Questionnaire

Contact details

Please provide your name (if applicable, title of your organization) and contact details, including your email address in case we need to contact you in connection with this survey.

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Confidentiality
Please note that all inputs received will be published on the website of the Working Group on Enforced or Involuntary Disappearances, unless it is expressly indicated that the submission should be kept confidential.

Questions

Feel free to answer only the questions that are relevant for you.

1. *1.1)* Can you kindly illustrate what are the main risks posed by the use of new technologies vis-à-vis the work of human rights defenders and, in particular, of relatives of disappeared persons?

    1. *New technologies such as email, Facebook messenger, WhatApp, Signal, etc. are in general, not necessarily safe. Especially for human rights defenders who are being watched by state agents, their accounts are possibly monitored. Group chats, individual messages, personal emails, official emails could be monitored without the defenders' knowledge. Zoom meetings could also be hacked.*

        When not careful with personal computers and gadgets that are used to communicate, the risk of accounts being hacked is not a remote possibility.

    1.2) How can these risks be mitigated?

    These risks can be mitigated through the following:

    1. *Discuss the matter collectively with the concerned organization/s and ensure precautionary measures. Include such precautionary measures as an integral part of a comprehensive security policy that is grounded on the overall situation of the concerned area – city, country, region, etc.*
    2. *For emails on very confidential matters, use proton mail.*
    3. *For chats, voice and video conversations, use Signal when very confidential matters are discussed.*
    4. *Ensure that passwords are secure and regularly changed.*
    5. *Ensure that computers and gadgets are safe and secure.*

    1.3) Can you provide concrete examples on how new technologies have been used as a tool to hinder the families of disappeared persons and human rights defenders in their struggle for truth and justice (including through cyber bullying, sexual harassment, etc.)?

        In one of ICAED's Zoom public events in the early part of the pandemic, our event was hacked. It was hampered by some people who shouted and said negative things against

one of the speakers. We had to disconnect some of the participants because we could not exactly identify who the hackers were. Good that for those people who were disconnected, some of them were the hackers, so the disruption was stopped. However, it really disturbed the event because legitimate participants who were removed from the event could no longer reconnect. This occurred because we were confident and not that experienced in using it at that time, we did not put a password for participants to enter the event. We learned a lesson from such experience and used some precautionary measures when we conducted our succeeding online activities.

1.4) How can the judicial system offer effective protection from this kind of harassment?

If domestic laws in this regard are available, it is important to make full use of these laws both for prevention as well as corresponding judgments/actions against perpetrators proven beyond doubt to have committed such acts. If these are not available yet, human rights defenders must lobby for the enactment of these laws that are drafted on the basis of concrete experiences.

2.

2.1) How do you think that new technologies are being /can be used to facilitate the commission of an enforced disappearance (e.g.by tracing prospective victims or exercising surveillance on their relatives) and to cover-up the commission of enforced disappearance (if possible, provide concrete examples)?

I have no concrete experience on how the new technologies are being used to facilitate the commission of enforced disappearance and to cover up the commission of such. But I believe that they can be used for the commission of enforced disappearances through the following:

- *Faster communication as compared to those times when new technologies were not yet available;*
- *Fast coordination between and among perpetrators, especially when the victims are transported to different places within a country or brought outside of the country.*
- *Connivance between and among perpetrators is more difficult to detect because with the use of new technology, this is not visible.*
- *Witnesses are more difficult to find when communications between and among perpetrators are done virtually.*

2.2) What are the preventive measures that have been put (or can be put) in place?

Preventive measures that can be put in place may include:

1. *Briefing for human rights defenders on what to do in case of enforced disappearance, e.g. who to contact, agreed communication tactics.*
2. *Making use of technologies, trackers wherein most likely victims of enforced disappearances, such as human rights defenders, can be traced.*

3. *3.1*) Can you kindly illustrate the applicable legal framework (regulations and policies) – if any – in your country (or countries in focus) to deal with, in particular, (a) internet shutdowns and access restrictions; (b) cyber-surveillance and attacks, (c) disinformation campaigns; and (d) the use of spyware? *3.2*) Can you provide concrete examples on the use of the mentioned tools/techniques in practice?

Refer to the following link:

4. What are the applicable rules in your country (or countries in focus) to regulate the import/export and use of surveillance technologies?

5. Is there in your country (countries in focus) any independent oversight mechanism mandated to monitor the offensive security sector (cyber-security)?

