention provided to this population group.

organizations were seen as political actors and not criminal gangs, which in turn made possible the negotiation for lower sentences within the framework of a transnational justice process.

Between 2006 and 2015, after the paramilitary demobilization,¹⁰ forced disappearance involved groups whose main interest was to exercise control and power over the population through this practice. This practice increased in capital cities and metropolitan areas where disputes between armed groups over illegal income derived from drug trafficking were the norm. This period also saw the continuation of the Democratic Security Policy promoted by former President Álvaro Uribe Vélez, which included a high repressive and military component against the civilian population that triggered serious human rights violations. A strategy of concealment and subsequent murder of the victims, known as “false positives”¹¹ (CNMH, 2016, p. 153), inscribed itself in this scenario.

As of 2016, after the signing of the Peace Agreement (*Final Agreement of 2016*) between the Colombian government and the guerrilla of the Revolutionary Armed Forces of Colombia - People’s Army (FARC-EP, acronym in Spanish for *Fuerzas Armadas Revolucionarias de Colombia - Ejército del Pueblo*), organizations such as the International Committee of the Red Cross (ICRC), the Liberty Law Corporation (*Corporación Jurídica Libertad*) and other international non-governmental and victim organizations, recorded and denounced more cases of forced disappearance. The foregoing shows that, despite the scenario of transition towards peace in Colombia, this crime persists as a continuous practice among the dissident groups of the peace process and other actors in the conflict, who fight over territorial control and continue affecting the civilian population.

From the entry into force of the Peace Agreement (December 2, 2016) until August 2020, the International Committee of the Red Cross (ICRC) recorded 466 new disappearances related to the armed conflict and to sociopolitical violence (*Final Agreement of 2016*). Of the reported cases, 376 correspond to foreign victims (among them, 216 Venezuelans) who have been reported as missing in departments located in border areas such as Norte de Santander, Nariño, Antioquia and Chocó (Movice, 2020). These figures show how the border has become a space unable to guarantee the safety and integrity of those who decide to cross it; especially so for Venezuelans, who are forced to cross these spaces controlled by illegal organizations, in order to acquire food, medications and other consumer goods that are scarce in Venezuela.

¹⁰ The paramilitary demobilization process consisted of an agreement made between the national government and the paramilitary groups for the latter to hand over their weapons in exchange for shortened sentences, under commitment to provide truth, justice and reparation to the victims of the violent actions throughout the Colombian territory. This process took place within the framework of the so-called Justice and Peace Law (*Law 975 of 2005*).

¹¹ “False positives” is a term given to cases in which military forces murdered innocent civilians. Many of these victims were farmers, people with disabilities or other kinds of social vulnerabilities, in order to report them as guerrilla casualties in combat and thus display greater military results against the illegal armed groups, mainly the guerrillas. These murders meant –for their perpetrators– incentives in money and days off, while for the government in general these murders meant a public image of military success.

Forced disappearance and its Practices in the Border Area

Norte de Santander has historically been one of the areas with the highest rates of forced disappearance in the country (Cañizares, 2010). Its border location with Venezuela makes it a strategic territory for the activities of armed groups and the development of economies framed in informality and illegality. The violent context of the department and the disputes over territorial control have caused forced disappearance to become a strategy of terror and control over the civilian population; given the dynamics of the conflict in this territory, this strategy has been deployed through means different from those of the rest of the country. As Cañizares (2010) pointed out, forced disappearance in this area is framed under the following practices and periodicities:

1. Burial in clandestine graves and disposal in rivers (1999-2001): In this period, complaints about cases of torture and disappearance of people opposed to the paramilitary regime in the region began to be recorded. Illegal armed groups dismembered the bodies of the victims and threw them into rivers and garbage dumps; in other cases, bodies were buried in clandestine graves found in peripheral areas of the capital. The group of victims was made up of farmers and farm workers who, in many cases, were stigmatized for being considered guerrilla collaborators, as well as members of union and worker organizations. However, during this period, victims began to expand towards profiles associated with economic rather than political dynamics. Thus, merchants, drivers and security guards became part of the newly disappeared: those from the first group, due to them being considered economic helpers of the guerrillas, and those from the second, for being pointed out as possible sources of intelligence for these groups.
2. Cremation of bodies (2001-2003): This period constitutes one of the most critical periods of paramilitary predominance in the region, where the rates of violence and victimizing acts escalated to figures never before recorded up to that time. The high homicide rates recorded in the territory caused the paramilitary structures to develop a new strategy to reduce these indicators, the implementation of two crematory ovens to incinerate the bodies of the victims (located in the corregimientos of Juan Frío and Banco de Arena). There, more than 560 bodies were cremated in order to “curb the statistics of homicides and massacres recorded when the authorities began to find the graves of the disappeared” (Osuna, 2015, p. 41). In this way, “with the reduction to ashes of the bodies of the victims, paramilitary groups sought to make the disappearances disappear” (Cañizares, 2010, p. 64).
3. Cross-border disappearances (2003-2019): According to information from human rights organizations, starting in 2003 the armed actors responsible for the disappearances began to employ a practice known as cross-border enforced disappearance, in which the victims who disappeared in Colombia were transferred to Venezuelan territory through the illegal crossings that connect Cúcuta in Colombia with the state of Táchira in Venezuela, to be later buried in clandestine graves on Venezuelan soil. Also, people still alive were also transferred to places known by the Venezuelan authorities as “liberation zones”, a euphemism with which “the Venezuelan authorities would be referring to those sectors where Colombian armed groups

habitually execute Colombian citizens in places nearby to Venezuela (or over the border line), to burden the corpses on this country” (Cañizares, 2010, p. 92).

As stated earlier, the first cases of cross-border disappearance were reported in 2003, however, this practice has continued to the present. Just by walking across the Simón Bolívar International Bridge –one of the legal crossings connecting Cucuta in Colombia with the state of Táchira in Venezuela–, one can see posters with images of people whose whereabouts are unknown, stating that they disappeared at the border (photos 1 and 2).

Photos 1 and 2. Local press clipping from 2019 and poster located on the Simón Bolívar International Bridge, giving notice of a case of cross-border disappearance



Source: Taken from Patiño Idárraga and Páez Meza (2019, p. 115).

For their part, the human rights organizations that provide legal and psychosocial assistance to the victims of forced disappearance in Norte de Santander continue receiving reports about cases. In them, relatives claim to have lost track of their loved ones while they worked in informal jobs that implied them to continuously transit the illegal crossings of the Colombian-Venezuelan border.

Norte de Santander: a Liminal Space where Illegal Economies Produce Missing Persons

Border territories contain a series of characteristics that make them unique spaces where the limits of what is legal and illegal tend to blur. It is precisely these ethereal configurations that make these places propitious for the development of activities that –even when they are of an illegal nature– are assumed as legal actions by the communities, and are appropriated as part of their cultural identity, a product of the customary practice of such actions in this type of territory.

Colombia and its borders¹² are no exception to this pattern: although these territories harbor differentiating elements among themselves based on the peculiarities of their contexts, when it comes to their social, cultural, and economic dynamics, there are no great distances between regions.

For the specific case of this work, the Colombian-Venezuelan border was taken as the contextual reference, delimited as it is by the 421 kilometers separating the Colombian department of Norte de Santander from the Venezuelan states of Táchira and Zulia. This has been for decades a space where the geographical delimitation is configured beyond what is merely spatial, since this border has acquired a meaning that defines it as “an area of integration and/or separation; a transition zone between territories, where different norms, pacts or agreements that identify [them] exist and interact” (Albornoz-Arias et al., 2019, p. 3).

This territory has been the arena of economic exchange dynamics derived from the constant variations of the price of the peso and the bolivar, in turn becoming a space that generates migratory processes from both countries. On the Colombian side, violence has been one of the main factors of expulsion and uprooting towards countries like Venezuela; the dimensions and characteristics of this over 60-year¹³ violence have fluctuated over time, and are framed in four moments: 1) from bipartisan to subversive violence (1958-1982), 2) the expansion of paramilitary and guerrilla groups along with the spread of drug trafficking (1982-1996), 3) the polarization of the confrontation (1996-2000), and 4) the negotiations in the midst of the conflict (2005 -2012) (CNMH, 2013, as cited in Villamizar, 2018).

