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Querying the Ethics of Data Collection as a Community of Research and Practice: The Movement Toward the “Liberalism of Fear” to Protect the Vulnerable

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Introduction

The literature that references the role of Information and Communications Technologies (ICTs) in mass atrocities research and response is growing, as indicated by a previous Special Issue of *Genocide Studies and Prevention*.¹ Other publications, in which ICTs feature prominently, influence the development of debates and engagement in human rights, humanitarian assistance, and human security. Increasingly, however, along with the burgeoning interest in ICTs and their promise in these fields, questions are being asked, and concerns expressed, as to fundamental problems of various kinds. The most pressing of these considerations speak to accountability, the ethics of use in local areas, and the impact on the vulnerable populations that ICTs promise to serve. These concerns are ever present as subjects of public debate during the writing of articles in the Special Issue. This is why dialogue connecting research and practice is necessary to identify ways to address these challenges at both the conceptual and political levels. The perspectives of researchers and the experience of practitioners must come together to bring the discussion forward.

In response to this plea, a community of experts remains in dialogue after initial meetings to define the contents of the Special Issue. The responsibility of this community is to grapple with specific issues that define the state of the field in data collection, including prominent uses of satellite imagery analysis, forensic investigation techniques, and mobile telephony applications, to document human rights abuses in remote areas, as evidenced in the work of Amnesty International and Physicians for Human Rights. Ethical considerations orient these discussions. The dilemma of how to use technology effectively, while not harming the vulnerable, constitutes one of the most salient issues. Can technology, a two-edged sword in its applications, promote the objective of never again in mass atrocities response? This Introduction highlights the ways in which this question and others identified lead to reflections concerning an emerging pedagogy of mass atrocities research and response. In the learning and teaching this pedagogy inspires, it may be possible to nurture a movement that is transformative, rather than incremental, in its challenge to the status quo characterized by what Raymond and Sandvik cite as “technological utopianism.”²

The necessity to increase the interactions among researchers and practitioners led the contributors to this Special Issue to meet first at the United States Holocaust Memorial Museum (USHMM) on November 7, 2015 followed by a subsequent gathering at NYU DC on June 11, 2016. The immediate goal was to raise questions that challenge the uses of ICTs in the collection and analysis of data from the field in highly sensitive areas where mass atrocities are likely or have already transpired.

Five objectives focused the discussions in these meetings: (1) an awareness of the audiences the Special Issue aims to serve; (2) a consideration of the state of the literature to convey the breadth of what has already been investigated; (3) a curiosity to convey the ways in which evidence collection crosscuts with the latest applications of technologies; (4) a necessity to explore the tensions between the Western bias in the uses of technologies and the need to anchor the localization outreach; and, most fundamentally, (5) the largely missing aspect in the conversation, which is an impetus to

¹ Yasemin Irvin-Erickson and Douglas Irvin-Erickson, eds., *Genocide Studies and Prevention: An International Journal* 8, no. 3 (2013), Special Issue: *Humanitarian Technologies and Genocide Prevention*.

² See Nathaniel Raymond and Kristin Bergtora Sandvik, “Beyond the Protective Effect: Towards a Theory of Harm for Information Communication Technologies in Mass Atrocity Response,” *Genocide Studies and Prevention: An International Journal* 11, no. 1 (2017), 9-24

pedagogy. This last objective speaks to a primary concern of the contributors: to explain the state of the field and to indicate for the future generations of students the likely direction of evidence collection to document mass atrocities.³

There is a basic question the articles prompt readers to ask, which is essential to address in the literature: “If area experts and international researchers are only collecting data and no subsequent action is taken on the basis of the evidence discovered, is justice being served in the field of mass atrocities or genocide studies?”⁴ In order to respond, the contributors highlight tensions between the Western bias, which Raymond and Sandvik analyze, namely, that of “ICTs having an inherently “ambient protective effect” (APE) - i.e. casually transforming the threat matrix of a particular atrocity producing environment in a way that improves the human security status of targeted populations,”⁵ and the genuine harm that can be inflicted on already vulnerable populations as a result of technological interventions in remote and fragile locales.

