

Sri Lanka's Port City: Constitutional Perspectives

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In what ways is constitutional governance impacted by the establishment of the Port City in Sri Lanka? I argue first that the legal regime that provides for the Port City generates complex and unique challenges to constitutional governance. Second and relatedly, I argue that this legal regime amounts to a legislative carving out of geographical, cultural, economic and constitutional space from Sri Lanka's constitutional democracy. This development, therefore, is a critical juncture in Sri Lanka's ongoing state formation project and has implications for state sovereignty (however understood). This paper is an early effort at identifying the specific issues, the ways in which they intersect and at assessing their constitutional implications through a doctrinal analysis. My objective is to engage in an analytical mapping exercise. I begin (part I) by locating the Port City within the broader historical, political, economic and legal context. Here I also identify the different issues and questions that arise from a constitutional perspective. I draw specifically from the Determination of the Supreme Court on the constitutionality of the Port City Bill and the Colombo Port City Act No 11 of 2021. In parts II, III and IV respectively, I consider constitutional perspectives in relation to the way in which the Colombo Port City Act impacts foreign direct investment, arbitration and the exercise of administrative discretion. Drawing from this analysis, I assess the normative impact of the Port City on Sri Lanka's state formation project.

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