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இலங்கைச் சட்டத்தரணிகள் சங்கம்  
BAR ASSOCIATION OF SRI LANKA

15<sup>th</sup> April 2021

**STATEMENT BY THE EXECUTIVE COMMITTEE OF THE BAR ASSOCIATION OF SRI LANKA ON THE COLOMBO PORT CITY ECONOMIC COMMISSION BILL**

A Bill titled “Colombo Port City Economic Commission” was published in the Government Gazette of 24<sup>th</sup> March, 2021. The Bill seeks to establish a Special Economic Zone called the Port City Economic Zone within the boundaries set out in Schedule 1 to the Bill. These boundaries essentially encompass the reclaimed land adjacent to the Galle Face Green, the reclamation of which commenced in or around September 2014, and was completed in or about 2018.

Given the subject-matter of the Bill and its impact on the economy, society and legal framework of Sri Lanka, the Executive Committee of the Bar Association of Sri Lanka (BASL) anticipated a consultative process to be adopted when enacting the Bill as law.

It was in this light that the Executive Committee of the BASL appointed a Committee on the 31<sup>st</sup> of March 2021 to study the provisions of the Bill and to make recommendations. A Past President of the BASL, Mr. Ikram Mohamed PC, was appointed to chair the Committee comprising Mr. Uditha Egalahewa PC, Mr. Chandaka Jayasundera PC, Mr. Eradj de Silva, Mr. Manjuka Fernandopulle and Mr. Dhanya Gunewardena. Mr. Shivan Cooray and Ms. Yoshani Demuni served as the Co-Convenors of the Committee.

On the 8<sup>th</sup> of April 2021, just fifteen (15) calendar days after the publication of the Bill in the Gazette, the Bill was placed on the Order Paper of Parliament. In terms of the Constitution a citizen intending to challenge the constitutionality of a Bill has to do so within one week from the Bill being placed in the Order Paper of Parliament.

The Executive Committee of the BASL is extremely concerned about the limited time given for scrutiny and discussion of this important Bill, as well as the timing of placing the Bill on the Order Paper of Parliament, which was after the suspension of sittings of the Supreme Court, a time when many members of the legal profession are unavailable. Furthermore, the period of one (1) week within which such a Bill could be challenged before the Supreme Court to determine its constitutionality, included not only the weekend but also three public holidays. Thus, the members of the public have been deprived of a meaningful opportunity to scrutinise the Bill and to discuss its merits.

As the Bill was placed on the Order Paper of Parliament, the Executive Committee called on the Committee appointed to carry out its work on an urgent basis and the Members of the Committee presented an Interim Report which focused mainly on the constitutionality of the Bill. The Committee will continue to study the Bill and make further recommendations to the Executive Committee. The Executive Committee expressed its appreciation to the Committee for preparing the Interim Report in a short space of time.

The key findings / recommendations of the Committee in the Interim Report are that:

- a) the subject matter of the Bill is of national importance and has the potential to generate significant economic benefits to the country;
- b) However, there is a lack of consultative process, transparency and sufficient time granted to stakeholders to examine the bill;

President  
Saliya Pieris PC

Deputy President  
Anura Meddegoda PC

Secretary  
Rajeev Amarasuriya

Treasurer  
Rajindh Perera

Assistant Secretary  
Pasindu Silva



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- c) the information in relation to the project company, any agreements entered into between the Government and the project company, and information with regard to the administrative structure of the land mass (Grama Niladhari divisions, Municipal Wards etc) have not been disclosed or are not available for public; and that
- d) certain provisions of the Bill may be inconsistent with the provisions of the Constitution, more particularly Articles 1, 2, 3, 4, 12, 14 and 76.

The Executive Committee of the BASL notes that the provisions in the Bill that directly affect the judiciary and the legal profession which are found in Part XIII (International Commercial Dispute Resolution Center) and Part XIV (Priority Hearing in Legal Proceedings) of the Bill could lead to an ouster of the jurisdiction of Courts, infringe on judicial discretion and violate the principle of the equality of parties before the law and therefore may violate Articles 3, 4, 12 and 14 of the Constitution. The aforesaid Articles of the Constitution pertain inter alia to the Sri Lankan State, the Unitary Status of the Republic, the Sovereignty of the People, the fundamental rights of the people and the powers of Parliament.

Based on these findings the Committee recommended that:

- a) given the limited time, that the BASL should first challenge the constitutionality of the Bill under Article 120 of the Constitution before the Supreme Court;
- b) the BASL should call for observations from its Members including Members who have the required expertise;
- c) the BASL should request the Government to defer any further action on this Bill for a reasonable time to enable the BASL to engage with and consult the relevant stakeholders and contribute fully in this important national endeavour.

The Interim Report and the recommendations of the Committee were unanimously approved and adopted by the Executive Committee at a Special Meeting on the 12<sup>th</sup> of April 2021. Therefore, in furtherance of the Objects of the Association set out in Article 2.1 of the Constitution of the BASL, the Executive Committee directed the President and Secretary to challenge the Bill under Article 120 of the Constitution before the Supreme Court and also to write to His Excellency the President and the Hon. Prime Minister bringing to their attention the concerns of the BASL.

The Executive Committee of the BASL accordingly requests the Government of Sri Lanka to defer further action on the Bill, until the views of all stakeholders including the public are sought and given due consideration.

**Rajeev Amarasuriya**  
Secretary  
Bar Association of Sri Lanka

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