In this context, researchers and practitioners alike must always return to the impact of their engagement with technologies in the local area, which has a robust specificity in each case mentioned by the authors – Democratic Republic of Congo, Guatemala, Bosnia, Libya, North Korea, Syria, and Nigeria. This emphasis is in line with the area studies literature that rejects “the disappearing local” in the twenty-first century globalization context.⁶

Localization outreach is a theme that figures prominently in the Special Issue led by the Raymond and Sandvik survey of the literature and a sequence of articles that includes the groundbreaking MediCapt case discussed in the review essay by Naimer, Brown, and Mishori; and the insightful study by Koettl, which is situated between the juxtaposing analyses of Schmitt and Mazoori, on the one hand, and Aronson, on the other. These articles speak in different ways to the idea expressed by Eleanor Roosevelt in the opening quote cited in *The Signal Code*:⁷

Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.⁸

The preceding quote, attributed to a champion of human rights described as “First Lady of the World” in her quest to give voice to the powerless, guides the contributors in three ways to define the content of their articles – (1) to revolutionize, (2) to professionalize, and (3) to disrupt the field of data collection through the careful delineation of the manner in which an emerging community of research and practice works to intervene or not intervene with technologies at different stages of mass atrocities. In this quest, the audience to which the Special Issue speaks is an interdisciplinary one, cutting across academic disciplines and non-governmental organization (NGO) activism, which can grasp the inherent dangers of a “technology optimism,” as identified by Raymond and Sandvik, that “impacts the distribution of resources, field practices and the rules and norms that regulate the use of these interventions.”⁹

³ Colette Mazzucelli appreciates discussing these objectives with Ziad Al Achkar with particular reference to an exchange of views including Brynna Parish during the meeting of contributors at NYU DC on June 11, 2016.

⁴ Joyce Apsel and Ernesto Verdeja, eds., *Genocide Matters* (London and New York: Routledge, 2013); David A. Hamburg, *Preventing Genocide* (Boulder and London: Paradigm Publishers, 2010); Clea Koff, *The Bone Woman* (New York: Random House Trade Paperbacks, 2005).

⁵ Raymond and Sandvik, *Beyond the Protective Effect*, 9-24

⁶ Ali Mirsepassi, Amrita Basu, and Frederick Weaver, eds., *Localizing Knowledge in a Globalizing World* (New York: Syracuse University Press, 2003).

⁷ Faine Greenwood, Caitlin Howarth, Danielle Escudero Poole, Nathaniel Raymond, and Daniel Scarnecchia, *The Signal Code* (Cambridge, MA: Harvard Humanitarian Initiative, 2017).

⁸ Eleanor Roosevelt, speech to the United Nations Commission on Human Rights, United Nations, New York, March 27, 1958.

⁹ Raymond and Sandvik, *Beyond the Protective Effect*, 9-24.

Implicit in these different articles is the understanding that the use of ICTs influences power relations. A classical view of international affairs underlines what Hoffmann terms “dissensus,”¹⁰ in other words, “the absence or paucity of common values, substantive or procedural” which liberals aim to interject to limit unrestrained abuses of the weak by the agents of coercive states, particularly the “military, paramilitary, and police agents.”¹¹ The omnipresent “theory of change,” critiqued by Raymond and Sandvik insofar that “ICTs can serve as a platform on which hegemony can be promoted... shifting the balance towards powerful institutions if the latter are able strategically to use ICTs as legitimating tools,”¹² focuses attention squarely on the fact that, in the liberal tradition, “the individual, ...the potential victim of cruelty, is to be protected against the incursions of public oppression.”¹³

Naimer, Brown, and Mishori weigh the obstacles and opportunities Physicians for Human Rights professionals encounter in the deployment of MediCapt, “a mobile phone app meant to assist health professionals conducting medical exams in sexual violence cases,”¹⁴ during an initial rollout phase in the Democratic Republic of Congo (DRC). In thinking about the ways to revolutionize, professionalize, and disrupt the field of data collection, this study is a seminal one in terms of the questions the MediCapt pilot launch engenders. In the epistemic community of research and practice that is emerging around the elaboration of *The Signal Code*, with a view to the “right to protection,” the “right to data privacy and security,” and the “right to data agency,”¹⁵ the analysis and assessment of MediCapt can heighten public awareness of the necessity “to lay out a theory of harm.”¹⁶ Raymond and Sandvik are cognizant of the “potentially transformative” impact in deploying MediCapt to “help hold perpetrators of human rights violations accountable for their crimes” starting in eastern Congo.¹⁷ The scope of the problem Raymond and Sandvik identify explains the urgency of their task, which is to elucidate “ICT as a site of ethical precariousness and as capable of causing actual harm to the response, to responders, and most importantly, to civilians who are the targets of mass atrocities.”¹⁸

