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Daily by Faraz



"Questioning
The Answers"



YOUR BANK ACCOUNT. YOUR MONEY.

BUT THE POLICE CAN **FREEZE IT FOR
THREE WEEKS** WITHOUT A COURT ORDER.

WHO PROTECTS THE CITIZEN?



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YOUR BANK ACCOUNT. YOUR MONEY. BUT THE POLICE CAN FREEZE IT FOR THREE WEEKS WITHOUT A COURT ORDER. WHO PROTECTS THE CITIZEN?

Sri Lanka is strengthening its laws against money laundering and terrorist financing. But amendments to three important statutes have raised troubling questions about the expanding powers of law enforcement and the diminishing safeguards available to ordinary citizens. In an interview with Faraz Shauketaly on NewsLine's *The Turning Point*, human rights advocate Ambika Satkunanathan warned that the consequences could extend far beyond suspected criminals, reaching innocent citizens whose livelihoods depend on access to their own money.

Imagine waking up one morning to discover that your bank account has been frozen. Your salary is there, your savings are there, and perhaps the money needed to pay your child's school fees, purchase essential medication or settle the rent is there too. But you cannot access a single rupee.

You have not been convicted of a crime. You may not even have been charged with one. No judge has examined the evidence before the initial restriction was imposed. Yet the money legally belonging to you is suddenly beyond your reach.

This is the disturbing possibility emerging from amendments to Sri Lanka's financial crime legislation, and it raises a fundamental question about the relationship between the citizen and the State.

When does the legitimate pursuit of criminals become an unacceptable intrusion into the rights of everyone else?

Speaking on NewsLine's *The Turning Point*, human rights advocate Ambika Satkunanathan examined changes to three important statutes: the Prevention of Money Laundering Act, the Convention on the Suppression of Terrorist Financing Act and the Financial Transactions Reporting Act.

The amendments are part of Sri Lanka's efforts to strengthen its framework for combating illicit financial flows and terrorist financing. These are legitimate and necessary objectives. Money laundering undermines the financial system, facilitates organised crime and allows the proceeds of corruption to circulate through apparently legitimate institutions.

No responsible government can afford to ignore these threats.

But Satkunanathan's concern is not that the State is attempting to combat financial crime. It is that the powers being granted to law enforcement may be expanding without a corresponding strengthening of judicial supervision and protections for those affected.

And that distinction matters enormously.

Under the previous framework described during the interview, police officers could impose certain financial restrictions for seven calendar days without first obtaining a judicial order.

The amended provisions extend that initial period to 14 working days.

At first glance, the difference between seven and fourteen days might appear relatively modest. But working days are not calendar days. Weekends and public holidays can substantially extend the actual period during which an individual remains unable to access affected funds.

Fourteen working days will ordinarily translate into approximately three calendar weeks, potentially longer where public holidays intervene.

That is three weeks in which a person may be prevented from using money needed to sustain a family, operate a business or meet unavoidable financial obligations.

And, critically, the initial restriction can be imposed without prior judicial authorisation.

The distinction between suspicion and guilt is one of the foundations of a functioning justice system. Police officers investigate allegations. Prosecutors present evidence. Courts determine whether the law has been broken and whether restrictions upon individual liberty or property are justified.

When the power to interfere with someone's financial affairs is exercised before a judge has examined the case, the importance of independent oversight becomes even greater.

Satkunanathan also drew attention to the procedure through which investigators may seek to extend a freezing order.

According to her explanation, such applications can be made ex parte, meaning the court hears the application without the affected individual being present to contest it.

The person whose money has been frozen may therefore have no opportunity at that stage to challenge the allegations, explain the source of the funds or demonstrate the consequences of the restriction.

Proceedings may also be conducted in camera, limiting public access to the hearing.

There can be legitimate reasons for confidential proceedings in financial crime investigations. Investigators may need to prevent suspects from transferring assets, destroying evidence or alerting accomplices.

But secrecy, however justified in particular circumstances, must not become a substitute for accountability.

The real question is whether the law provides sufficiently effective opportunities for an affected person to challenge the restriction, obtain timely judicial reconsideration and secure relief where the State has made a mistake.

Consider what happens when the police get it wrong.

An ordinary citizen is mistakenly identified as being connected to suspicious financial transactions. His bank accounts are frozen.

His standing orders fail. His children's school fees remain unpaid. A medical emergency arises, but the money required for treatment cannot be accessed.

Perhaps he operates a small business. Employees must be paid, suppliers are demanding settlement and creditors are becoming increasingly concerned.

Within days, the consequences could become devastating.

A business built over decades can be damaged in a fortnight. A family's financial stability can collapse long before an investigation establishes whether any wrongdoing occurred.

And what happens if the authorities subsequently discover that the individual was entirely innocent?

The accounts may eventually be released, but the damage does not necessarily disappear with the lifting of the restriction.

The bank may have raised internal concerns. Business associates may have withdrawn their confidence. Rumours may have circulated. Financial commitments may have been dishonoured.

Satkunanathan raised the troubling question of what meaningful remedy is available to a person whose reputation and livelihood have suffered because the authorities acted on incorrect information.

There is an important difference between restoring access to a bank account and restoring everything that was lost while access was denied.

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YOUR BANK ACCOUNT...

A legal system serious about justice must recognise that distinction.

This is particularly relevant in Sri Lanka, where public confidence in law enforcement and the consistent application of the law has repeatedly been tested.