6. Is there any concrete example where the misuse of new technologies to harass human rights defenders, including relatives of disappeared persons, or to facilitate the commission of an enforced disappearance or to cover it up, has been subjected to investigation and prosecution and those responsible have been held accountable? Kindly illustrate the main obstacles encountered in this realm, as well as the lessons learned and the good practices.

   All new technologies can certainly be used to harass human rights defenders including relatives of disappeared persons. There are certainly many cases, but I do not have these documented. These could be in forms of mysterious calls; threatening text messages; threatening emails, etc.

7. How can new technologies (and which new technologies) facilitate the search for forcibly disappeared persons (if possible, providing concrete examples and illustrating how such technologies operate)? What should be considered the "indispensable" tools in this realm? Are such tools easily accessible and affordable or are there specific obstacles in their purchase and use?

   Answers:

   1. Phone calls using safe APP is a fast means of communication, which can facilitate search.
   2. Indispensable tools are computers, SMART phones with internet connection.
   3. These are not easily accessible and affordable to victims of enforced disappearances, many of them are poor.

8. What are the new technologies that have brought the most significant results in terms of search for forcibly disappeared persons and how do they operate? Are there significant practical differences in terms of the technologies to be employed when searching for the person alive or dead?

   Not sure if these are the most significant results because knowing this needs a scientific study. But I think the following can bring significant results:

   1. Email communication; phone calls; chats using SIGNAL, which is safe, are what I think facilitate search for forcibly disappeared persons.
   2. Video documentation; photo documentation of the actual act of disappearance if available

9. Can obstacles to the search linked to the passing of time be overcome through the use of new technologies? If so, how?

   1. If there are written documents on cases that occurred several years ago, it is important to digitize them.

2. It is important to take note that when a new case occurs, all documents are digitized, compiled, securely filed.
3. Do at the soonest possible time video documentation of testimonies of witnesses, families of the victims and those disappeared persons who surfaced alive but whose case are not yet resolved.

10. Can you kindly indicate good practices, as well as the main obstacles – practical and legal – encountered by you/your country (or countries in focus)/ institution/organization in the use of new technologies to investigate on cases of enforced disappearances (if possible, providing concrete examples)? What are the tools that you would consider more effective for such purposes? Are such tools easily accessible and affordable or are there specific obstacles in their purchase and use?

   Not so sure if good practices, but from an experience in Laos, a CCTV footage to disappear Sombath Somphone is a clear evidence of the act of enforced disappearance. Other tools could be:

11. What are the "evidences" that you would regard as essential to prove the crime of enforced disappearance and that can be retrieved through the use of new technologies? Do you see any specific problem in the preservation of the chain of custody here and in the admissibility of some specific pieces of evidence of this crime collected through the use of new technologies?

   These could include:

   1. CCTV footage
   2. Email communications between perpetrators if available
   3. Video footage of the act of enforced disappearance
   4. Photos of the actual act of enforced disappearance
   5. In case of exhumations of remains of disappeared persons, there is a not-so-new technology that can draw a person's face from a skull – it can help with identification of the disappeared person.

12. Can obstacles to the identification of the perpetrators of an enforced disappearance linked to the passing of time be overcome through the use of new technologies? If so, how?

   I think that some obstacles can be linked to the passage of time such as:

   1. Availability of witnesses; witnesses may no longer exist, they may have died already.
   2. Perpetrators may not be easily identified anymore due to physical changes brought about by aging; they may have moved to other areas in order to escape accountability and it is already difficult to trace. They may have died already, too.
   3. There is memory loss on the part of the witnesses, especially if written accounts are not available.

   Note: There are technologies to determine the identity of a person as one ages.   It is worth exploring these technologies in identifying perpetrators.

13. What are the main issues related to the subject of "new technologies and enforced disappearances" that should be covered in the findings and recommendations included in the thematic study of the Working Group?

    Main issues could include:

    1. Spying on prospective victims of enforced disappearances using the social media, smart phones, CCTV
    2. Clear pieces of evidence using technologies and their admissibility in court and inclusion of these in relevant domestic laws.

14. Is there any other information that you deem relevant for the purposes of the thematic study?

    1. It is important to review cases submitted, especially during the era of modern technology and sum-up concrete positive or negative experiences;
    2. Study relevant domestic laws on use of modern technology.