

MANDATORY SIM CARD REGISTRATION

Foundation for Media Alternatives
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ABOUT FMA

The Foundation for Media Alternatives (FMA) is a non-profit service institution whose mission is to assist citizens and communities – especially civil society organizations (CSOs) and other development stakeholders – in their strategic and appropriate use of the various information and communications media for democratization and popular empowerment.

Since its formation in 1987, FMA has sought to enhance the popularization and social marketing of development-oriented issues and campaigns through media-related interventions, social communication projects and cultural work. In 1996, FMA streamlined its programs and services in both traditional and new media, with a major focus on information and communications technologies (ICTs), to enable communities to assert their communication rights and defend their rights to information and access to knowledge, towards progressive social transformation.

FMA seeks to develop programs and projects that strategically address the questions of access to and equity of disadvantaged sectors in the area of information and communications – and in locating the so-called digital divide within existing socio-political divides, including gender. These involve:

- Promoting equitable partnerships for innovating connectivity and community access alternatives to assert the agenda of disadvantaged communities;
- Facilitating capacity-building sessions for CSOs in the area of ICT literacy, ICT management, online collaboration or advocacy, and secure online communications;
- Helping CSOs manage development content through appropriate tools and technologies towards building vibrant online communities and knowledge networks; and
- Enhancing multi-stakeholder consensus-building on strategic information and communication agendas, via action-oriented research, constituency-building and public advocacy.

Introduction

SIM card registration is mandatory in around 90 countries today. Its role in law enforcement, particularly when combating crime and terrorism, is often cited by proponents as sufficient justification for its adoption even sans solid empirical evidence. Meanwhile, not only is it a costly and difficult endeavor, it also poses numerous risks to data protection and every individual's right to privacy.

The Upside (or so they say)

The primary rationale behind a mandatory SIM card registration system is its supposed ability to help prevent, or at least address, crime and terrorism. Nigeria's system was borne out of the belief that unregulated mobile phone use aided in the commission of crimes like robberies, kidnappings, and internet banking fraud.¹ In Ecuador, mandatory IMEI (International Mobile Equipment Identity) and SIM registration was implemented to address the specific crime of handset theft.²

Proponents also like to cite its potential for increasing public access to mobile-based government services. In Egypt, one study claimed to show increased citizen engagement in the elections after a prototype mobile voting system was made possible by the country's SIM card registration program.³ The Pakistani government is considering using the national ID—which features validated biometric data from mobile registration—in providing access to e-government services.⁴

And then there is the narrative that a SIM card registration system improves the service delivery capacity of telecommunications companies and mobile operators. For instance, the use of registered SIM user data in Nigeria for targeted marketing activities is said to have led to an increase in the take-up of offers among customers.⁵ A similar phenomenon was reported to have occurred in Kenya.⁶

Everything Wrong About the System

While all of its purported benefits are in dispute, the number of criticisms and perceived flaws continue to accumulate:

- *Crime-fighting Myth.* The theory that SIM card registration is a boon for law enforcement has been consistently debunked across jurisdictions. The experiences of many countries

¹M2SYS Technology, Fingerprint Biometric Based SIM Card Registration System Deployed in Nigeria.

²GSMA, Mandatory registration of prepaid SIM cards: Addressing challenges through best practice. April 2016

³GSMA, *The Mandatory Registration of SIM Card Users: A White Paper*. November 2013

⁴*ibid.*

⁵*ibid.*

⁶Sunday, 2011, as quoted in Donovan and Martin. *The Rise of African SIM Registration*.

have demonstrated numerous ways through which criminals are able to circumvent this type of regulation. In some regions, registration actually increased the prevalence of some crimes and even facilitated the emergence of black markets. The case of Pakistan is worth noting. In 2014, law enforcement authorities there recovered SIM cards supposedly used by militants in a terrorist attack. The cards were eventually traced to unsuspecting individuals with no connection to the incident.⁷ It has been reports like this that have affirmed the decision of some countries to refrain from adopting a similar system. In Canada, a proposal was scuttled after consultations offered no proof of crime reduction resulting from its use. Mexico repealed its mandatory registration law after three years of implementation, after seeing no improvement in the prevention, investigation, and prosecution of crimes.⁸ Some even blamed the system for the rise in incidents of handset theft—criminals started stealing phones to avoid being tracked by law enforcement.⁹ In Europe, despite some countries have SIM card registration systems, there is still no evidence to prove that its regional implementation would benefit criminal investigation or the smooth functioning of the internal market.¹⁰