The country has witnessed investigations that attracted enormous publicity but did not always produce corresponding convictions. Citizens have seen allegations become public long before the evidence supporting them has been tested in court.

The expansion of financial investigative powers must therefore be considered against that institutional background.

It would be unreasonable to assume that every police officer will misuse these provisions. It would be equally unreasonable to construct a legal framework on the assumption that no police officer ever will.

Good legislation is not written for the perfect investigator operating in ideal circumstances. It is written to ensure that mistakes, incompetence, excessive zeal and deliberate abuse cannot easily destroy the rights of innocent people. That is why safeguards matter.

The amendments also raise broader questions about proportionality. Must every suspected transaction justify restrictions upon an entire account? Can essential living expenses be protected? What happens when employees, dependants or unrelated business partners suffer because of a restriction imposed upon someone else?

And if a freeze is subsequently found to have been unjustified, what mechanisms exist for compensation, correction and accountability?

These are not technical questions of interest only to lawyers and financial institutions. They concern the everyday security of anyone who maintains a bank account.

Sri Lanka's financial system depends upon public confidence. Citizens deposit their earnings in banks because they expect their money to remain secure and accessible, subject to lawful and proportionate restrictions.

When the State acquires the power to interrupt that access, even temporarily, it assumes an equally serious responsibility to ensure that the power is exercised fairly. There is also an international dimension.

Sri Lanka is under pressure to maintain credible systems against money laundering and terrorist financing. Compliance with international financial standards is important for correspondent banking relationships, investment confidence and the country's wider economic reputation.

But international compliance must not be confused with the automatic justification of every additional coercive power.

Effective financial regulation requires both strong enforcement and credible safeguards.

A system that identifies suspicious transactions but fails to protect innocent account holders cannot be considered wholly successful.

Nor should Parliament regard the passage of legislation as the end of its responsibility.

Lawmakers must examine how these powers operate in practice, how frequently accounts are frozen, how often restrictions are challenged, how many are subsequently lifted without prosecution and whether affected citizens have access to effective remedies.

Such information should be available for meaningful public and parliamentary scrutiny, with appropriate protection for ongoing investigations and personal privacy. Without transparency, extraordinary powers can gradually become ordinary administrative practice.

And without accountability, the distinction between legitimate investigation and arbitrary interference becomes dangerously blurred.

The government has every right, indeed a responsibility, to pursue money launderers, terrorist financiers and those who conceal the proceeds of corruption.

But the State's obligation to pursue criminals does not extinguish its obligation to protect innocent citizens.

A democratic society cannot measure the success of its justice system merely by counting investigations, freezing orders, arrests or prosecutions.

It must also ask how many innocent people were harmed, how quickly mistakes were corrected and whether officials were held accountable when powers were improperly exercised.

Be that as it may, the central issue raised by Ambika Satkunathan is not whether Sri Lanka should fight financial crime.

It is whether the country can fight financial crime without weakening the constitutional protections that distinguish the rule of law from the arbitrary exercise of State power.

The money in a citizen's bank account may be subject to lawful investigation. But it does not cease to belong to that citizen simply because a police officer becomes suspicious.

And the authority to freeze it must never be mistaken for the authority to dispense with fairness.

Sri Lanka needs stronger institutions, not merely stronger enforcement powers.

Because a government that promises to protect the public from criminals must also ensure that the public is protected from the misuse of power by those entrusted with enforcing the law.

The ultimate test of these amendments will not be how effectively they restrain the guilty. It will be how reliably they protect the innocent.

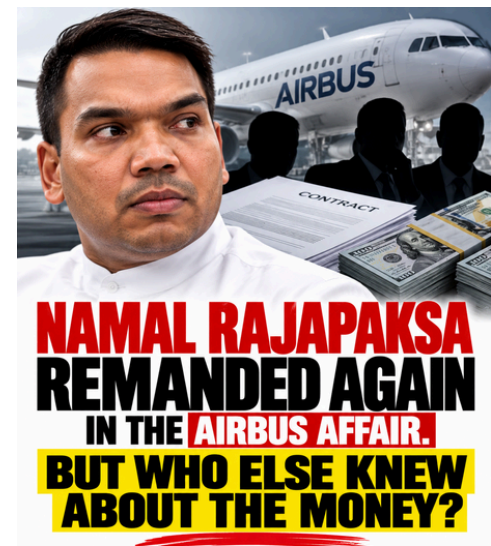
NewsLine | The Turning Point

Interview: Faraz Shauketaly with Ambika Satkunathan
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NAMAL RAJAPAKSA REMANDED AGAIN IN THE AIRBUS AFFAIR. BUT WHO ELSE KNEW ABOUT THE MONEY?

Parliamentarian Namal Rajapaksa has been further remanded following his appearance before the Colombo Chief Magistrate's Court on Tuesday in connection with allegations arising from the Airbus aircraft procurement controversy. Investigators are examining an alleged Rs. 100 million payment, bringing renewed attention to one of Sri Lanka's most troubling aviation procurement scandals. But the central question extends beyond one politician. How did a national airline accumulate such extraordinary financial difficulties while the people responsible for its decisions appeared to operate with remarkably little accountability?

The Airbus affair has returned to the courts, this time with Namal Rajapaksa at the centre of proceedings concerning allegations of bribery and money laundering. The case was taken up on Tuesday, 13 October, when the court ordered that he remain in remand custody.



