

Introduction

Crime and forced displacement in Latin America

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Organised crime is a complex phenomenon that is shaped by society at the same time as wider society shapes it. Accordingly, different kinds of relationship – including cooperation, coercion and antagonism – can exist between organised criminal groups and those persons and populations with whom they enter into contact. In some cases, the actions of organised criminal groups contribute directly or indirectly to the flight of persons from their homes to seek safety in some other location in their city or home country, or even on occasions outside the country.

This volume undertakes a preliminary exploration of the developing relationship between organised crime and forced displacement in Latin America. It is in this region of the world that the phenomenon of displacement caused by organised crime has been most visible over the past decade. As such, the range of analyses developed in the present volume is relevant not only to understanding the Latin American context but it also offers an important touchstone for the study of similar situations in other parts of the world. This short introductory chapter provides a brief overview of the topic via a description of the distinct contributions made by each individual chapter.

Crime and displacement in Latin America

Latin America is one of the few regions of the world where the relationship between crime and forced migration has begun to be studied. In part, this reflects the extraordinarily high levels of violence linked to organised criminality in the region over the past decade,¹ such as gang-related violence in the Northern Triangle countries of Honduras, Guatemala and El Salvador,²

1 See Dudley, chapter 1.

2 C. Ribando Seelke, 'Gangs in Central America', *US Congressional Research Service* (2014); J. M. Cruz, 'Central American Maras: from youth street gangs to transnational protection rackets', *Global Crime*, 11 (2010), 379; and M. Boulton, 'Living in a world of violence: an introduction to the gang phenomenon', *UNHCR Legal and Protection Policy Research Series* (2011).

which is comparable to that in some traditional armed conflicts.³ As a result, the numbers of persons who are forced to flee criminal violence are also significant.⁴ Indeed, a specialised body of scholarship has emerged concerning the legal analysis of asylum claims by Northern Triangle citizens who have fled gangs in their countries of origin.⁵

Other forms of organised crime have also been studied as drivers of forced displacement in Latin America. Drug-trafficking groups in Mexico, for instance, have caused high levels of displacement in that country⁶ due to their confrontations with the authorities, other criminal groups and their day-to-day practices of violence and control.⁷ In Colombia, by contrast, the legacy of armed conflict, the consolidation of neo-paramilitary criminal groups and a victims' reparation process all coincide. This makes it an interesting case study on forms of forced migration generated by organised criminal dynamics, as well as on governmental efforts to respond to the ensuing displacement.⁸

The phenomenon of forced displacement caused by organised crime has also found its way onto the regional, and indeed global, agenda. Thus, in 2010, the Office of the United Nations High Commissioner for Refugees (UNHCR) published a first-ever 'Guidance note on refugee claims relating to victims of organized gangs', expressing its concern over the issue and exploring the link between gangs and international protection of the victims as refugees.⁹

Only a few short years later, in 2014, the attention of the global mass media was captured by the arrival of record numbers of Central American

- 3 ONU-Habitat, *Estado de las Ciudades de América Latina y el Caribe 2012: Rumbo a Una Nueva Transición Urbana*, p. 75 (2012); and P. Hauck and S. Peterke, 'Organised crime and gang violence in national and international law', *International Review of the Red Cross*, 92 (2010), p. 407.
- 4 E. Ferris, 'Gangs, violence and displacement in Central America', Brookings Institute (2013), available at www.brookings.edu/blogs/up-front/posts/2013/11/07-central-america-armed-conflict-displacement-ferris# (accessed 14 March 2016).
- 5 See, inter alia, Reynolds, chapter 8, and N. Rodríguez Serna, 'Fleeing cartels and maras: international protection considerations and profiles from the Northern Triangle', *International Journal of Refugee Law* (forthcoming, 2016).
- 6 IDMC, *Forced Displacement Linked to Transnational Organised Crime in Mexico* (2012); and Ó. Torrens (ed.), *El desplazamiento interno forzado en México: un acercamiento para su reflexión y análisis* (México: Colegio de Sonora y CIESAS, 2013). For more see Rubio, chapter 4.
- 7 D.J. Cantor, 'The new wave: forced displacement caused by organised crime in Central America and Mexico', *Refugee Survey Quarterly*, 33 (2014), p. 34.
- 8 For more see Rojas, chapter 5, Sánchez Mojica, chapter 6, and Rodríguez Serna and Durieux, chapter 7.
- 9 See www.refworld.org/docid/4bb21fa02.html (accessed 14 March 2016) and B.E. Sánchez Mojica, 'A city torn apart: forced displacement in Medellín, Colombia', *International Law Review Colombia Derecho Internacional*, 22 (2013).