Colombian migration to Venezuela has also had cycles of its own. The first came about the 1940s –as a consequence of the events of April 9, 1948–, which generated the first wave of Colombian migration fleeing conflict, finding in Venezuela, in addition to work, good living conditions (Suarez, 2015). The second cycle was around the 1970s, and came as a result of the Venezuelan oil boom that produced a high price of the bolivar and encouraged a significant transit from Colombians to Venezuela in search of employment opportunities, mainly in the agricultural sector. During this period, Venezuela functioned “as a recipient of skilled, unskilled and Colombian farmer labor, mainly in its border areas, due to (...) the permeability of the borders and communication facilities, factors that favored this migration” (Álvarez, 2004, p. 192). Finally, a third cycle “gained momentum (...) from the beginning of president Nicolás Maduro’s term in 2013, due to an unprecedented economic, political, social and institutional crisis” (Paz Noguera et al., 2021, p. 79), which according

¹² Colombia borders with five countries by land: Brazil, Ecuador, Panama, Peru and Venezuela, the latter being the largest one: 2 219 kilometers. This article focuses on the analysis of the enforced disappearance cases that since 2003 have occurred in the border territory between Norte de Santander (Colombia) and the state of Táchira (Venezuela).

¹³ The periodization of violence in Colombia has been a subject of extensive academic debate, in which different temporal delimitations have been proposed to frame its genesis and cycles. In this document, the temporality suggested by the National Center for Historical Memory (NCHM) is taken as a reference, since it is considered that a better delimitation of the most representative cycles of this phenomenon in the country is achieved.

to figures from Colombia Migration (Migración Colombia) for October 2020, has resulted in a total of 1 717 352 Venezuelans living in Colombia (El Tiempo, 2020).

The transit of Colombian migrants into Venezuela has not been the only characteristic element of this region, since the dynamics of formal, informal, legal and illegal trade also began to be part of the repertoire of practices that made this area a territory with unique elements, when compared to the rest of the country's regions. To the asymmetries in the exchange differential that facilitated a dynamic commercial activity between Cucuta (Colombia) and municipalities of the state of Táchira (Venezuela), such as San Antonio and Ureña, was added the generation of illegal economic strategies framed in the development of activities such as the smuggling of fuel, food and medication; these products, subsidized by the Venezuelan State, were highly profitable for whoever decided to sell them illegally in Colombia. It was thus that in Norte de Santander a highly diversified "*border economy* began to consolidate –made up of legal and illegal markets–, which has functioned according to an invasive logic in the legal, economic and political spheres, by means of violent and criminal practices" (Carrión & Espín, 2011, p. 13).

Smuggling, as part of these illegal economies, has been a historical practice in Colombia; since its origins in the 19th century, it has been related to:

(...) the changing circumstances involved in constructing a modern State (...) mainly the insufficient income and the consequent choices of fiscal and tariff policies, a social logic that privileged individual interest over the common good and tolerated practices theoretically invalidated in a modern republican State (Laurent, 2008, p. 16).

This activity is carried out from small to large scale. In one form, it "includes the trafficking of food and mass consumption products, due to the differential in the exchange rate between the currency of Colombia and that of Venezuela" (Albornoz-Arias et al., 2019, p. 6). This activity is carried out by single individuals and, before the border closures,¹⁴ it was carried out by people who several times a day bought small amounts of merchandise in Venezuela and crossed the border through international bridges to later resell the merchandise in Colombia. After the border closure, the illegal crossings at the banks of the Táchira River became the new circulation routes for this type of smuggling, which has managed to become a transnational practice.

The other type of smuggling is the one that develops on a large scale and has to do with the entry of merchandise into the country in large proportions, circumventing the payment of tariffs, a fact that is facilitated "by the corruption of officials, who fail to exercise due control of customs or border crossings" (Mazuera-Arias et al., 2019, p. 176). This activity –at all scales– is part of the portfolio of criminal economies managed by the different illegal armed structures that

¹⁴ The official border crossings were closed in August 2015 due to a unilateral decision by the Venezuelan government to stop smuggling, which according to President Nicolás Maduro was causing shortages in Venezuela. However, this strategy did not lead to decrease in this illegal practice; on the opposite, the border closure facilitated the increase of illegal crossings for the transportation goods. This fact had an impact on the increase in the rates of violence and humanitarian impact as a result of the disputes between the illegal organizations that seek control of these territories.

operate in this border area, who not only control the illegal transit of products from one country to another, but also the market where they are sold and bought.