The allegations concern a payment of Rs. 100 million allegedly connected to aircraft procurement transactions. Investigators have referred to offences under bribery and money laundering legislation, although the allegations remain to be tested through the judicial process.

Rajapaksa is entitled to the presumption of innocence. Remand is not punishment, an allegation is not proof, and the courts rather than television studios or political rallies must determine criminal responsibility.

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NAMAL RAJAPAKSA REMANDED...

That principle is particularly important in a country where the announcement of an investigation has too often been treated as the successful conclusion of one. But there is a wider issue that cannot be ignored.

Sri Lankan Airlines has been an expensive burden on the public purse for years. Its financial difficulties have been discussed in Parliament, examined by auditors and debated by successive governments. Yet the relationship between political influence, procurement decisions and the airline's accumulated liabilities has never been explained to the satisfaction of the public.

Aircraft procurement is not an exercise in buying office furniture. It involves enormous financial commitments, complicated leasing arrangements, technical assessments and decisions that can affect an airline's finances for decades.

Such transactions should be subject to rigorous commercial scrutiny, particularly when the airline concerned is ultimately supported by taxpayers.

The Airbus controversy therefore deserves an investigation extending beyond the identity of any single alleged recipient of money.

Who initiated the relevant procurement arrangements? Who negotiated the commercial terms? Which officials examined the financial implications? What independent assessments were undertaken, and did anyone raise objections before commitments were made?

Equally important is the question of whether the alleged payment can be traced through verifiable banking records and whether investigators have established the precise relationship, if any, between that money and particular procurement decisions.

Sri Lanka has developed considerable expertise in announcing investigations. Its record in bringing complicated financial cases to a timely and legally sustainable conclusion has been rather less impressive.

The public has witnessed investigations involving political figures from several administrations. Some have resulted in prosecutions, others have been delayed, and still others have gradually disappeared from public attention.

This is precisely why the present proceedings must be handled with exceptional care.

If there is credible evidence of criminal conduct, it must be presented properly and tested in court. If the evidence does not support the allegations, that too must be established without unnecessary delay.

Justice cannot become a political subscription service, available only when a particular party occupies the Treasury benches.

The investigation must also distinguish between poor commercial judgment, negligence, abuse of authority and criminal corruption. These are not interchangeable concepts, even though each may impose substantial costs upon the public.

An airline can lose enormous amounts of money through incompetence without every decision amounting to a criminal offence.

Conversely, an apparently legitimate commercial transaction can conceal improper payments if the evidence establishes that such payments occurred.

The distinction matters because public accountability requires accuracy rather than merely attractive headlines.

There is also the question of institutional responsibility.

Successive governments have promised to reform Sri Lankan Airlines, restructure its finances or introduce new commercial discipline. The promises have been plentiful. The results have been considerably more expensive.

A serious examination of the Airbus affair should therefore consider what procurement safeguards existed, whether they were followed and how future transactions can be protected from political interference.

The people of Sri Lanka have paid for the airline's difficulties through public resources that could otherwise have supported healthcare, education, transport and other essential services.

They are entitled to more than the spectacle of another prominent political figure entering a courtroom.

Be that as it may, the remanding of Namal Rajapaksa represents a development in an investigation, not a judicial finding of guilt.

The real measure of progress will be whether investigators establish the facts, prosecutors present a sustainable case and the courts reach a determination based on evidence.

And beyond the fate of one individual lies a question that successive administrations have been remarkably reluctant to answer.

How much did Sri Lanka's taxpayers lose through questionable decisions in aviation procurement, and who, if anyone, should be held legally responsible?

PRESIDENT AKD OPENS THE DOOR TO ANOTHER IMF AGREEMENT. BUT WHAT HAPPENS TO THE PEOPLE WHO ARE STILL PAYING FOR THE FIRST ONE?

President Anura Kumara Dissanayake has indicated that Sri Lanka is open to another agreement with the International Monetary Fund, even as the country continues implementing its existing economic recovery programme. The statement, reported on Monday evening, raises questions about the government's longer-term economic strategy, the sustainability of public finances and whether the benefits of recovery are reaching ordinary households.

Sri Lanka may be prepared to enter another arrangement with the International Monetary Fund.

President Anura Kumara Dissanayake's indication that the government remains open to a fresh agreement is important, not least because the country is still navigating the consequences of its existing programme.

There is nothing inherently objectionable about an IMF agreement. Countries facing serious balance-of-payments difficulties require credible financing arrangements, disciplined economic management and access to international confidence.

Sri Lanka's economic collapse demonstrated the consequences of ignoring those requirements for far too long.

But there is an equally important question that deserves attention before the country contemplates another programme.

What precisely will Sri Lanka have achieved by the time the present arrangement concludes, and what economic vulnerabilities will remain?

The current recovery has produced measurable improvements in macroeconomic stability. Foreign exchange availability has improved, the banking system has moved away from the extraordinary restrictions experienced during the crisis, and the economy has returned to growth.

These developments matter.

But macroeconomic recovery and household recovery are not necessarily the same thing.

For a family struggling to pay electricity bills, purchase school supplies or meet medical expenses, improvements in international financial indicators offer limited comfort unless they translate into greater purchasing power and economic security.

The government inherited a deeply damaged economy. It would be unreasonable to expect the consequences of decades of fiscal mismanagement to disappear within a short period.

