

Mandates of the Special Rapporteur on the situation of human rights in Myanmar; the Special Rapporteur on minority issues and the Special Rapporteur on the right to privacy

REFERENCE:
AL MMR 7/2020

24 June 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in Myanmar; Special Rapporteur on minority issues and Special Rapporteur on the right to privacy, pursuant to Human Rights Council resolutions 40/29, 34/6 and 37/2.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **mandatory subscriber identification module card registration**.

According to the information received:

The Ministry of Transport and Communications has had a policy of mandatory subscriber identification module (sim) card registration since at least August 2016. The stated reasons have included avoiding crimes being committed by unregistered sim card holders who use mobile financial services, safety and security of mobile services, and sim card holders being accountable when using financial services. When buying a sim card, it must be registered before it can be used; however, many sim card sellers would register sims in their name rather than the name of the individual purchasing the sim, and individuals would buy pre-registered sims.

In April 2019, the Ministry of Transport and Communications issued a directive stating that individuals were permitted to have up to two sim cards registered to them. This meant that the sim card sellers who had many sims registered in their names were contravening the directive.

In February 2020, the Ministry of Transport and Communications issued a directive stating that using more than two sim cards would not be allowed after 30 April 2020. This had the effect that individuals must register their sims in their own names for them to remain active after 1 May 2020, and sims that were purchased pre-registered must be re-registered with the user's name. Following 30 April 2020, mobile phone operators were required to block outbound calls and messages, and from 30 June 2020 they are additionally required to block inbound calls and messages on all sims that are not registered.

To register their sims, individuals are required to present identification documentation including citizenship scrutiny cards, national registration cards, nationality verification cards, passports, driver's licenses and student cards. Until February 2020, letters from local authorities were accepted. Some mobile

operators require individuals to attend their shops in person to register their sims, while others allow sims to be registered on mobile applications.

Around 27 million people in Myanmar have sim cards. However, the 2014 census revealed that 27% of people in Myanmar do not have identification documents and these people are disproportionately young (10-14 years old), live in ethnic states, and are members of linguistic, ethnic or religious minorities.

We are concerned that the mandatory sim registration system is an unreasonable requirement, particularly in light of the COVID-19 pandemic, and may violate basic rights for a number of reasons. First, with a significant proportion of the Myanmar population lacking identification documentation, registration presents an insurmountable barrier for a large number of people. In particular, there are large numbers of Rohingya, internally displaced people, linguistic, ethnic or religious minorities, poor people and young people who do not have identification documents. In this context, the requirement to register sim cards appears to be neither an effective nor proportional response to the aim of reducing crime.

While letters from local authorities used to be accepted, they are not any longer and this has created a further barrier and we are concerned that this may have a discriminatory impact. Second, it is not clear that people around Myanmar, particularly in rural areas, are aware of the need to register their sims, and that 30 April 2020 was the deadline to do so. Third, requiring people to attend mobile operators' shops to register their sims may create difficulties for a number of people, including those who face restrictions on their freedom of movement, particularly Rohingya and other minorities, and people living in areas affected by conflict. This has been exacerbated by the COVID-19 situation, where parts of Myanmar are subject to "lockdowns," shops have been closed, and people are unable to move freely and safely. Fourth, while some mobile operators allow individuals to register their sims using mobile phone applications, many people in Myanmar have low levels of digital literacy and may therefore be unable to use the application for successful registration.

We are concerned that these issues may lead to a large number of individuals not being able to register their sims and losing access to mobile phone networks, and that this will result in their rights to freedom of expression and access to information being violated.

Our concerns are heightened due to the COVID-19 pandemic. If individuals lose the ability to make phone calls, their rights, including their right to health, may be affected. Furthermore, with the continued existence of the internet shutdown in Rakhine and Chin states, individuals living in those areas may lose further means of communication while also living with extreme difficulties in their everyday lives due to ongoing armed conflict.

We also have concerns about the effect of sim registration on the right to privacy, given the increased volume of personal information which will be collected. The associated data processing raises issues of data security, notification of data breaches and

remedies for these. Sim registration could be used also to conduct surveillance on individual mobile phone users, to monitor individual sim use, including by obtaining call and text history, which could be used and misused for multiple purposes that may infringe on rights. We are particularly concerned about these issues in view of the absence of privacy, data protection or digital security legislation. Associated with these concerns are increased threats to freedom of expression, freedom of the media, and the rights of human rights defenders in the country.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any further information about the above allegations.
2. Please explain how the sim registration policy complies with the rights to freedom of expression and access to information in Article 19 of the Universal Declaration of Human Rights.
3. Please explain how the sim registration policy complies with the right to privacy in Article 12 of the Universal Declaration of Human Rights.
4. Please explain how the sim registration policy complies with the right to freedom from discrimination in Article 7 of the Universal Declaration of Human Rights.
5. Please provide information about how the Government ensured that all individuals, and in particular persons who belong to minorities, who have sim cards are aware of the need to register them, including whether information campaigns were undertaken, in which parts of the country and in which languages.
6. Please provide information about how the Government is ensuring that all individuals, including those who do not have identification documentation, are able to register their sims on a non-discriminatory basis.
7. Please outline any mitigation measures that the Government is taking to ensure that individuals are able to register their sims given the situation of COVID-19 in the country.
8. Please outline any mitigation measures that the Government is taking to ensure that individuals are able to register their sims given the ongoing internet shutdown in Rakhine and Chin states.

9. Please provide information about the situations in which the Government seeks to obtain data relating to individual sim use, including call and text history, and the grounds for doing so. Please also explain what safeguards are in place to ensure that any information obtained is not misused.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Thomas H. Andrews
Special Rapporteur on the situation of human rights in Myanmar

Fernand de Varennes
Special Rapporteur on minority issues

Joseph Cannataci
Special Rapporteur on the right to privacy

Annex
Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation above.

We would like to refer your Excellency's Government to Article 12 of the International Covenant on Economic Social and Cultural Rights, ratified by Myanmar which refers to the obligation of States to recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

We also wish to refer your Excellency to the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in General Assembly resolution 47/135, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).

We would also like to draw your attention to the right to privacy, which is enshrined in article 12 of the Universal Declaration of Human Rights which states that no

one shall be subjected to “arbitrary interference with his privacy, family, home or correspondence...Everyone has the right to the protection of the law against such interference or attacks”.