Yet the smuggling of gasoline and other products (for example, meat, plastics, aluminum, copper and food from the family shopping basket) is not the only illegal economic activity; extortion is also another of the practices controlled by the structures outside the law that operate in this area of the country, due to the high income it produces. Extortion is carried out in two ways: one is through extortion charges to merchants and transporters in the region, and the other through the collection of a *tax* from those who transit through the illegal border crossings created since the official border was closed in 2015. The *trochas*¹⁵ that connect Venezuela with the municipalities of Puerto Santander and Tibú in Colombia are controlled by the National Liberation Army (ELN, acronym in Spanish for Ejército de Liberación Nacional), the Pelusos, and the Rastrojos,¹⁶ who demand the payment of a *toll* from both small-scale smugglers and people who need to enter Colombia to purchase either basic goods or medications, which are in short supply in Venezuela.

Historically, guerrillas have made use of extortion as a source of financing, mainly employing on national and foreign companies and landowners in rural areas, calling it a “war tax” (*Verdad Abierta*, 2016). For their part, the neo-paramilitary groups that emerged after the paramilitary demobilization have taken advantage of the fear of the population to impose extortion quotas in various sectors of the city's economy (both formal and informal). Despite the fact that guerrillas employed this practice through collections “in a differentiated way, establishing fixed quotas in terms of the economic capacity of the extorted individual” (Garzón et al., 2016, p. 19), the neo-paramilitary groups discarded this model and made of extortion a changeable collection tool. In addition to setting charges on a daily, weekly, or fortnightly basis, they put not only businessmen and landowners on their radar, but they also set extortion fees for small business owners and informal merchants who in many cases lived off the proceeds of the day's sales (for example, street vendors, motorcycle taxi drivers, informal money changers, and smuggled gasoline retailers, known as *pimpineros*).

On this border, the extortions are carried out in collusion with the authorities of both countries, who, in turn, demand the payment of quotas from the illegal networks for allowing

¹⁵ Trochas are illegal crossing trails that connect the states of Táchira, in Venezuela, and Norte de Santander, in Colombia, through which illegal activities such as drug trafficking, smuggling, and people smuggling take place. These spaces are scenarios of violence due to the constant disputes between groups outside the law that fight for control over these areas, due to the high income generated by the illegal economies in transit there.

¹⁶ The Pelusos are an illegal armed group that emerged from the Libardo Mora front, which was part of the guerrilla group of the Popular Liberation Army (EPL, acronym in Spanish for *Ejército de Liberación Popular*), which did not demobilize in the peace process with the Colombian national government in 1991. For its part, the Rastrojos is a criminal structure that emerged in 2006 as the private army of drug trafficker Wilber Varela, but which over the years has been reshaped into an illegal armed organization that disputes control of illegal economic activities (drug trafficking, smuggling and mining).

them this activity. Rastrojos and Pelusos extort money from those who travel through illegal crossings closest to the border line of Colombian territory, where both the Venezuelan Guard and members of the Colombian illegal groups have established checkpoints to collect this money.

Likewise, the high flow of Venezuelan migrants (a result of the worsening of the economic and social crisis in Venezuela) caused the ELN, the Pelusos, the Rastrojos and the Gulf Clan (*Clan del Golfo*)¹⁷ to begin charging extortion for the transit of migrants through of the trochas. About 1 200 people cross the border daily along this road (*Revista Semana*, 2018), which generates high incomes for these organizations, given that the charge per person ranges between 15 000 and 35 000 Colombian pesos.

The large profits that this criminal activity generates on a daily basis are the factor that has unleashed a violent dispute between the different criminal organizations that seek to hold total control of these illegal economies. This has resulted in a serious humanitarian impact evidenced in the form of massacres, displacements and forced disappearances. In the last decades, the latter has managed to mutate until acquiring certain particularities that set it apart from the original category, by the transformation of the intentions with which disappearances are executed, as well as the profile of the victims and that of their perpetrators.