It would be equally unreasonable, however, to suggest that the public must indefinitely accept hardship without a clear explanation of when living standards can be expected to improve.

That is where the possibility of another IMF agreement becomes politically and economically significant.

Will a future programme concentrate primarily on preserving fiscal stability, or will it also support stronger investment, productive employment and the rebuilding of essential public services?

Will the government negotiate sufficient flexibility to protect vulnerable households?

And what commitments might be required concerning taxation, public expenditure, State-owned enterprises and future debt repayments?

These questions should be answered before negotiations become another exercise conducted largely between officials, international institutions

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PRESIDENT AKD OPENS...

and specialists whose command of economic terminology is considerably greater than the average family's ability to pay the grocery bill.

Sri Lanka's experience should have established one lesson beyond dispute.

An economy cannot remain sustainable if its finances depend upon repeated borrowing without sufficient growth in productive capacity.

The country needs stronger exports, higher-value industries, reliable investment, improved agricultural productivity and employment opportunities capable of retaining skilled workers.



It also needs public institutions that spend money responsibly and demonstrate measurable results.

Taxation is necessary to finance government. But taxation alone cannot substitute for a coherent development strategy.

There is a limit to how much additional revenue can be extracted from households and businesses already adjusting to substantially higher living costs.

The government must therefore explain how it intends to broaden the productive economy rather than merely broaden the tax base.

A second IMF arrangement could be useful if it supports that transition. It would be considerably less reassuring if it simply extends the period during which Sri Lanka depends upon external financial supervision to maintain basic economic discipline.

The distinction is not ideological.

Governments of different political persuasions have entered IMF programmes, sometimes reluctantly and occasionally after assuring voters that no such arrangement would ever become necessary.

Economic reality has a habit of showing limited respect for campaign speeches.

President Dissanayake's administration deserves to be assessed against its actual policies and results, rather than the slogans of its opponents or the expectations created by its own election campaign.

That assessment must include the distribution of economic burdens.

Are lower-income households recovering their purchasing power? Are small businesses gaining access to affordable credit? Are young people finding productive employment? Are public hospitals and schools receiving the resources necessary to function effectively?

These are not peripheral social concerns. They are essential measures of whether an economic recovery is durable.

There is also the approaching challenge of external debt servicing. Sri Lanka cannot assume that the restoration of stability automatically guarantees the foreign exchange earnings required to meet future obligations.

Export performance, tourism receipts, remittances, investment flows and debt management will all influence the country's ability to avoid another crisis.

A credible long-term strategy must therefore show how these sources of foreign exchange will develop, what risks remain and what contingency arrangements exist if global conditions deteriorate.

The IMF can assist with financing and policy credibility. It cannot manufacture competitive industries, eliminate corruption or ensure that public investment produces value.

Those responsibilities remain firmly with Sri Lanka's elected government and public institutions.

Be that as it may, another IMF agreement should not automatically be portrayed either as a national failure or an economic triumph.

Its value will depend upon the terms negotiated, the reforms undertaken and the improvements delivered to the people.

Sri Lanka's citizens have already endured an extraordinary economic adjustment. Many have paid through higher taxes, reduced purchasing power and diminished financial security for failures they did not create.

They deserve a clear explanation of what the next phase of recovery is intended to achieve.

Because the ultimate purpose of economic stability cannot simply be to satisfy the next international review. It must be to build a country in which ordinary people can finally afford to live.



SHIRANTHI RAJAPAKSA'S HEART SURGERY CLAIM MUST BE VERIFIED. THE COURT WANTS MEDICAL FACTS, NOT POLITICAL THEATRE.

The Colombo Chief Magistrate's Court has ordered prison authorities to verify whether former First Lady Shiranthi Rajapaksa is scheduled to undergo open-heart surgery. The direction, issued on Tuesday, 13 October, comes amid continuing proceedings involving the former First Lady, who has been held on remand and admitted to the National Hospital of Sri Lanka. The development raises an important question extending well beyond one prominent prisoner: how should the justice system reconcile the requirements of lawful detention with the right of every person to appropriate medical treatment?

The medical condition of former First Lady Shiranthi Rajapaksa has become the subject of judicial scrutiny, following a direction from the Colombo Chief Magistrate's Court requiring prison authorities to establish whether she is scheduled to undergo open-heart surgery.

The order is significant because it places the question of medical necessity where it properly belongs: within an assessment supported by competent medical evidence rather than political assertions, public speculation or competing claims from interested parties. Rajapaksa, who remains before the courts, was admitted to the National Hospital of Sri Lanka on Monday, 12 October, and has reportedly been receiving treatment in its cardiology unit.

Her detention and medical circumstances have naturally attracted considerable attention.

As a former First Lady, she occupies a prominent place in Sri Lanka's political history, and proceedings involving members of the Rajapaksa family continue to generate intense public interest.

But prominence should neither confer special medical privileges nor deprive a person of the treatment to which every prisoner is entitled.

That is the principle which ought to govern this matter. A remand prisoner is not a convicted criminal. Even a convicted prisoner does not lose the fundamental entitlement to necessary medical care.

Detention restricts liberty under the law; it is not a licence to disregard human dignity or expose a person to avoidable medical harm.

Equally, a medical assertion made on behalf of a prominent detainee should be subject to the same standards of verification that would apply to anyone else.