unaccompanied migrant children at the southern border of the United States.¹⁰ The intersection between poverty, family links and criminal violence in provoking this migratory flow was emphasised by governments in the region.¹¹ Even so, a considerable gap between policy and practice still remains, including in the United States as the main reception country for these flows of asylum-seekers.¹²

Finally, it is important to recognise that the *modus operandi* of criminal groups, and the way in which they generate displacement, are constantly evolving. Such changes can occur subtly as a group grows or loses a territory, or when public policy changes, or where the local population's attitudes towards them shifts. Studying how organised criminal groups generate displacement in specific countries in Latin America represents but a first step towards articulating a broader understanding of the relationship between crime and displacement.

Structure of the volume

This volume seeks to offer a preliminary and multidisciplinary perspective on displacement caused by organised crime and the national and international responses to this issue. Whereas the individual chapters address discrete aspects of the phenomenon, when taken together they offer a more complete picture of the relationship between organised crime and displacement.

Six of the chapters are updated versions of draft papers presented at an expert workshop co-hosted by the Refugee Law Initiative and the Universidad Centroamericana José Simeón Cañas (San Salvador, El Salvador) in May 2014.¹³ The Salvadorian co-convenor, university academic Mauricio Gaborit, here played a central role in laying the groundwork for this volume. The workshop brought together experts from all over the Americas to share research

- 10 UNHCR, 'Children on the run: unaccompanied children leaving Central America and Mexico and the need for international protection' (2013) and Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR), 'Arrancados de raíz: causas que originan el desplazamiento transfronterizo de niños, niñas y adolescentes no acompañados y separados de Centroamérica y su necesidad de protección internacional' (2014).
- 11 The ensuing Managua Extraordinary Declaration acknowledges the humanitarian nature of this emergency and the need for international protection of some of the children. See Conferencia Regional sobre Migración, Declaración Extraordinaria de Managua, 27 June 2014.
- 12 See Reynolds, chapter 8.
- 13 The workshop 'Los Grupos Criminales Organizados y la Nueva Ola de Desplazamiento Forzado en América Latina' (Organised Criminal Groups and the New Wave of Forced Displacement in Latin America) was held on 22–23 May 2014 in San Salvador, El Salvador, with Mauricio Gaborit, Universidad Centroamericana (UCA) and David James Cantor, Refugee Law Initiative (RLI) as co-convenors. The Economic and Social Research Council (ESRC) made a generous contribution towards the funding of the event via a Future Research Leaders grant [grant number ES/K001051/1].

and develop an understanding of crime-related forced displacement through a comparison of different countries' experiences.¹⁴

The remaining chapters are revised versions of the presentations delivered at the Refugee Law Initiative panel at the XV Conference of the International Association for the Study of Forced Migration (IASFM) at the Pontificia Universidad Javeriana (Bogotá, Colombia) in July 2014.¹⁵ At both events, the discussions sought to promote the detailed study of forced displacement caused by organised crime and to foster dialogue between relevant experts in different Latin American countries.

Overall, the collected chapters of this volume aim to promote understanding of an increasingly important new displacement trend within the region of Latin America. At the same time, they seek to engage with the issue of crime-related forced displacement as a relatively unexplored area within the larger field of forced migration studies. Through the application of different approaches and methodologies to the relevant case studies, each chapter seeks to make an important contribution to both aims. The volume is divided into the following three sections.

Part I focuses on the nature of organised crime beginning with **Steven Dudley's** study of the evolution of organised crime in Latin America and the Caribbean (LAC). His chapter explores the transformation and consolidation of the phenomenon and the paradoxical fact that violence has again risen in a period of sustained economic growth and democracy consolidation in these countries. The author shows that the interaction between local-level and international criminal actors, and new State efforts to consolidate the rule of law, lead to the constant evolution and fragmentation of criminal markets. One expression of these shifting criminal dynamics is the displacement of individuals affected by the criminal groups.

Building on this analysis, chapter 2, written by the Salvadorian researcher **Amparo Marroquín Parducci**, explores the nature of gangs in Guatemala, Honduras and El Salvador and their role in the region's current scenario of violence and displacement. Based on a detailed analysis of the genesis and evolution of these groups, Parducci defies certain popular misconceptions concerning the gangs. Showing their inconsistencies, she simultaneously argues that the image of the gang member has been constructed instrumentally for political purposes as a focus for societal fears in order to distract attention away from corruption and remilitarisation in the region.