*Cross-border Enforced Disappearance:
Characterization of an Emerging Practice at the Border*

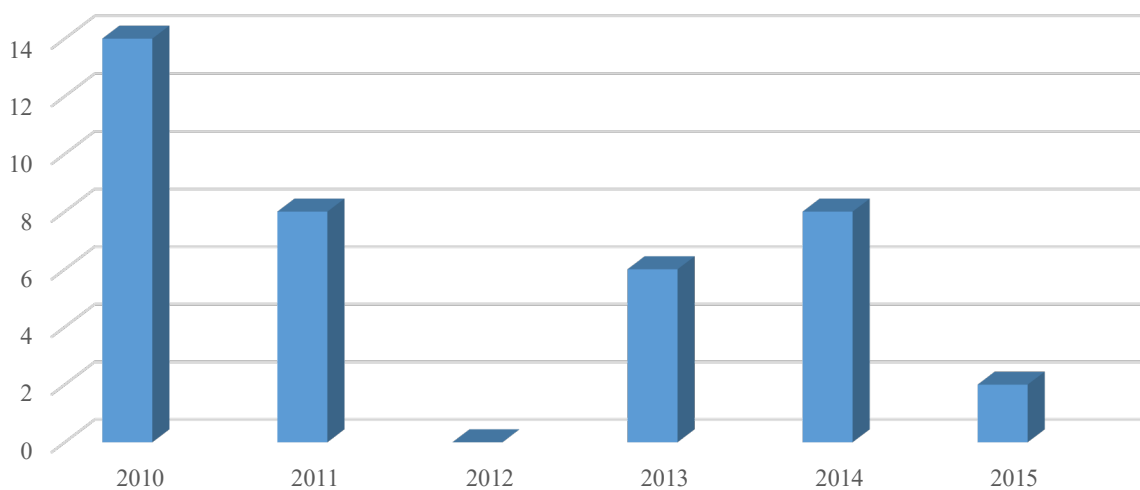
Cross-border enforced disappearance is a practice documented so far in this area of the Colombian border. The term was coined by a human rights organization from Cucuta that has recorded a total of 43 cases of this modality during the period of 2010-2016, as shown in Graph 1. This crime consists of the disappearance of Colombian citizens within national territory and their subsequent forced displacement to Venezuela. In some reported cases, the bodies have been found in clandestine graves in Venezuela, in areas bordering Cucuta and its metropolitan area, a situation that creates strong obstacles to the prosecution, search, and reparation processes for victims in Colombia.

The analysis of the cases made it possible to identify that the first records of this type of disappearance date from 2003, intensifying then during the years 2010-2011. This fact is related to the period of intensification of the violence derived from the expansion and territorial control of the armed groups after the paramilitary demobilization in Colombia, particularly in Norte de Santander.

¹⁷ The Gulf Clan, as the Colombian government calls it, or the Gaitanist Self-Defense Forces of Colombia as they call themselves, is an armed group that emerged in the Colombian conflict within the framework of the paramilitary demobilization of 2006, motivated by “the decision of Vicente Castaño of keeping armed men posted in areas of paramilitary influence, [added to] the distrust on the peace process that the paramilitary groups were carrying out in junction with the government, and the income from the businesses in which they were involved” (CNMH, 2017 p. 275).

Since mid-2011, the main perpetrators of the acts of violence in Cucuta and its surroundings were the groups known as *Urabeños* and the already mentioned Rastrojos, who fought over control of the area, generating intra-urban displacements of the population that inhabited peripheral neighborhoods. Many had to leave due to being stigmatized as and accused of being guerrilla collaborators. The struggle of these groups in this region was “for the control of drug trafficking routes into Venezuela, as well as for the smuggling of hydrocarbons, weapons and goods” (Pérez Salazar & Montoya Cely, 2013, p. 8).

Graph 1. Cases of cross-border enforced disappearance reported during the period 2010-2016



Source: Cases documented by *Fundación Progresar* in Cucuta (Patiño Idárraga & Páez Meza, 2019, p. 84).

The review of the files and the testimonies obtained from the relatives of the victims reveals how the largest number of disappearances of a cross-border nature have occurred in the municipalities located along the border between Norte de Santander in Colombia and the state of Táchira, in Venezuela. The municipalities of Villa del Rosario and Puerto Santander, which connect Cucuta (Colombia) with the state of Táchira (Venezuela), are consolidated as the areas with the highest number of reported cases of missing persons. These territories harbor the particularity of being areas where several of the main illegal crossings or trochas are located, through which the illegal activities controlled by these criminal structures take place.