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SHIRANTHI RAJAPAKSA'S...

The court's direction therefore provides an opportunity to establish the facts through appropriate professional channels.

If doctors determine that urgent cardiac intervention is necessary, the prison authorities must ensure that the required treatment is available. If surgery is not medically indicated, that too should be established through reliable clinical assessment.

Neither conclusion should depend upon political identity. Sri Lanka has witnessed repeated controversies involving the medical treatment of people in custody.

Questions have arisen about prolonged hospitalisation, the adequacy of prison medical facilities and whether influential detainees enjoy access to arrangements unavailable to ordinary prisoners.

Those concerns cannot be dismissed merely because some of the individuals involved are politically controversial.

The proper response is to establish transparent procedures that apply consistently.

Medical decisions should be made by qualified professionals, supported by appropriate records and subject to judicial scrutiny where necessary. Prison administrators should implement those decisions without political interference.

The same standards must apply to the former First Lady and to a woman remanded for an offence who has never appeared on television, attended a presidential reception or possessed the telephone number of a cabinet minister.

The difficulty, of course, is that Sri Lanka's prison system has not always inspired confidence in its ability to deliver equal treatment.

Overcrowding, inadequate facilities and difficulties obtaining specialist medical attention have affected detainees for years. These problems deserve sustained attention, not merely temporary public concern when a prominent individual enters custody.

There is also a danger that the medical circumstances of an accused person can overshadow the legal proceedings themselves.

A hospital admission does not establish innocence, just as remand does not establish guilt. The criminal justice process must continue according to law, with appropriate adjustments where medical necessity requires them.

The courts must be able to distinguish between genuine medical incapacity and circumstances that do not prevent proceedings from continuing.

But that distinction belongs to the evidence, not to political commentary.

The public should also resist the temptation to treat illness as an opportunity for punishment.

Whatever views citizens may hold about the Rajapaksa family's political record, those views cannot determine the medical treatment available to an individual in State custody.

Justice does not become more credible when it abandons compassion. Nor does compassion require the suspension of legal accountability.

Be that as it may, the court's direction to verify the reported need for open-heart surgery is a sensible and necessary step.

It recognises that serious medical claims must be examined carefully while preserving the court's responsibility for the lawful administration of justice.

Sri Lanka should use this opportunity to confront a larger institutional question.

Why should the public have to wait until a former First Lady requires hospital treatment before the medical rights of prisoners become a matter of national discussion?

The answer should not depend upon whether the patient once lived in a presidential residence.

A credible justice system must be capable of treating the powerful and the powerless with the same humanity, the same professional standards and the same respect for the law.

MALAYSIA'S OPPOSITION CAN CHALLENGE ITS SUSPENSION. BUT IT STILL CANNOT FUNCTION. IS THAT DEMOCRACY?

Malaysia's High Court has granted opposition coalition Perikatan Nasional permission to challenge a government regulator's suspension of its activities, but refused to lift the restriction while the legal challenge proceeds. The ruling on Tuesday, 13 October, leaves one of Malaysia's principal political activities as preparations intensify for the Melaka state election on 14 November. The dispute raises a fundamental democratic question: can administrative powers intended to regulate organisations be exercised in a manner that effectively prevents a political opposition from competing?

Malaysia's opposition coalition Perikatan Nasional has secured an important procedural victory in the High Court, but the immediate practical consequences are considerably less encouraging for the alliance.

The Kuala Lumpur High Court ruled on Tuesday that the coalition may proceed with judicial review proceedings challenging the Registrar of Societies' decision to suspend its activities.

However, the court declined to grant an interim stay of the suspension.

The result is an unusual legal position. Perikatan Nasional has been permitted to challenge the government's administrative action,

but the restriction it seeks to overturn remains in force.

For an opposition coalition preparing for an election, the distinction is rather more significant than the average legal technicality.

The Registrar of Societies issued a notice on 22 September requiring the coalition to explain why it should not be deregistered.



A further notice suspended its activities with effect from 23 September.

The action was taken under the Societies Act 1966, which provides the regulatory framework governing registered organisations in Malaysia.

The coalition and representatives of its component parties subsequently approached the courts, arguing that the restrictions were interfering with their ability to undertake legitimate political activities.

Their concerns have become particularly urgent because Melaka is scheduled to hold its state election on 14 November.

According to submissions made on behalf of the coalition, the suspension has prevented Perikatan Nasional from conducting meetings, finalising candidates, organising grassroots activities and preparing to contest the election under its established political identity.

These are not incidental administrative functions.

They are among the essential activities through which political organisations participate in democratic elections.

The government, represented by the Attorney General's Chambers, has argued that the legal challenge is premature because the regulatory process has not yet been completed.

That argument deserves proper judicial consideration. Governments must retain the ability to enforce laws governing registered organisations, and political parties cannot reasonably claim immunity from legitimate regulatory requirements.

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But the exercise of those powers becomes especially sensitive when the organisation affected is a major political opponent of the government.

An administrative decision that prevents a commercial association from holding meetings may create inconvenience. A similar restriction imposed upon an opposition coalition immediately before an election can have consequences for the democratic process itself.

The difference is not merely one of degree.

Elections depend upon the ability of political parties to organise, communicate with voters, select candidates and present competing programmes.

When those activities are restricted, the question is no longer confined to whether an organisation has complied with registration requirements.