Part II builds on this general overview of organised crime by focusing on the empirical dynamics of displacement. In this context, chapter 3, by **David**

14 See RLI/UCA, 'Memorias: Los Grupos Criminales Organizados y la Nueva Ola de Desplazamiento Forzado en América Latina', Taller de Expertos, UCA, 'José Simeón Canas', San Salvador, El Salvador, 22–23 May 2014.

15 The same ESRC grant also generously supported this panel.

James Cantor, examines the dynamics of forced displacement in the countries of the Northern Triangle of Central American, namely El Salvador, Guatemala and Honduras. The chapter draws attention to the unprecedented levels of social violence currently being experienced in these societies that are related, in large part, to the activities of the organised criminal gangs that operate there. It argues that the violent criminality pervading these contexts also presents a number of specific challenges for institutions seeking to provide humanitarian assistance and protection to those displaced as a result of these dynamics.

Similarly, in chapter 4, Mexican researcher **Laura Rubio Díaz** examines the case of internal displacement in Mexico, focusing on the displacement patterns caused by the actions of drug trafficking groups. The chapter then proceeds to explore the implications for public opinion and public policy of the persistent failure on the part of the federal authorities to acknowledge this situation of displacement. She concludes that this context not only makes internal displacement in Mexico a challenging topic for academics to study but also denies protection to victims from the human rights violations that they suffer at each phase of displacement.

Chapter 5, by **Gabriel Rojas**, shifts the focus of the volume to Colombia. The chapter offers a quantitative analysis of current Colombian internal displacement patterns caused by the criminal organisations, dubbed BACRIM [*bandas criminales*, criminal bands], which emerged after paramilitary groups demobilised. The author demonstrates the clear continuity between paramilitary groups and BACRIM, particularly in the patterns of displacement that each generates, making them the main drivers of forced displacement in the country. The chapter then assesses the implications of these findings for a post-conflict scenario characterised by the demobilisation of left-wing guerrilla groups in Colombia.

Also focused on Colombia, **Beatriz Eugenia Sánchez** explores, in chapter 6, the sparsely studied phenomenon of intra-urban displacement in Medellín. This serves as an important case study on the conceptual and administrative challenges that arise when public policies are formulated for the benefit of individuals forced by criminal groups to leave their homes, but who displace within the same city. The chapter not only serves to emphasise the highly urban and localised nature of these crime-related displacements in Colombia but also demonstrates the challenges that public policy can face in attempting to respond to these new displacement scenarios.

Lastly, part III of the volume explores legal and practical responses to crime-related displacement. Returning to the Mexican situation, **Nicolás Rodríguez Serna** and **Jean-François Durieux** explore, in chapter 7, whether the status of 'victim' of a human rights violation or crime can be an adequate protection substitute for 'displaced person' status in country contexts where the fact of

displacement is not acknowledged as such. By reviewing Mexican law and practice, and through a comparative analysis of the Colombian experience and the Inter-American jurisprudence, the authors study the complex relationship between both types of status and also draw attention to the risks of categorisation when processing victims forced to flee by criminal groups.

Building upon those previous chapters, having outlined how and why people escape organised crime in Central America and Mexico, **Sarnata Reynolds** looks more closely, in chapter 8, at the reception of these individuals and their legal status in the United States asylum system. Through her experience as a litigator, and by studying a considerable body of case law, the author offers an insight into the prospects of international protection for persons fleeing organised crime and seeking asylum in the United States.

Finally, chapter 9, by **David James Cantor**, looks at the normative and institutional responses to this form of transboundary displacement through Latin America's own tradition of protecting forced migrants. By analysing the region's binding and non-binding instruments, as well as the process from the 1984 Cartagena Declaration to the 2014 Brazil Declaration and Plan of Action, the author charts the evolution of a regional perspective on crime-related displacement and its role in shaping a shared protection system.

Perspectives

This volume, which follows in the footsteps of the book *A Liberal Tide? Immigration and Asylum Law and Policy in Latin America*,¹⁶ aims to promote greater critical awareness of displacement and protection trends in Latin America. In this region, new dynamics both challenge classical conceptions of forced displacement and require some degree of rethinking of the existing protection frameworks. Although gaps continue to exist in our understanding, as well as in the legal and institutional responses, recent positive advances in this region suggest that many opportunities exist for furthering both academic knowledge and the practical protection of persons displaced by organised crime in Latin America and beyond.

16 D.J. Cantor, L. Feline Freier and J.-P. Gauci (eds.), *A Liberal Tide? Immigration and Asylum Law and Policy in Latin America* (London: Institute of Latin American Studies, 2015).