- *Logistical Nightmare.* SIM card registration also poses many implementation challenges to mobile service providers and the concerned government agencies. After all, such a system would require considerable information infrastructure that should be able to handle numerous sources of data.¹¹ Here in the Philippines, figures from 2017 show that there were approximately 129.4 million mobile subscriptions in the country, which accounts for 126% of the population.¹² Such a large number of subscriptions would inevitably entail significant costs. The Nigerian Communications Commission (NCC) and the country's four telecom operators reportedly spent around 46.1 billion NGN (approx. \$128M) on their system from 2010 to 2015.¹³ Even that did not appear to make their tasks easier as telcos still experienced plenty of problems during implementation.¹⁴ Logistical practicalities in the registration process should also be considered. A huge portion of the population, especially among the marginalized groups, do not have existing valid identification documents, and requiring such for SIM card registration is bound to increase applications for government-issued identification. And then, there is the availability of equipment and physical capacity of the government and telcos to process registration. For instance, the registration system in Chad requires a photocopy of the subscriber's identity document. Thus, on top of the lack of available identity documents, another challenge that surfaced was access to photocopiers, as non-urban

⁷ Suman Varandani, December 19, 2014. *Peshawar School Attack: 4 Suspects Arrested In Bahawalpur, Pakistani Taliban Used Woman's SIM Card*. Retrieved from: <http://www.ibtimes.com/peshawar-school-attack-4-suspects-arrested-bahawalpur-pakistani-taliban-used-womans-1763334>; see also: Zulqermain Tahir, February 6, 2015. *Wrong number: On the irksome SIM verification and its suspect efficacy*; and Asif Shahzad, February 26, 2015. *Pakistan tightens cellphone control after Taliban massacre*. Retrieved from: <https://news.yahoo.com/pakistan-tightens-cellphone-control-taliban-massacre-065547570.html>.

⁸ GSMA (2013)

⁹ GSMA (2016)

¹⁰ GSMA (2013)

¹¹ *ibid.*

¹² We Are Social. *Digital in 2017: Southeast Asia*.

¹³ Emma Okonji, August 20, 2015. *Nigeria: NCC, Telcos Spent N46.1bn On SIM Card Registration in 5 Years*. Retrieved from: <http://allafrica.com/stories/201508201242.html>

¹⁴ Emma Okonji, September 7, 2015. *Nigeria: MTN Apologises to Customers Over SIM Validation*. Retrieved from: <http://allafrica.com/stories/201509072401.html>

areas had very limited access to photocopying machines and only 1% have access to electricity.¹⁵

- *Specter of Surveillance.* Perhaps the most alarming risk of mandatory SIM card registration is its potential use for surveillance. This gives rise to significant risks for a wide spectrum of individuals, among whom are investigative journalists, whistle-blowers, witnesses, marginalized groups, as well as victims of discrimination and oppression, state-sponsored or otherwise. In its 2014 *State of Privacy* report, Privacy International noted how Zimbabwe's SIM card registration law essentially rendered obsolete the potential for anonymity of communications, enabled location-tracking, and significantly simplified communications surveillance and interception.¹⁶ What makes matters worse is that in an environment where intrusions to the right to privacy become institutionalized and prevalent, free expression of information and ideas are restricted, or at least dissuaded, with other fundamental rights and freedoms facing similar threats.
- *Disenfranchising the Marginalized.* A lesser known but equally relevant issue is how SIM card registration can also cause a "chilling effect" on mobile phone use. Logistical difficulties, financial costs, and the privacy risks connected with the registration process will inevitably affect people's purchase and use of SIM cards. This could potentially lead to some sectors or populations getting disincentivized or discriminate upon as a consequence. Take the case of persons with limited mobility (e.g., handicapped, resident of remote areas, etc.) who will be placed at a clear disadvantage if registration requires personal appearance on the part of the registrant. The presentation of identification documents as a prerequisite would also exclude those without official identification—a fairly common scenario in developing countries which usually have poor identification systems. It would almost always exclude minors as well, by default. In South Africa, two competing mobile operators experienced drops in their customer bases following the establishment of a mandatory SIM card registration system.¹⁷

The Philippine Context

Mobile communication has come to occupy a central role in Philippine society. The State's National Broadband Plan places the number of unique mobile users at 75.4 million (95% of whom have prepaid subscription), with total connections estimated to be at 119.2 million.¹⁸ These figures make any effort to impose mandatory SIM card registration by law an important issue to take up.