The dispute over the control of the trochas is due to the large income obtained from smuggling at all scales, as well as due to the imposition of tariffs on informal merchants who transit through this territory and on migrants who cross the border through these trails. The refusal to pay such fees, as well as the confrontations between criminal structures over the monopoly on charging for transit through these places, have exacerbated the rates of violence from which disruptive practices of forced disappearance emerge, such as the cross-border modality.

The characterization of this crime is confirmed by analyzing the profiles of the victims and the testimonies of those who reported the disappearances recorded in the files; of the 43 documented cases, 28 corresponded to men between the ages of 20 and 40, whose conditions of poverty, added to the lack of formal employment options, led them to carry out informal economy jobs at the border, as street vendors, motorcycle taxi drivers and, in some cases, as small-scale smugglers, exposing themselves by working in territories controlled by criminality. A number of the case files report that the victim was forced to pay a tax to the armed structures in order to carry out his work, and in others the informant stated that his relative received threats prior to his disappearance when he tried to evade this payment.

This way, victims no longer have a political or social profile, but are rather part of a context of exclusion that forces them to be functional to the economic interests of local sovereignties that feed an entire criminal system of violence. Thus, the disappearance is constituted as a strategy to eliminate those who hinder said interests, or those who do not cooperate with the rules imposed.

Therefore, the perpetrators of cross-border disappearances fit –for the most part– in the profile of the neo-paramilitary groups that operate in this border territory, formed from the paramilitary demobilization. In the documented cases, the informants attribute the responsibility for the disappearance to particular actors in the conflict: neo-paramilitaries, the United Self-Defense Forces of Colombia (AUC, acronym in Spanish for *Autodefensas Unidas de Colombia*), paramilitaries, Rastrojos, and other unknown parties. This last category is used by the victims as a way of referring to other armed groups and illegal groups after demobilization.

The practice of disappearance by these groups was corroborated by one of the members of the Borders Front (*Frente Fronteras*), Armando Mejía, a.k.a. “Hernán”, who, in a hearing before the Colombian justice system, acknowledged that the AUC¹⁸ implemented various disappearance strategies, including, incineration of bodies in ovens designed for this purpose, and the use of mass graves to hide them. Later, given the increase in complaints and as a way to evade responsibilities, “they no longer disappeared among the embers of the ovens, but on the other side of the Táchira River, in Venezuelan territory, where the police of that country unearthed left and right the bodies that the Colombian war vomited” (*El Espectador*, 2009).

And so, through this practice the border has acquired a meaning inscribed not only in a geographical space, it has also become a place of abandonment, lack of protection and total absence of the State. Therefore, it is understood as a different area from the sites of original disappearances where a reduction and control of space prevailed (for example, detention centers) (Schindel, 2020), or “where marginalized people tended to be tied and stabilized in fixed places” (Schindel, 2019, p. 15). According to the author, the case of the Colombia-Venezuela border

¹⁸ According to Zelik (2015), the United Self-Defense Forces of Colombia (AUC) was a paramilitary organization formed in 1997, led by Carlos Castaño. It stood out by developing an autonomous political profile through the creation of a website called Colombia Libre (Free Colombia), where they published information and commentary on the country’s internal politics, as a strategy to strengthen their political image as an organization.

partakes of new disappearances where the subjects move from one place to another permanently. These phenomena can be “read in relation to the new deployments of governmentality in the neoliberal context, where disappearances depend less on social repression and more actively on abandonment” (Schindel, 2019, p. 15).

The Implications of a new Cartography of Disappearance

Forced disappearance is a crime considered a plight that exceeds the limits of what is humane and has the particularity of creating a double victim: the person who suffers the disappearance and the family member who undertakes his search. In this sense, the national¹⁹ and international²⁰ regulations classifying this crime also consider as a victim any person who has suffered a direct impact as a consequence of an enforced disappearance, including the relatives of the disappeared person, who generally exercise the role of complainant in courts, and of informant through organizations or groups of victims that try to vindicate the memory of the disappeared person through sit-ins, marches or symbolic acts.