It becomes a question about the conditions under which democratic competition is permitted to take place. The High Court's decision must nevertheless be understood accurately.

Justice Azizan Md Arshad granted the coalition permission to proceed with judicial review because it had met the legal threshold for bringing the challenge.

That does not mean the court has determined that the Registrar of Societies acted unlawfully.

Nor does the refusal to grant an immediate stay establish that the suspension was justified.

Both matters remain subject to further proceedings.

The court has fixed 22 October for an inter partes hearing concerning the application to suspend the effect of the regulatory order. At that hearing, the competing arguments can be examined with both sides represented.

Until then, the restrictions remain in place. The timing is important.

By 22 October, the Melaka election will be little more than three weeks away. Every day during which a political organisation remains unable to undertake normal preparations may affect its ability to compete effectively.

Even if the coalition eventually succeeds in obtaining relief, some consequences of the intervening restrictions may prove difficult to reverse.

A political campaign cannot always recover lost preparation time simply because a court subsequently authorises the organisation to resume its activities.

That reality places considerable responsibility upon both regulators and the judiciary.

The authorities must demonstrate that restrictions are legally justified, proportionate and not being used to secure political advantage.

The courts, meanwhile, must ensure that legal challenges involving electoral participation are considered with appropriate urgency.

There is no reason to assume that every regulatory action against an opposition party is politically motivated. Political organisations, like other registered bodies, must comply with the law.

But there is equally no reason to assume that administrative powers are immune from misuse merely because they are exercised through formally established procedures.

Malaysia's democratic institutions are being tested on precisely that distinction.

Prime Minister Anwar Ibrahim's administration has repeatedly emphasised reform, accountability and the strengthening of democratic governance.

Those commitments will be judged not only by the government's treatment of its supporters but also by the protections available to its political opponents. The same principle applies to every government, regardless of ideology.

Democracy is not simply the process through which a governing coalition wins an election. It is also the system that allows competing parties to organise freely, challenge those in power and seek the public's mandate under fair conditions.

A government confident in its democratic legitimacy should have little reason to fear lawful political competition.

Indeed, the credibility of an electoral victory depends substantially upon the freedom of opponents to contest it.

Be that as it may, Perikatan Nasional has not yet won its substantive legal challenge. It has secured the opportunity to present that challenge while remaining subject to the very restrictions it contests.

The court's next decision will therefore carry consequences beyond the immediate interests of one political coalition.

It will help determine whether Malaysia's regulatory framework provides adequate safeguards against administrative interference with electoral competition.

And it raises a question that governments throughout the region, including Sri Lanka, would do well to consider.

If an opposition party must first obtain judicial permission to challenge a suspension while the suspension itself prevents it from preparing for an election, how effectively is the democratic process being protected?

The answer will matter long after the Melaka votes have been counted.

ANOJAN'S LAWYERS RETURN FROM RIYADH. A MORE FOCUSED LEGAL APPROACH, DIFFERENT FROM THE RIZANA MATTER.

Senior lawyers Faiszer Musthapha MP PC and Upul Kumarapperuma PC have returned safely to Sri Lanka following their visit to Saudi Arabia to assist in the case of Sivarasa Anojan, the Sri Lankan facing the death penalty. Their visit appears to mark an important development in the legal approach being pursued on his behalf, with a newly engaged Saudi legal team working alongside the Sri Lankan counsel. Unlike the circumstances surrounding the tragic case of Rizana Nafeek, the present effort appears to be placing particular emphasis on the applicable law and the legal remedies that may be available. But there is no room for premature celebration. Anojan's life remains at stake.

The return of President's Counsel Faiszer Musthapha and his colleague Kumarapperuma from Riyadh brings to a close an important stage in the effort to assist Sivarasa Anojan, the Sri Lankan national facing execution in Saudi Arabia.

The two senior lawyers travelled to Saudi Arabia to examine the legal circumstances of the case and work with a newly assembled Saudi legal team.

Their involvement reflects an approach that appears more closely focused on the legal foundations of the conviction and the remedies that might remain available under Saudi law. Their return to Sri Lanka is another report for another day, lest it overshadows the substantive legal work covered whilst in the Kingdom.

There is a significant distinction between diplomatic intervention and legal representation. Both may have a role, but neither can automatically substitute for the other, particularly in a jurisdiction where criminal proceedings are governed by a legal framework substantially different from Sri Lanka's.

In Anojan's case, the charge has reportedly been characterised as falling within the category of *Hadd* under Islamic criminal law.

That distinction is potentially important.

Under classical Islamic jurisprudence, *Hudud*, the plural of *Hadd*, refers to a defined category of offences for which punishments are prescribed under religious law.

The classification of an offence can have considerable implications for the applicable evidentiary requirements, the availability of legal defences and the scope for judicial or executive intervention.

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It is therefore essential that the precise legal classification of Anojan's offence, the evidence upon which the conviction rests and the procedural avenues remaining available are examined by lawyers familiar with Saudi criminal law and its application.

A general appeal for compassion, however sincerely made, cannot replace that examination.

The newly engaged Saudi legal team has been working alongside Musthapha and Kumarapperuma on these issues. Their involvement is particularly relevant because the interpretation and application of Saudi law must ultimately be addressed within the Saudi judicial system.

As the Kingdom itself transforms itself most significantly under Crown Prince MBS, gone are the days when a personal appeal to the higher echelons of power in the Kingdom, would result in favourable results no sooner asked.

