Digital Open Source Investigations: Strengthening the Future of Human Rights

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When the drafters of the Universal Declaration of Human Rights sat down to enumerate the rights to which every human being is entitled, they could not have imagined how important technology would become to people's ability to secure those rights. It was 1948 – a time just before the Digital Revolution and years before the internet and smartphones. As we pause to envision the future of human rights 75 years later, we must examine how the birth and spread of these technologies has both helped and hindered our cause, and how we can better leverage them for good. The latter includes improving, expanding, and supporting digital investigations into human rights abuses.

At the UC Berkeley Human Rights Center, we use a variety of methods to uncover truth, hold perpetrators accountable, and pursue justice in partnership with marginalized communities. We began 30 years ago by collaborating with experts using forensic anthropology and DNA technology to investigate war crimes and identify the disappeared, using DNA analysis to reunite families with children abducted or given up for adoption during armed conflict.

Today, we continue to set precedent in the area of digital open source investigations. We train students and advocates to collect, preserve, and verify information of human rights abuses worldwide. We also partner with leading human rights, legal, and news organizations to use the evidence we uncover to shape the course of international criminal law. While we have supported a growing number of peer institutions to launch similar programs, there is still a vast need for more investment in training on-the-ground advocates and practitioners to conduct digital open source investigations.

Why is this work so important? Social media has irrevocably changed the information ecosystem, connecting communities in a way never before experienced. Camera phones that can upload photos and video information directly to the internet are largely affordable and available globally. In the hands of people experiencing atrocities, a smartphone with internet connectivity becomes a tool to bear

Photograph Courtesy UC Berkeley Human Rights Center

witness. Further, satellite imagery – once the sole purview of governments – is now commercially available to give an aerial perspective on activities in conflict zones. With so much digital information available, it is critical that we effectively capture it, verify its authenticity, and get it into the hands of people with the power to do something about it. But how?

We founded the Human Rights Investigations Lab in 2016 to answer that question, and to explore how new and emerging technologies – including information from social media and

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other publicly available sources – could be effectively harnessed to support human rights investigations. We began with a diverse cohort of UC Berkeley students – the majority of whom are young women of color – and trained them to gather and verify digital open source information of potential human rights abuses. Since then, the Lab has exploded in scope, feeding cutting-edge online research to leading organizations, including the United Nations, New York Times, Washington Post, Associated Press, Amnesty International, Human Rights Watch, Physicians for Human Rights, and countless grassroots groups.

We have also worked with peers in the space to replicate our model, which is now being used at close to a dozen universities. Most recently, we mentored UC Santa Cruz's Dolores Huerta Center and UCLA's Promise Institute to launch their own labs and have collectively co-founded the women-led University of California Network on Human Rights and Digital Fact-Finding. Through our partnership with Amnesty International, we've supported the launch of similar student-run investigation labs in Canada, Germany, Hong Kong, Mexico, South Africa, and the United Kingdom.

Beyond our university-based training model, we travel worldwide to provide digital open source investigation training programs to frontline human rights defenders. Participants have included civil society groups from Ukraine, journalists and human rights advocates from Libya, and Yemen's National Commission to Investigate Alleged Violations of Human Rights. In partnership with the Institute for International Criminal Investigations, we also hold regular trainings at The Hague for investigators from the UN, the International Committee of the Red Cross, and the International Criminal Court (ICC), among others.

Seeking to support as many investigators in as many corners of the world as possible, we collaborated with the UN Office of the High Commissioner for Human Rights to develop guidelines for digital investigations. The result is [The Berkeley Protocol on Digital Open Source Investigations](), which we co-published in 2020. The Protocol sets international standards for the collection, preservation, and verification of digital open source information that can be used in investigations of violations of international criminal, humanitarian, and human rights law. As the world's first international guidelines on how to responsibly conduct online investigations with the goal of admissibility for international courts, the Protocol is changing the ways we document conflict – updating expert methodologies to reflect the current state of crisis and address how social media has changed the human rights landscape. It is being translated into all official UN languages and is in active use by Ukrainian prosecutors documenting Russian war crimes.

As part of our partnership with the Institute for International Criminal Investigations, we are also developing recommendations for digital investigations of systematic and conflict-related sexual violence. The Murad Code – honoring Nadia Murad, the Yazidi activist and Nobel Prize winner – is a set of existing global guidelines aimed at making international criminal investigations of systematic and conflict-related sexual violence (CRSV) more ethical and effective by being more victim-centered. However, guidance for digital open source investigators was largely left out of the Code. Given our principle role in creating the Berkeley Protocol and our longtime work on CRSV, we have led the development of a practitioner's guide to complement the Code. This tool is deeply needed to facilitate digital investigations of CRSV in Ukraine, Myanmar, Israel/Palestine, and elsewhere around the world.

While we apply what we uncover in our digital open source investigations to pursue accountability and raise awareness, we also use it to influence the landscape of international criminal law. Earlier this year, we submitted our second Article 15 Communication to the ICC making the case that Russian cyber-attacks against Ukraine's critical infrastructure should be considered war crimes within the terms of the Rome Statute. Since then, the ICC Prosecutor has stated publicly that he will now consider the role of cyber-attacks in all of his investigations.

In a world with no shortage of human rights abuses, it can feel impossible to prioritize one issue over another. At the Human Rights Center, we believe training students and advocates in innovative and rigorous investigative skills will increase our ability to address a range of these issues by helping uncover and preserve the foundation of all human rights work: the facts. With these facts in hand, we can work to end, prevent, and secure justice for human rights violations, building a safer and more dignified world for generations to come.

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