Likewise, the current international and inter-American regulatory framework for forced disappearance is based on the serious violations of human rights that took place in the context of the dictatorships in the Southern Cone during the 1970s, for which reason it is considered that the characteristics that framed disappearance at that time constitute its original meaning (Declaración sobre la Protección de Todas las Personas contra las Desapariciones Forzadas, 1992; Convención Interamericana sobre Desaparición Forzada de Personas, 1994; Convención Internacional para la Protección de Todas las Personas contra las Desapariciones Forzadas, 2006). Thus, the profile of the disappeared person held a political and social connotation, since these people were for the most part members of left-wing political organizations, of social movements, of student organizations, and of unions, whose affiliation made them potential enemies of the political system.

Colombia, even without a dictatorship, belongs to the group of Latin American countries in which disappearance was also part of their repertoires of violence until becoming a systematic practice, but with the particularity that there it emerged not only from a State-centric matrix, but was also determined by a symbiosis of State and State-owned actors. The implementation of disappearances by these two perpetrators was due to certain factors related to the social and political context typical of that period: the privatization of the counterinsurgency strategy through the promotion of so-called self-defense groups, the irruption of drug traffickers and the cooptation of

¹⁹ In Colombia, *Law 1408 of 2010* in its article 2 sets forth that the victim of forced disappearance is not only the person subjected to the disappearance, but also direct family members, including “the spouse, partner or permanent partner, and relatives in the first degree of consanguinity, first in kinship of the direct victim of forced disappearance, as well as other relatives who have suffered direct harm as a consequence of the forced disappearance”.

²⁰ At the international level, the Convención Internacional para Protección de Todas las Personas contra las Desapariciones Forzadas (2006) sets forth in article 24.1 that the category of victim of disappearance includes “the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance”.

paramilitary groups, the opposition of regional elites to peace policies and their reaction to the expansion of the guerrillas, and the exacerbation of anti-communist ideology (CNMH, 2016).

The role of these actors as perpetrators allowed, in turn, the transfiguration of some elements of this practice, particularly those associated with the mechanisms for its execution. During the 1970s, “the systematic detention and annihilation of members of the political opposition became more acute through detentions in clandestine places and torture mechanisms carried out by State security agencies, mainly by the F2”²¹ (Cajiao, 2008, as cited in Bedoya et al., 2012, p. 7). However, with the emergence of the mafia cartels and the consolidation of paramilitary groups in the 1980s, a new modality emerged that made use of rivers, mass graves and cremation ovens as disappearance devices.

In that same decade, the repertoire of the mafias began to include resources such as chainsaws to dismember bodies and throw them into the water, and incineration in piles of tires or the use of clandestine graves. Thus, it persisted over time “in a confusing plot in which the violence of drug trafficking is often used to make the violence of the armed conflict invisible, recognizing that both occur simultaneously” (CNMH, 2016, p. 115).

The increase in this disappearance activity had an impact on the degradation and flare up of paramilitary violence, which reached its peak around the year 2002, when the number of disappeared persons amounted to a total of 7 963 victims (Mingorance & Arellana Bautista, 2019). After the paramilitary demobilization, these disappearance devices underwent a new transformation: the rising neo-paramilitary groups that were formed after the negotiations sought to continue using forced disappearance as a control strategy, but making such practice less visible. From that moment on, the border territory became the ideal space whose geographical characteristics translate into integration spaces for criminal activity, wherein the forces that fight against it lose hold and crime and violence are privileged (Carrión & Espín, 2011).

A large part of the cross-border enforced disappearances that begin to take place on the border between Norte de Santander (Colombia) and the state of Táchira (Venezuela) acquire characteristics of return and split in relation to the original category. They return to it, by keeping to the goal of producing of concealing the victim's body, its elimination as an individual, and the stripping of its sensorial manifestation by removing the individual from the phenomenal space of their appearance (Tassin, 2017); and split from it due to the profile of the victim, which is far removed from a political category.