A theory of harm urges an emerging community of research and practice initially to acknowledge “the liberalism of fear” that Shklar defined as “a shifting line, but not an erasable one,” along which “The limits of coercion begin, though they do not end, with a prohibition upon invading the private realm...,”¹⁹ which, in turn, upholds the golden rule: do no harm. Koettl underscores the perpetrators’ expectation of impunity, which reinforces the belief that “their crimes will go unnoticed or can be easily dismissed or minimized in an environment of high information uncertainty.”²⁰ The likelihood of impunity demands that the costs for the perpetrator be raised as the opportunity to exploit the vulnerable is lessened. The demand, in turn, heightens the need, without shifting the line too far “in response to the technological and military character of governments and the productive relationships that prevail,”²¹ to address what Koettl identifies as the “lemon problem,” namely, “the risk of using *misinformation* that can discredit an entire research project, ...exacerbated...where... [its] spread is made easier by digital social media networks.” [bold and italics added by the authors]

¹⁰ Stanley Hoffmann, *Janus and Minerva Essays in the Theory and Practice of International Politics* (Boulder and London: Westview Press, 1987).

¹¹ Shklar, *The Liberalism of Fear*, 29.

¹² Raymond and Sandvik, *Beyond the Protective Effect*, 9-24.

¹³ Shklar, *The Liberalism of Fear*, 23.

¹⁴ See Karen Naimer, Widney Brown and Ranit Mishori, “MediCapt in the Democratic Republic of the Congo: The Design, Development, and Deployment of Mobile Technology to Document Forensic Evidence of Sexual Violence,” *Genocide Studies and Prevention: An International Journal* 11, no. 1 (2017), 25-35.

¹⁵ *The Signal Code*, <https://signalcode.org/>.

¹⁶ Raymond and Sandvik, *Beyond the Protective Effect*, 9-24.

¹⁷ Naimer et al, *MediCapt in the Democratic Republic of the Congo*, 25-35.

¹⁸ Raymond and Sandvik, *Beyond the Protective Effect*, 9-24.

¹⁹ Shklar, *The Liberalism of Fear*, 24.

²⁰ See Christoph Koettl, “Sensors Everywhere: Using Satellites and Mobile Phones to Reduce Information Uncertainty in Human Rights Crisis Research,” *Genocide Studies and Prevention: An International Journal* 11, no. 1 (2017), 36-54.

²¹ Shklar, *The Liberalism of Fear*, 24.

For this reason, the Naimer, Brown, and Mishori analysis illustrates the MediCapt design, which addresses the lemon problem by combining “a custom-designed medical intake form for forensic documentation with secure mobile camera functionality for forensic photography.”²² It is important to recognize that MediCapt, as Koettl explains, has “the potential to be impactful on specific issues and when working with dedicated networks.”²³ In this context, MediCapt “helps to standardize and preserve critical forensic evidence of sexual violence.”²⁴ The care with which the design of MediCapt evolves is a testimony to the extent to which clinical end-users are involved as well as the respect for local cultural norms in the co-design process, which is more important than the technological complications that ensued or the lack of material supplies (ink or copiers) that resulted when a specific printing feature was selected. Of particular relevance is the slow nature of these developments, particularly the years of study required “to determine the full impact of MediCapt on medical, legal, and human rights outcomes.”²⁵

The MediCapt study illustrates the challenges involved to develop an app that can be transformative over time. Only a longer term assessment can reveal the extent to which survivors of sexual violence and other human rights violations can hold perpetrators accountable. If transformative means “finding a way between the insufficient and the impossible,”²⁶ it is necessary to question if, as Koettl argues, MediCapt is “less likely to be adapted by large numbers of people or utilized by bystanders?”²⁷ Is this the fate of documentation apps that capture relevant metadata and chain of custody records, which, as Schmitt and Mazoori argue, is essential if the vulnerable in local areas are to appeal through court systems in their own communities equipped with compelling as well as comprehensive forensic evidence to support their allegations?²⁸

The contributors to the Special Issue speak to a number of concerns around the applications of technologies increasingly used in human rights initiatives “to collect, analyze, and preserve evidence that could be admissible in court”²⁹ with the full awareness of the risks associated with their use, particularly for vulnerable populations, as well as the need for those engaged in human rights work to identify best practices to address these risks together with colleagues in the technology community.

