



## New Technologies and Enforced Disappearances

Maat for Peace, Development and Human Rights provides this contribution in response to the request of the Working Group on Enforced or Involuntary Disappearances for information from all stakeholders.

### **First: The use of advanced technology in disappearances:**

Through Maat's follow-up on many cases of torture and enforced disappearance in many countries, Maat noticed that the matter is no longer just a violation practiced by governments or groups against individuals and organizations, but rather the matter has developed into the idea of a third factor being used to lure the victims, as many European companies sell electronic surveillance and espionage technologies, which are used to monitoring victims and violating their privacy in order to determine their locations and facilitate disappearances. They even go beyond that and commit disappearances because of the intrusion of personal information, under the pretext that such information affects national security or the safety of other individuals.



Many surveillance firms, like Israeli “NSO group” and European “Intellexa”, have been accused of facilitating killing and disappearing many journalists and human rights defenders, as many civil society members have been placed on lists of missing persons, by tracking their activities on social media and hacking their phones, as these firms provide systems to access target devices via Wi-Fi and wireless networks.<sup>1</sup>

Some of these firms stated that its systems are used by law enforcement and intelligence agencies against terrorists and crimes, but of course this does not justify disappearances and arrests by governments through these services. and this is not limited to victims only, but also includes the use of these technologies to violate the rights of victims' relatives, lawyers or advocates in general, and this is done by call tracing and hacking

<sup>1</sup> Inside the shadowy world of spyware makers that target activists and dissidents, Fast company, 26 June 2019, <https://bit.ly/3HTClb6>



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networks.<sup>2</sup>

There are many modern weapons that facilitate enforced disappearances, including electric shock stun, which were invented for the purpose of personal protection, especially for girls when they are subjected to sexual harassment, but we note that they are used in another way, as they are directed at the target person to lose consciousness, and then facilitate the process of his disappearance, In fact, some governments prevented these devices from being carried personally, but used them in other forms through modern devices contains electric charges that make targeted lose consciousness for a short period of time until the disappearance process is complete.<sup>3</sup>

Technology helps some systems increase cases of enforced disappearances, which rise concern on the part of activists and civil society organizations that exercise their right to freedom and expression. One of these tools is The national biometric system that exists within the country, which contains huge amounts of data about citizens to be used in identification services. These systems have been used by the United States of America in many countries, for the purpose of identifying people who the United States believes may pose a security risk, as well as those who work for the US government.<sup>4</sup>

### **Second: The role of technology in obtaining evidence of disappearance and identifying perpetrators:**

Advanced digital technologies are changing the field in profound ways, The digital investigation techniques includes Open Source Digital Investigations, which are used as international guidelines for the documentation, preservation and analysis of digital evidence of human rights violations. Maat believes that despite the significant disadvantages of technology in causing human rights violations, the vital role it plays in identifying the victims of disappearance must be recognized, by supporting the investigation authorities in identifying the victims and following their traces.

These technologies help forensic agencies and evidence seekers in cases of disappearances and murders, as they photograph crime scenes with accurate measurements and detailed notes, and this came in conjunction with the development of lasers and alternative light sources that can detect latent fingerprints, spots, hairs,

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<sup>2</sup> US lawmakers seek sanctions against Israel's spyware firm NSO, TRT World, 16 Dec 2021, <https://bit.ly/3jopBFJ>

<sup>3</sup> Strategic Goods and Services - DIT Export Licensing and Sanctions, UK Gov, 12 April 2016, <https://bit.ly/3Hx2UHV>

<sup>4</sup> What it means to 'be disappeared' in the Taliban's Afghanistan, GRID News, 7 June 2022, <https://bit.ly/3X0eSyl>

fibers and other trace evidence. For example, luminol, which eluminate in contact with blood, is a substance capable of detecting traces of blood that have been diluted up to 10,000 times, which makes it useful for searching crime scenes that have been cleaned to hide evidence, and this helps determine if the victim was standing, walking, or running.<sup>5</sup>

Forensic computing has become an important field for investigating disappearances that occur through electronic piracy and malicious computer viruses, as investigative agencies resort to confiscating personal computers at crime scenes based on judicial orders, and are able to break any password protection or open encrypted files to detect The identity of the person who lured the victim. Child kidnappers sometimes try to discover the websites of teens and children in order to arrange a meeting with them, and the perpetrator is identified in cooperation with Internet service providers, who keep records that include Internet Protocol addresses that point to the computer network the suspect is using.<sup>6</sup>

One of the technological tools is The Violent Crime Linkage Analysis System (ViCLAS)<sup>7</sup>, which is operated by the Canadian Royal Police, and developed in several European countries, a system that contains extensive data on all murders, disappeared persons, unidentified bodies, and kidnappings,<sup>8</sup> but despite The system has not proven to be sufficiently effective, as the data is not disseminated outside the police, and this contradicts Article 18 of the United Nations Convention for the Protection of All Persons from Enforced Disappearance, making it ineffective for other agents like disappeared's relatives used to assist investigations.