Efforts towards a domestic mandatory SIM card registration system have been around since the turn of the millennium. They have consistently faced strong opposition from telecommunication

¹⁵ GSMA (2016)

¹⁶ Privacy International. *The State of Privacy 2014*.

¹⁷ Donovan and Martin.

¹⁸ Department of Information and Communications Technology, *National Broadband Plan*.

companies, consumer groups, and human rights defenders.¹⁹ What usually happens is that proposals ramp up in the wake of high-profile incidents wherein mobile phone use figures prominently in the public narrative. For instance, in July 2013, a commercial center in Cagayan de Oro city was bombed using an improvised explosive device. Although reports of the incident did not confirm whether the explosion was triggered by a mobile phone, Senators Tito Sotto and TG Guingona used the opportunity to highlight their proposal for mandatory SIM card registration.²⁰ In September 2016, an improvised explosive device was allegedly set off via a mobile phone in a night market in Davao City.²¹

The House of Representatives has approved proposals for a SIM card registration several times in the past, and did so again just this previous Congress.²² It has been the Senate that has adopted a more cautious approach, causing most proposals to meet their demise in this chamber.²³

At present (17th Congress), a legislative initiative pushing for SIM card registration is once again in play. Several bills were filed immediately within the first few months of the new administration.²⁴ In the *House*, twelve (12) proposals are already pending as of this writing. The Committee on Information and Communications Technology has convened a Technical Working Group (TWG) to facilitate their consolidation. Meanwhile, seven (7) bills have also been introduced in the Senate.

Senator Vicente Sotto III, a consistent proponent of the measure, filed his third proposal in June 2016. His first dates back almost a decade ago during the 12th Congress.²⁵ His latest bill, Senate Bill No. 7, was the first to be filed in the current Congress and has the most number of co-authors. Like its foreign counterparts, the proposal cites pronouncements by the police linking unregistered prepaid phone use to crimes like bombings and kidnapping cases. Curiously, it imposes a limit on the number of pre-paid SIM cards an individual can register in the system.²⁶ Any excess will have to be discontinued or transferred to a different owner.²⁷ Exemptions to this rule, however, are available, which makes its implementation even more difficult.²⁸ It also requires a registered owner to be at least fifteen (15) years of age.²⁹

¹⁹Francis Tan, January 28, 2011. *Philippine government wants mandatory SIM registration. Maybe it's a good idea*. Retrieved from: <http://thenextweb.com/asia/2011/01/28/philippine-government-wants-mandatory-sim-registration-maybe-its-a-good-idea/#gref>

²⁰Natashya Gutierrez, July 29, 2013. *3 suspects so far in Cagayan de Oro blast*. Retrieved from: <https://www.rappler.com/nation/35069-pnp-releases-composite-sketches-of-cdo-blast-suspects>

²¹Levi A. So, September 4, 2016. *Davao blast: IED detonated via cellphone*. Retrieved from: <http://www.philstar.com/headlines/2016/09/04/1620485/davao-blast-ied-detonated-cellphone>

²²Jess Diaz, May 23, 2015. *House OKs bill on registration of prepaid SIM cards*. Retrieved from: <http://www.philstar.com/headlines/2015/05/23/1457797/house-oks-bill-registration-prepaid-sim-cards>

²³Macon Ramos-Araneta, September 12, 2016. *Sotto: Register sim cards*. Retrieved from: <http://manilastandard.net/news/-main-stories/top-stories/215910/sotto-register-sim-cards.html>

²⁴As of 19 September 2016, bills proposing mandatory SIM card registration have been filed by Senators Vicente Sotto III (Senate Bill No. 7), Richard J. Gordon (Senate Bill No. 105), Sherwin T. Gatchalian (Senate Bill No. 203),

²⁵TarraQuismundo, September 12, 2016. *Sotto just won't quit on SIM card registration*. Retrieved from: <http://newsinfo.inquirer.net/814634/sotto-just-wont-quit-on-sim-card-registration>

²⁶Senate Bill No. 7, §4.3.

²⁷*ibid.*

²⁸Senate Bill No. 7, §5.

²⁹Senate Bill No. 7, §4.5.