Although, as Naimer, Brown, and Mishori explain, “MediCapt meets best practices for chain-of-custody considerations in evidence collection,”³⁰ the app’s further development raises a host of concerns, particularly the “very real risk that hackers may seek weaknesses in the architecture of the app,” which, in turn, requires constant focus on “safeguarding the security of the app itself.” The risks to the user and to the many others involved in nothing less than a transformative approach to evidence collection requires a transparent dialogue around what constitutes a fair warning to potential users.

The articles in the Special Issue reference one another in considerations of 1) the mandate to deploy technology in any particular area as well as 2) the impact of the deployments over time. In this respect, Koettl’s analysis situates itself between that of Aronson, on the one hand, and Schmitt and Mazoori, on the other. Koettl’s discussion assesses the impact of satellite imagery and mobile phone technology as potential game changers to address the lack of information available to human rights activists documenting abuses in remote areas such as North Korea. Aronson speaks to the preservation of video materials, which may be curated as human rights public educational resources in a museum or university setting. Schmitt and Mazoori are squarely focused instead on the ways in which the collection of DNA samples may become legal evidence to be adjudicated,

²² Naimer et al, *MediCapt in the Democratic Republic of the Congo*, 25-35.

²³ Koettl, *Sensors Everywhere*, 36-54.

²⁴ Naimer et al, *MediCapt in the Democratic Republic of the Congo*, 25-35.

²⁵ *Ibid.*

²⁶ Hoffmann, *Janus and Minerva*, 410.

²⁷ Koettl, *Sensors Everywhere*, 36-54.

²⁸ See Stefan Schmitt and Dallas Mazoori, “Jurisdiction, Privacy and Ownership: DNA Technology and Field Dynamics in Conflict Related Mass Fatalities,” *Genocide Studies and Prevention: An International Journal* 11, no. 1 (2017), 55-81.

²⁹ Naimer et al, *MediCapt in the Democratic Republic of the Congo*, 25-35.

³⁰ *Ibid.*

as a matter of necessity in each specific case, by the State, which is, in their view, “integral to a legitimate human identification process.” As they explain: “Attempting to minimize initial delays in human identifications at the expense of building local knowledge, skills and necessary legal frameworks risks undermining the legitimacy of the human identification effort.” Their argument prompts further considerations of capacity. At one end of the spectrum, there is Palantir and what Morozov terms “solutionism” or the implicit belief that technology is able to solve humanity’s problems.³¹ At the other, there is the full development of local capacity such as iHub in Kenya, iLab in Liberia or the Guatemalan Forensic Anthropology Foundation (FAFG).³² The articles in the Special Issue make the case for developing capacity appropriate to a particular context, as Naimer, Brown, and Mishori make clear in the MediCapt study with reference to the Democratic Republic of the Congo.

The authors’ collective dedication to pedagogy³³ lends a singular importance to the questions their articles raise around data collection. There is a corresponding responsibility to consider the core tension that exists in the analysis of what Aronson explains is the “duty to preserve”³⁴ and its specific implications for the “right to agency”³⁵ defined in *The Signal Code*. The relevant questions in the analysis by Aronson include “whose needs are being met by the preservation of human-rights-related video and who ought to control the storage and use of this content?”³⁶ The commitment to preserve evidence of violations for justice and accountability, nationally and internationally, is voiced by the international human rights community. A view that speaks more to the right to agency upholds the “ethical duty to protect individuals and respect their wishes even when higher-level justice and accountability efforts may suffer.”³⁷ This view is often articulated by those closer to the actual production of evidence. The different understandings expressed by human rights practitioners as to which view should be prioritized raise further questions for present and future generations to ponder.

These questions, leading to a focus as well in the classroom on matters of consent, security, privacy, and ethics, bring to mind the ways voices may speak “to restrain...abusers of power” with a belief that “Liberalism must restrict itself,” as Shklar writes, “to lift the burden of fear ... from the shoulders of adult women and men.”³⁸ The ownership of information, of the evidence, that is collected is paramount in so far as the scope of some technology goes “far beyond personal information or evidence from a person’s body or memory.”³⁹ The “privatization of evidence collection, with attendant threats to chain of custody as well as accusations of bias,” may result if these issues are not clarified.⁴⁰ In light of these concerns, the genesis of a movement toward the liberalism of fear to protect the vulnerable is more likely to be anchored by the rights articulated in *The Signal Code* for a community of research and practice than principles debated in the chambers of the United Nations like Responsibility to Protect.