### **Third: How can technology be used effectively without committing human rights violations?:**

Maat believes that based on what has been described as technology being a double-edged weapon in violations of enforced disappearance, and guided by Articles 2 and Article 12 of the United Nations Convention for the Protection of All Persons from Enforced Disappearance, which include the duties of the state and its ability to investigate crimes of enforced disappearance, the violation of disappearance should be linked to other

<sup>5</sup> Detection of Blood with Luminol, US office of Justice programs, June 2003, <https://bit.ly/3Ru6OFx>

<sup>6</sup> Cooperation between law enforcement and Internet service providers against cybercrime: towards common guidelines, Council of Europe, <https://rm.coe.int/2088-33-law-enforcement-isp-guidelines-2020/1680a091a7>

<sup>7</sup> Criminal profiling, Britannica, <https://www.britannica.com/topic/police/Criminal-profiling>

<sup>8</sup> ViCLAS, ViCLAS, <https://viclas.ch/en/viclas/what-is-viclas>

related rights that are violated when conducting investigations, especially to the relatives of the disappeared, namely the right to privacy, the right to freedom of opinion and expression, and the right to obtain information about the victims of enforced disappearance to ensure that the investigations are proceeding in a good way. This is in addition to making sure that countries do not use technologies under the pretext of maintaining national security, and to stop the pretext of the state sovereignty to cause enforced disappearances for political purposes.

Maat believes that the main dilemma is not in committing enforced disappearance through technology, but rather in creating a consensus between how to tighten control over the violation of enforced disappearance and conduct investigations using technology to obtain evidence and provide effective reparation on the one hand, and not to violate the right to privacy and the use of technology to commit violations on the other hand. In this regard, it is necessary to strengthen the role of international mechanisms concerned with enforced disappearance in order to create the greatest possible pressure on countries that exploit technology to entrap political opponents, while raising awareness of the need to distinguish between personal data and other criminal data that are used by investigative authorities. For example, in Afghanistan, Taliban used the biometric system by obtaining fingerprints and iris scanning, in addition to hacking personal data, in order to ensure that there are no members of the police, the army, or people belonging to the former ruling regime, because in the case that this is proven, they will be subjected to enforced disappearances that end in murder.<sup>9</sup>

#### **Fourth: Gaps in international legal frameworks that allow technology to be used in violations:**

Despite the existence of an international legal framework that includes international conventions, the drafting of domestic laws, and the classification of enforced disappearances as a crime against humanity under the Rome Statute, there is a lack of effective accountability mechanisms that prevent states or bodies that carry out enforced disappearances from real deterrence. Where international mechanisms stipulate the need for states parties to enact criminalization legislation, investigate possible cases, and hold people accountable, but they do not link the exploitation of their powers in the investigation of enforced disappearances with the enforcement of

<sup>9</sup> Ibid

the fundamental rights of the individual such as the right to privacy and not be subjected to torture, as they can only direct recommendations and ask the state to take all necessary measures, but cannot compel the state to take action and it has no sanctioning power, nor is there a mechanism for aggrieved individuals to seek redress under the Convention on Enforced Disappearance. The role of the International Court of Justice and the International Criminal Court is also limited by judicial restrictions and inadequate enforcement mechanisms.

This is in addition to the countries mentioned in the report, such as the United States of America, ignoring the United Nations Convention on Enforced Disappearance, as it did not ratify the Convention and did not play an active role in further developing the international normative framework on this issue, engaging in secret detentions and enforced disappearances of terrorist suspects and luring them through spyware.<sup>10</sup>

**In light of the above, Maat for Peace would like to make the following recommendations:**

- 1) The need to draw the Human Rights Council's attention to the importance of pressuring countries to tighten controls that prevent personal information of the individuals and organizations from being disclosed.
- 2) Strengthening regional and international enforcement bodies working to provide accountability and redress for enforced disappearances through training of staff and funding to enhance the rule of law and accountability.
- 3) Work to benefit from the positive aspects of technology on the part of the investigation authorities, while minimizing any potential harm that would affect the freedom of opinion and expression and the right to privacy for individuals and civil society organizations.

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<sup>10</sup> Addressing the Continuing Phenomenon of Enforced Disappearances, Center for strategic and international studies, 18 Aug 2022, <https://bit.ly/3HPoojY>