Thus, cross-border enforced disappearance manages to cast doubt on the theoretical and normative constructs on which the crime of disappearance was originally typified, and poses a new paradigm for its understanding, closer to a sociological approach. In this way, both the normative framework that typifies forced disappearance, as well as the interpretations of this phenomenon in the social sciences, constitute themselves into two perspectives from which to

²¹ F2 was the name given to the intelligence agency of the police, established in the 1970s, to which several cases of human rights violations and enforced disappearances in the country are attributed.

analyze this phenomenon. From the international legal framework, the category of disappearance seems to be inactive, set and determined. Yet from the social disciplines, an attempt is made to overcome this vision by reflecting on the changes and transitions that disappearance implies in new contexts of radical exclusion and abandonment, especially in border areas marked by illegal economic interests that characterize the intent of this practice.

Tassin (2017) calls this new category of disappeared individuals *the concealed*, referring to immigrants who, by entering a territory irregularly, end up “deprived of all political and even social visibility (...) condemned to disappear in order to be” (p. 107). Although the victims of the cases documented for this work were not immigrants, the fact that they are related to informal economic activities and smuggling at the border makes their profiles susceptible to being analyzed under this category of the disappeared in liberal societies that the author proposes.

The profile of the cross-border disappeared is made up of Colombian citizens, young for the most part, living in poverty, belonging to fringe segments of the population, discarded by the very logic of the system, who inhabit the periphery of the city, that border limit that has no State presence. According to Gatti and Martínez (2020), before physically disappearing, these individuals were not acknowledged or taken into account, they did not matter. In this sense, the economic and social violence typical of this border territory meant a double vulnerability: by being present there, their existence was subjected to the constant risk and fragility of participating in informal and illegal markets; upon disappearing at the border –being absent– they are condemned to a state of dematerialization that makes mourning and remembrance impossible for their relatives (Tassin, 2017).

The border as an “instance of vulnerability, of lack of civil protection, of dispossession and abandonment (...) opens the possibility of disappearance” (Schindel, 2020, p. 6); apart from being the context where the crime actually occurs, it is the element that facilitates it. The border territory not only determines and materializes the crime of disappearance, it also makes it more complex by being a space where the authorities of each country forget their duty to guarantee protection. In this way, disappearance becomes “a wound opened at the border that does not heal, a wound never stitched” (Schindel, 2020, p. 6).

The disappearance of people on a broken border due to the non-existence of diplomatic relations between the countries that comprise it, is a serious crime that violates the victim and presents a double challenge for their relatives when undertaking the search, justice and reparation processes. The search becomes hostile when the disappearance occurs at a border turned into a mass grave whose territorial control –to a large extent– is under the power of the illegal armed structures of Colombia and Venezuela; a justice slowed down by exhausting and unsuccessful procedures before two inoperative legal systems that, although upholding a discourse that revolves around guaranteeing the protection of human rights, such guarantees are absent in practice. Reparation is unattainable given to the lack of sympathy for the suffering of the victims and the normalization of cruelty scenarios that make of this practice a persistent fact that, far from being over, continues raising the figures of violence every day at a forgotten border.

CLOSING REMARKS

The disappeared from the Colombian-Venezuelan border make up what Gabriel Gatti calls a social catastrophe: “a permanent exception, the abnormality of the norm, a perpetual mourning (...) mourning that is not resolved; a lasting event. In itself, normalized ambivalence” (Gatti, 2011, p. 92). These young people who today are searched by their mothers, wives, and siblings suffered a double disappearance. Before the break between body and name, they already occupied a fringe, invisible place, absent from the public and political space; their existence was mediated by precariousness and helplessness. Yet, they were alive, they were part of family and affective networks; they were parents, children, siblings, friends, neighbors. However, they embarked on a path of no return that placed them in that disconnection between body, name and identity, which results in the “collapse of meaning” (Gatti, 2017) that disrupts the world of bonds. Their bodies do not appear dead or alive, they are not in the places they used to visit, nobody can tell about them, nobody knows anything. Their condition has changed.

These characteristics lead to a new state of being: “neither alive, nor dead, disappeared, no longer a person, something that doesn’t know if it exists, a state without precedent, a new void” (Gatti, 2011, p. 99). This new state is deepened and reproduced at the border, that border that precisely facilitates the break between body and name. At the border there are “names without bodies (...) and bodies without names” (Schindel, 2019, p. 5). That is precisely the case of the cross-border disappeared: bodies that were left out in the open, at that border that is not only physical, but also a liminal space between life and death.

Translation: Fernando Llanas.

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