The present approach also invites comparison with the tragic case of Rizana Nafeek, the young Sri Lankan domestic worker executed in Saudi Arabia in January 2013.

Rizana's case generated considerable public concern, diplomatic representations and appeals for clemency. Despite those efforts, the execution proceeded, leaving profound questions about the protection afforded to vulnerable Sri Lankan workers facing criminal proceedings overseas.

It would be unfair to suggest that those who attempted to save Rizana's life were indifferent to her circumstances. Nor would it be accurate to conclude that diplomatic engagement was necessarily misplaced.

But the experience demonstrated the limitations of an approach in which public appeals and diplomatic representations could not ultimately secure the outcome sought.

In Anojan's case, the government's efforts appear to have given greater prominence to specialist legal engagement, including the involvement of counsel within Saudi Arabia itself.

That is a distinction worth recognising without drawing conclusions about the eventual outcome.

The precise nature of the charge, whether it has been correctly classified, the evidentiary requirements and the extent of any remaining judicial remedies are matters requiring careful legal assessment.

There is also an important distinction under Islamic law between *Hudud*, *Qisas* and *Ta'zir*. These categories can involve different rules concerning punishment, private rights, judicial discretion and the possibility of pardon.

Consequently, the mere description of a case as involving *Hadd* does not, by itself, establish whether a particular sentence can be reduced, overturned or pardoned.

Those questions depend upon the actual offence, the judgment, the applicable Saudi legislation and the procedural stage reached.

This is precisely why the involvement of Saudi lawyers with the appropriate expertise matters.

Another aspect of the visit deserves acknowledgement.

Both Musthapha and Kumarapperuma paid their own travel expenses.

At a time when the cost of official travel and the use of public resources frequently attract legitimate scrutiny, the decision of two senior counsel to undertake this journey at their own expense is noteworthy.

It does not guarantee success, nor should professional generosity be confused with a legal breakthrough. But it demonstrates a willingness to contribute personally to an effort in which the consequences for the individual concerned could scarcely be more serious.

The government's role also deserves to be assessed fairly. Foreign Minister Vijitha Herath has been involved in efforts to secure assistance for Anojan, while President Anura Kumara Disanayake has directed that measures be undertaken in connection with the case.

The coordination of diplomatic channels and specialist legal representation is an important aspect of protecting Sri Lankan citizens facing serious criminal proceedings abroad.

Such assistance should not depend upon political affiliation, social standing, religion or the ability of a family to attract public attention.

A Sri Lankan facing execution overseas remains entitled to the fullest lawful assistance that his country can reasonably provide.

The next stage will depend upon the legal avenues identified by the Saudi counsel and the decisions of the relevant authorities and courts.

For Anojan and his family, the passage of time is not an abstract consideration. Every legal development carries enormous personal significance, and every uncertainty must be endured under the shadow of a sentence that has not been lifted.

It would therefore be irresponsible to describe the lawyers' return as a victory.

There has been no reported judicial decision setting aside the sentence, no confirmed commutation and no assurance that the efforts now being undertaken will succeed.

What can reasonably be said is that the case appears to be receiving more structured legal attention, with Sri Lankan and Saudi counsel working together on questions that may prove central to whatever remedies remain available.

Be that as it may, the return of Musthapha and Kumarapperuma should be recognised for what it represents: the completion of an important legal mission, undertaken at their own expense, in an effort to assist a fellow Sri Lankan facing the gravest possible punishment. The comparison with Rizana Nafeek is a sobering reminder of what is at stake.

It should encourage diligence rather than optimism unsupported by evidence.

For now, Anojan remains a man under sentence of death. His lawyers have returned home, but the legal effort is far from concluded.

The measure of this intervention will not be the journey undertaken, the prominence of the lawyers involved or the assurances offered by officials. It will be whether every lawful opportunity to protect Anojan's life has been properly identified and pursued.

That is the responsibility which remains, and it is considerably more important than any claim of success before the courts have spoken.

THE PEOPLE DID NOT ELECT A NEW GOVERNMENT TO INHERIT THE OLD EXCUSES.

Sri Lanka did not vote for a change of faces. It voted for a change in the relationship between the State and its people. Nearly two years into the present administration, the question is no longer whether the Government inherited a broken system. It is whether it possesses the courage to stop behaving like the governments that broke it.

For decades, Sri Lankans were told to be patient while politicians became wealthy, institutions became dysfunctional and the public became poorer. Every government arrived with promises of reform and departed with explanations for why those promises had proved so difficult to fulfil.

The National People's Power administration was elected with an extraordinary parliamentary majority of 159 seats. It was handed something most governments could only dream of: the political strength to confront entrenched interests without having to negotiate its survival after every difficult decision.

That majority was not a gift. It was a responsibility.

Yet the temptation to confuse parliamentary strength with public consent remains as dangerous today as it was under previous administrations.

A government does not become accountable merely because its ministers appear less extravagant than their predecessors.

Nor does a politician become virtuous simply because the politician he replaced was considerably worse.

Sri Lankans are entitled to more than comparisons with the failures of yesterday.

They deserve hospitals where essential medicines are available, schools where opportunity does not depend on family income, police who understand that arrest is not conviction, regulators who protect the public rather than their own institutions and a public service that remembers who pays its salaries.