The queries that challenge, the questions that inform, such a movement are born of learning in a classroom animated by the breadth of the imagination rather than the borders of a building. This may be perceived as the learning at the core of an “emancipatory education”⁴¹ for the generations

³¹ Ian Tucker, “Evgeny Morozov: ‘We are abandoning all the checks and balances,’” *The Guardian*, March 9, 2013, accessed March 22, 2017, <https://www.theguardian.com/technology/2013/mar/09/evgeny-morozov-technology-solutionism-interview>.

³² Colette Mazzucelli and Dylan P. Heyden, “Unearthing Truth: Forensic Anthropology, Translocal Memory, and ‘Provention’ in Guatemala,” *Politics and Governance* 3, no. 3 (2015), 44-45.

³³ Colette Mazzucelli, “Humanitarian Technologies and Genocide Prevention: A Critical Inquiry,” *Genocide Studies and Prevention: An International Journal* 8, no. 3 (2014), 89-94.

³⁴ See Jay Aronson, “Preserving Human Rights Media,” *Genocide Studies and Prevention: An International Journal* 11, no. 1 (2017), 82-99.

³⁵ *The Signal Code*, <https://signalcode.org/>.

³⁶ Aronson, *Preserving Human Rights*, 82-99.

³⁷ Ibid.

³⁸ Shklar, *The Liberalism of Fear*, 31.

³⁹ Naimer et al, *MediCapt in the Democratic Republic of the Congo*, 25-35.

⁴⁰ Ibid.

⁴¹ Maxine Greene, *Landscapes of Learning* (New York: Teachers College Press, 1978).

to come: those students born as digital natives for whom the applications of such technology are a matter of habit rather than deliberation. The social foundation of a movement toward the liberalism of fear is not only a matter of the content taught. The necessity to problematize ways of teaching is at the center of the endeavor, which Greene identifies:

The teaching problem seems to me to be threefold. It involves equipping young people with the ability to identify alternatives, and to see possibilities in the situations they confront. It involves the teaching of...possible perspectives by means of which those situations can be assessed and appraised...norms that must be appropriated by persons desiring to join particular human communities. It also involves enabling students to make decisions...to reflect, to articulate, and to take decisive actions in good faith. Fundamental to the whole process may be the building up of a sense of moral directedness... an awareness, and a sense of possibility are required, along with the sense of autonomy and agency, of being present to the self. There must be attentiveness to others and to the circumstances of everyday life. There must be efforts made to discover ways of living together justly and pursuing common ends. As wide-awake teachers work...eliciting moral judgements, they must orient themselves to the concrete, the relevant, and the questionable. They must commit themselves to each person's potentiality for overcoming helplessness and submergence, for looking through his or her own eyes at the shared reality...this can only be done if teachers can identify themselves as moral beings, concerned with defining their own life purposes in a way that arouses others to do the same....the young are most likely to be stirred to learn when they are challenged by teachers who themselves are learning, who are breaking with what they have too easily taken for granted, who are creating their own moral lives.⁴²

The aim in the Special Issue, to revolutionize, professionalize, and disrupt the field of data collection, emphasizes localization rather than prevention. As articulated in *The Signal Code*, the need to elaborate “a human rights approach to information during crisis”⁴³ asks an emerging community of research and practice to challenge an illiberal principle of exclusion, which divides humankind into peoples served by technology and those made increasingly vulnerable by its deployment around the world. In the face of the harm that inappropriate uses of technology may engender, the contributors query the ethics of data collection. In so doing, it is essential to acknowledge, as Shklar explains in refuting objections to the liberalism of fear, that “We would do far less harm if we learned to accept each other as sentient beings, whatever else we may be, and to understand that physical well-being and toleration are not simply inferior to the other aims that each one of us may choose to pursue.”⁴⁴ The contributions to the Special Issue urge readers, present and future, to join the authors raising questions to inform pedagogy. These are questions anchored in field experiences, which respect the rights defined in *The Signal Code* to protect the vulnerable and to empower the local community.

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⁴² Ibid., 50-51.

⁴³ <https://signalcode.org/>.

⁴⁴ Shklar, *The Liberalism of Fear*, 32.

improved the article content. Dr. Anne Marie Goetz made time to comment on the MediCapt analysis. Brynna Parish assisted most ably taking meeting notes and editing articles. Shirley Cloyes DioGuardi shared her knowledge and time generously and graciously in numerous conversations about the content of the Special Issue. Charles Patrick Martin-Shields provided helpful insights as the Special Issue was nearing publication. The Editors look forward to cooperate with the community of research and practice to disseminate the Special Issue among members of the Global Diplomacy Lab (GDL) and Brandeis University's Summer Institute for Israel Studies (SIIS).

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