

Advocacy Group for Malaysian Airlines MH370 & MH17 Families Cry Foul. Malaysian Government Complicit in Coverup?

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The Advocates for the families of the victims of Malaysia Airlines Flight MH370 that disappeared almost two years ago cry foul over the Malaysian government's use of an Act of Parliament to suspend and / or deny the bereft existing rights in law, including access to justice mechanisms, for the benefit of Malaysian Airlines System Berhad (MAS).

Malaysia Airlines Flight MH370 disappeared in early March 2014 on a flight bound from Kuala Lumpur, Malaysia, to Beijing, China. The disappearance of the Boeing 777-200 with 239 souls on board has since been riddled with inconsistencies in statements, inconsistencies in the search and investigation into the disappearance and with what according to many amounts to an international cover-up of the facts behind the tragedy.



Relatives to Flight MH370 passengers, fearing the worst. A nightmare that has come true. Photo, courtesy of H2O on Twitter.

The scandal surrounding the fateful flight has now flared up again as the so-called National Flag Carrier, Malaysian Airlines Systems Berhad (MAS) which was obliterated by the Malaysian Airline System Berhad. (Administration) Act 2015 [hereinafter Act 765]. The company is now known as Malaysian Airlines Berhad (hereinafter MAB), a wholly-owned private company. MAS also operated the fateful Flight MH17 the was shot down over Ukraine.

The advocacy group for the bereft families and loved ones of those who “disappeared” along with the Boeing 777-200 on Flight MH30, Voice370, responded with sharp criticism and dismay to the government's and parliaments act. Voice370 issued a press release, noting MAS was, as is the similar sounding MAB, owned by Malaysia's Khazanah Nasional Berhad, a sovereign fund.

The advocacy group stressed that the government and parliament adopted Act 765 with great speed. The Act came into force on February 20, 2016. Voice370 denounced the Act as most unjust to the next of kin of those on board the missing MH370 as well as those who perished on board flight MH17 in Ukraine.

The Act, in section 11, states that “...on the appointment of the Administrator, a moratorium shall take effect during which... (e) no proceedings and no execution or other legal process

in any court or tribunal may be commenced or continued with, and no distress may be levied, against the Administered Companies or their property except with the prior written consent of the Administrator;" – whereby the Administered company includes MAS, its wholly owned subsidiaries and some partially owned subsidiaries.




Days after the disappearance of Flight MH370, and people continue to write encouraging messages to display at Kuala Lumpur International Airport. Newzulu, Zaki Sulfadi.

This basically means the Next of Kin cannot sue MAS /MAB without their permission. The Administrator was appointed on or about 25th May 2015, and the period of administration can last for a maximum period of two years commencing from the date of the appointment of the Administrator. When the administration and moratorium ends, all monies, assets and business of MAS would most likely be transferred to the new legal entity MAB. Therefore will be nothing left in MAS when said moratorium ends.

The bereft also stress that no notice was given to the families of the missing on MH370 about what they denounce as the planned asset looting, gutting, delisting, and death of MAS. Selective payments or transfers of assets were made to creditors deemed by MAS and/or the Malaysian government to be "relevant" and no passengers or families of passengers of MH370 were included among the creditors.

Voice370 stresses that there are currently cases which have been initiated and filed against MAS as the carrier by Next of Kin (NOK), now pending before the courts, awaiting access to justice, claiming wrongful death and/or other causes of action. The effect of the moratorium is that all these actions and cases will stop, and not proceed further until administration of MAS ends. In effect, at the end, when the moratorium is lifted, MAS would most likely be an empty shell with no assets or money.

The next of kin (NOK) will suffer, stressed Voice370. NOKs do not just lose their right to legal recourse against the original entity and thereby justice, but also will have to shoulder additional losses, including all the monies utilized for lawyers and court fees, time and above all additional emotional heartache over and above what we have been enduring for almost 2 years now.

The NOK perceive this to be MAS's ploy to shield itself from liability of negligence or other claims, which may not be covered by their liability insurance. Voice370 denounced this as a blatant and despicable act of irresponsibility and cowardice by MAS, openly aided and abetted by the Malaysian Government. Moreover, the NOK complain that this is merely an extension of the poor treatment of MH370 NOKs by Malaysia Airlines and the Authorities from Day 1. They have now effectively set it up in such a way that the NOKs can only obtain relief from the insurers, Allianz and their co-insurers or re-insurers. The insurers must now be banking on getting away on the cheap and are thus offering a pitiful compensation despite the complete mishandling of the incident and mistreatment the NOKs have subjected to for almost two years now.

The advocacy organization stressed that usually, when the entity intended to be sued or the intended defendant has lost the ability to provide remedies, damages or compensation to satisfy the claims of the claimant, to ensure justice, the claimant can proceed with an application to sue other parties, for example the new MAS or the owners thereof (Khazanah Nasional Berhad) Considering that Khazanah Nasional was the sole owner of the old MAS, and now the new company, MAB, it can be seen very clearly that what is really happening is an elaborate name changing exercise. In such a case, legally the new entity MAB or the owner, Khazanah, should be justly taking over all the obligations and responsibility of MAS especially for incidents like the unresolved disappearance of MH370 but instead they are cherry picking desirable assets of MAS and leaving behind unwanted liabilities.



MH17 crash site in Ukraine.

Moreover, the bereft stress that they have irresponsibly ensured they get the best of both worlds with little to no risk of any repercussions, to the detriment of the families of the victims onboard flights [MH370](#) and [MH17](#). Further evidence to support the notion that the conversion of MAS to MAB was an elaborate name changing exercise is that Christoph Mueller, the chief executive of MAS, who was appointed on 1/5/2015, later assumed the same position with MAB. MAB also re-hired 14,000 of the 20,000 employees MAS terminated. Effectively MAS and MAB share not only the same owners but the same CEO and a majority of the staff too.

Voice370 notes that it is very obvious that all the legal gymnastics is merely to escape responsibility and liability towards those it is owed to by going so far as to pass legislation preventing / severely limiting rights to sue in Malaysia (Section 33 Act 765) or anywhere else in the world and even going the extra mile to ensure no judgement, order obtained, either in Malaysia or anywhere else in the world be enforceable (Section 34 Act 765). This would also effectively shield those criminally complicit for the disappearance of MH370 – a state sponsored mechanism to protect criminals if this is eventually established.

The NOK stress that all this is done by a Government claiming to be a champion of democracy that also flatly denies being a party to any human rights abuses. Voice370 stresses that the next of kin appeal to the world at large to take note and condemn what they decry as an undemocratic action and to open avenues for them to seek remedies in other jurisdictions where rule of law prevails”.

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