They deserve to know why public money is spent,

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Daily by Faraz



**“Questioning
The Answers”**



THE PEOPLE DID NOT...

who benefits from government decisions and why accountability so often becomes painfully complicated when powerful interests are involved.

The Opposition, meanwhile, should abandon the comforting fiction that the public has forgotten its own record. Many of those now discovering the virtues of transparency had ample opportunity to practise them while occupying ministerial offices.

Their present enthusiasm for accountability would be more persuasive had it been evident when they possessed the authority to deliver it.



**THE PEOPLE DID NOT
ELECT A NEW GOVERNMENT
TO INHERIT THE OLD EXCUSES.**

But the failures of the Opposition cannot become the Government's permanent defence.

There is a fundamental difference between investigating corruption and creating a culture in which the accusation itself becomes punishment. There is an equally important difference between strengthening the State and strengthening the safeguards against its abuse.

The test of democracy is not how efficiently a government can pursue its enemies. It is whether the same law applies to its friends.

Sri Lanka's people have paid an extraordinary price for political incompetence, institutional arrogance and economic mismanagement.

They have endured higher taxes, diminished purchasing power and the humiliation of being told that national recovery is proceeding splendidly while their household accounts suggest otherwise.

The economy may be recovering. The people are entitled to ask when that recovery intends to visit them.

President Anura Kumara Disanayake and his Government have an opportunity to establish a different political standard. But opportunity is not achievement, and sincerity, however genuine, cannot substitute for competence, transparency or measurable results.

Be that as it may, the Government must understand

something its predecessors discovered far too late. The people are not an inconvenience to be managed between elections. They are the reason government exists.

Sri Lanka does not need another ruling class convinced of its own righteousness. It needs a State that is answerable to its citizens. And if 159 parliamentary seats cannot deliver that, the problem is no longer a shortage of power. It is what those entrusted with that power have chosen to do with it.

MALAYSIA IS CLOSING ITS SCHOOLS BECAUSE THE AIR IS DANGEROUS. WHO IS RESPONSIBLE FOR POISONING IT?

Malaysia has ordered further school closures for Wednesday, October 14, as toxic haze from Indonesian forest and peatland fires continues to spread across Southeast Asia. What began as an environmental emergency has become a test of regional diplomacy, corporate responsibility and the fundamental right of millions of people to breathe clean air.

Malaysia's Education Minister Fadhlina Sidek has confirmed that schools in Johor, Melaka and Negeri Sembilan will remain closed on Wednesday, October 14. Closures also affect specified districts in Selangor, Pahang, Sabah and Sarawak. Johor has already extended its school closures until October 16, reflecting growing concern about the persistence of the pollution.

The decision is not an administrative inconvenience. It is an admission that the atmosphere has become sufficiently dangerous to interrupt the education of children.

Across affected areas, families must reorganise their working lives, teachers must improvise lessons and children are being instructed to remain indoors because the air outside their homes and classrooms presents a health risk.

The principal source of the emergency lies across the border in Indonesia, where extensive forest and peatland fires have generated enormous volumes of smoke. Dry conditions associated with El Niño have intensified the disaster, while longstanding concerns about land clearing, plantation development and inadequate enforcement have returned to the centre of the debate.

Indonesia's President Prabowo Subianto has now ordered additional resources to combat the fires amid mounting criticism from neighbouring countries. Malaysia and Singapore have offered assistance, but the broader question remains whether emergency firefighting can adequately address a problem that has been allowed to recur for decades.

There is an important distinction between a natural disaster and a preventable environmental catastrophe. Drought can create the conditions for fire, but human decisions about land use, agricultural burning, forest protection and regulatory enforcement can determine whether those conditions develop into a regional emergency.

For Malaysia, the immediate priority must be public health. Children, older people and those suffering from respiratory and cardiovascular conditions face particular risks from prolonged exposure to polluted air. Closing schools may reduce exposure, but it does not eliminate the danger faced by families who cannot afford air filtration, suitable protective equipment or the luxury of remaining indoors.

There is also an uncomfortable economic dimension. The industries associated with forest conversion and plantation development can generate substantial profits, while the costs of environmental destruction are distributed across millions of people who receive none of those profits. Hospitals absorb the patients, parents lose working hours, schools lose teaching days and governments spend public money managing consequences they did not necessarily create.

ASEAN foreign ministers are expected to discuss the transboundary haze crisis in November. That is welcome, although the smoke has demonstrated considerably greater efficiency in crossing national boundaries than the region's diplomatic machinery has shown in preventing it.



Malaysia's Prime Minister Anwar Ibrahim faces a difficult balancing act. Indonesia is an important neighbour and economic partner, and regional cooperation is essential. But diplomatic courtesy cannot become a substitute for demanding effective enforcement and accountability.

There must be a serious examination of who is responsible for the fires, whether commercial interests have benefited from destructive land-clearing practices and what mechanisms exist to ensure that those responsible bear the costs of the damage.

The same questions should interest Sri Lanka. Environmental destruction does not become acceptable merely because it contributes to economic activity.

Nor does the promise of investment confer a licence to transfer private costs onto the public.

Malaysia has acted to protect children by closing schools. That is a necessary precaution. But the greater achievement would be to ensure that children can return to those schools without having to wonder whether the air they breathe is safe.

Be that as it may, Southeast Asia has spent years discussing the haze. The children are still being sent home, the fires are still burning and the people responsible for preventing this recurring disaster still have rather more explaining to do.

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