In the *House*, the proposal of Representative Mariano Michael Velarde, Jr. has been adopted by the TWG as basis for the consolidated bill. It requires end users to present valid identification (including a photo) to a direct seller of SIM card. The National Privacy Commission (NPC) is the sole agency tasked to handle registration, although the database of subscribers will be maintained by the telecommunication companies. In a hearing, the NPC, through its representative, surprisingly welcomed such responsibility, noting that a single agency handling the registration would be easier to regulate and less vulnerable to hacking.³⁰ It is also worth noting that in the substituted bill, registration would not only involve the SIM card but also the international mobile equipment identity (IMEI) of mobile phones.³¹

Certainly, not all lawmakers are fond of the idea. *Bayan Muna* party-list Representative Carlos Zarate declared that mandatory SIM card registration would essentially legalize real-time collection of data, which makes it unconstitutional.³² The measure, he added, places the burden on the subscribers, as prepaid fees are bound to increase to cover the cost of the registration system. He also pointed out its implications on the administrative duties of the National Telecommunications Commission (NTC), which only has fifteen regional offices to handle the country's over 100 million mobile subscriptions.³³

In the Executive Department, the Department of Information and Communications Technology (DICT) also had occasion to express its opposition to the measure, citing a number of reasons why the measure is not feasible: (a) it requires a reliable IT system; (b) it has failed several times in other countries; (c) criminals will always find ways to circumvent the restriction; (d) it would disenfranchise certain sectors; and (e) the inconvenience it would cause on the public could outweigh its possible effectiveness.³⁴ Even the Office of the President (in the previous administration), at one point, shared its misgivings about the proposal, citing the threat it poses to the constitutional right to privacy. It recommended a more careful study to assess its impact on the rights of users, and the logistical concerns of its implementation.³⁵

The local telecommunications industry has maintained a unified front on this matter. In 2013, Philippine Long Distance Telephone Co. (PLDT) and Globe Telecom—the two giants that essentially make up the entire industry—joined other members of the Philippine Chamber of Telecommunications Operators (PCTO) in submitting a position paper opposing a mandatory SIM card registration system. The coalition has consistently emphasized the ineffectiveness of the measure as an anti-crime initiative and its negative effect of stifling a person's right to telecommunicate in this era of the Internet.³⁶

³⁰Philippine House of Representatives Committee Daily Bulletin, September 27, 2017.

<http://congress.gov.ph/legisdocs/cdb/cdb17-v2i33-20170927.pdf>

³¹*Ibid.*

³²Maricel Cruz, September 18, 2016. *Solon: Great risk in SIM registration*. Retrieved from: <http://thestandard.com.ph/news/-main-stories/top-stories/216483/solon-great-risk-in-sim-registration.html>

³³*Ibid.*

³⁴Lira Dalangin-Fernandez, September 7, 2016. *Solon's bid to regulate social media opposed by govt, peers*. Retrieved from: <http://interaksyon.com/article/132220/solons-bid-to-regulate-social-media-opposed-by-govt-peers>

³⁵GMA News Online, July 30, 2013. *Palace: SIM card registration may violate right to privacy*. Retrieved from: <http://www.gmanetwork.com/news/story/319771/scitech/technology/palace-sim-card-registration-may-violate-right-to-privacy>

³⁶Rappler, October 22, 2013. *PLDT, Globe oppose SIM registration*. Retrieved from:

<http://www.rappler.com/business/industries/172-telecommunications-media/41972-pldt-globe-oppose-sim-registration>

An open letter signed by various consumer rights organizations in August 2015 also raised how much of an impossible task it would be to register more than 100 million SIM cards in circulation, not including those being used by Overseas Filipino Workers.³⁷

Conclusion

A State's obligation to ensure public safety or national security should always be balanced with its duty to protect the people's right to privacy. Whenever possible, utmost effort must be taken to try and reconcile both interests. Should a compromise be impossible after a thorough and careful assessment, a difficult yet necessary decision will have to be made as regards which right or principle a particular society holds more dearly.

Fortunately, one need not confront that dilemma with this matter of SIM card registration. Its promise to deliver some benefits valuable to any government has now been exposed as mostly illusory or at least severely inflated. Meanwhile, the list of associated problems is long and impossible to set aside. It is critical that this is kept in mind, given the current administration's unrelenting and bloody war on drugs, wherein a person's identity appears to determine with cruel finality whether he/she deserves to live, or is better off dead in the eyes of those who wield power.

What this means is that, today more than ever, it is critical that the public remain vigilant and resist any or all measures that aim to narrow individual space for privacy and other related rights and freedoms.

³⁷6 reasons why SIM card registration is a scam. Retrieved from:
<http://www.gmanetwork.com/news/story/532952/scitech/technology/6-reasons-why-sim-card-registration-is-a-scam>