

**IS THE CURE WORSE THAN
THE DISEASE?**

**REFLECTIONS ON COVID GOVERNANCE IN
SRI LANKA**

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Introduction

Reflections on COVID governance in Sri Lanka

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Is the cure worse than the disease? Even at the highest echelons of global governance, alarm seems to be a common reaction to conclusions about the potential damage caused by the COVID responses of various states. For instance, UN Secretary General Antonio Guterres warned in April 2020 that the coronavirus crisis was “fast becoming a human rights crisis”, with the risk that it could “provide a pretext to adopt repressive measures for purposes unrelated to the pandemic” (Choukroune, 2020). International civil society organisations have also expressed their concerns that the pandemic has fueled a crisis of democracy across the world. For example, Freedom House, in its special report of 2020, notes that “since the coronavirus outbreak began, the condition of democracy and human rights has grown worse in 80 countries.” (*Democracy under Lockdown*, 2020) It is this growing concern about the adverse impact of the pandemic response that constitutes the central focus of this volume. Through its 7 chapters, the book attempts to examine – from various angles – how the COVID response of the current Sri Lankan government is impacting the democratic fabric of society and politics.

COVID-19 has brought the entire world down to its knees. It is not only considered as one of the largest public health crises of the past 100 years, but it also has triggered ‘unprecedented’ government responses (Cheibub et al, 2020). Developed or otherwise, states have employed stringent regulations sometimes disproportionate to the health crisis. Although the magnitude of the health crisis is apparent, the world is yet to comprehend the real impact of the pandemic response of governments around the world. There is already a rich corpus of knowledge on the subject, focusing on such facets of the issue as restrictions placed on fundamental civil liberties (Coppedge et al, 2011), and how the separation of powers and rule of law have become notable casualties of the world’s COVID response, thus restricting possibilities of checking the actions of states and guaranteeing horizontal accountability (Zwitter, 2012).

The climate of panic, fueled by the media and authorities, has facilitated ready consent among a majority of the people regarding the limiting of their rights and freedoms. Based on data from 14 countries, Chen et al show that public approval for their respective government’s COVID response is highly correlated to a country’s infection and death rates, rather than to the sort of policies initiated by the government (Chen et al, 2021). It is clear, then, that the slow but sure shrinking of democratic space is hardly noticed by citizens who fear the health aspect of the pandemic far more than they fear the repercussions of the measures introduced to ‘preserve health’. As Levitsky and Ziblatt (2018) argue in their famous *How Democracies Die*, since the 1970s democracies have only rarely disappeared through armed coups, but much more often have eroded and died slow deaths. The pandemic seems to be rendering the conditions conducive for this, through its normalisation of protracted states of exception. It is in this backdrop that this volume examines how the Sri Lankan public perceives their government’s pandemic response, and what implications the ‘cure’ of the pandemic has had on the country’s democracy.

In order to understand the nuanced and deeply troubling political implications of the COVID response, the volume draws on certain conceptual categories that provide a useful toolkit to dissect

and discuss the procedures, rules, and rationalities by means of which governance has unfolded through the pandemic, which are fleshed out below.

Pandemic governmentality

French philosopher Michel Foucault coined the term governmentality to refer to the conduct that is meant to shape, guide, or affect the conduct of people or regulation of behaviour (Li, 2007). Governmentality as Foucault defined it is:

The ensemble formed by the institutions, procedures, analysis and reflections, the calculations and tactics that allow the exercise of this very specific, albeit complex form of power, which has as its target population, its principle form of knowledge, political economy, as its essential technological means apparatuses of security. (as cited in Burchell et al, 1991, p. 102)

For him, the government is more than simply political structures and the management of states; rather, it directs the conduct of individuals or groups. Foucault argues, therefore, that “to govern is to control the possible field of action of others” (Foucault, 2002, p. 336). The purpose of government is to secure the “welfare of the population, the improvement of its condition, the increase of its wealth, longevity, health, et cetera” (Burchell et al, 1991, p. 100). However, as governments cannot coerce every individual personally, it sets conditions “arranging things so that people, following only their own self-interest, will do as they ought” (Scott, 1995, p. 202). As such, modern governance is enacted through a complex web of procedures, rules, and rationalities. As Li (2007, p. 275) argues, “when power operates at a distance, people are not necessarily aware of how their conduct is being conducted or why, so the question of consent does not arise.”

In the pandemic situation, the subtle logic of governmentality has found new force in the urgency of the crisis, because individual self-interest (of preserving one’s health) is very much tied to following social distancing regulations at whatever cost. As such, the political implications of increased government control over, and surveillance

of, daily life are rarely pondered upon, sometimes even actively endorsed, normalising this state of affairs, which speaks to the next theme.

State of exception, the pandemic, and authoritarian rule

States across the world reacted to the COVID-19 pandemic with responses such as border closures, lockdowns, unprecedented economic stimulus packages, and the invention of digital tracking devices that enable authorities to monitor infection rates and the movements of infected individuals. Some leaders declared a ‘state of exception’ and attempted to convince their populations that emergency measures during the pandemic are for their own good. “State of exception” is a concept that Italian philosopher Giorgio Agamben coined to describe the increase of powers by governments during supposed times of crisis (Agamben, 2005). He argues that this unusual extension of power, or the “state of exception”, has historically been an underexamined and powerful strategy that has the potential to transform democracies into totalitarian states. Commenting about the Italian government’s disproportionate COVID response, Agamben notes that it has been laden with frantic, irrational, and absolutely unwarranted emergency measures (Agamben, 2020). In his view, this disproportionate response aims to use the state of exception as a normal governing paradigm and introduce real militarisation through Executive decree. Many rulers – including Donald Trump, the former US President - likened the pandemic to a war and mobilised support to promote the implementation of shock policies, exception measures, and other security-intensive initiatives. Dias and Deluchey (2020) argue that the “danger” constituted by the narrative of fighting the pandemic has served to impose security apparatuses and exception measures, as well as deepen the “structural reforms” that neoliberal governments consider as their sole task to carry out (p. 3). “With the spreading of the COVID-19 “invisible enemy”, the governed are once again urged to adhere to a governmentality that promotes obedience and voluntary servitude. It is this war that seeks to be both brought about and made invisible by the governmental strategies.” (Ibid)

Governments, irrespective of where they fall on the spectrum of democracies – whether merely procedural, substantive, strong or weak – have opted to justify disproportionate responses to the health crisis in order to stop the spread of the virus. The measures that are effective in slowing down the spread of the virus are often measures that curtail fundamental civil liberties, which are protected in democracies and can only be restricted under very specific circumstances (Coppedge et al, 2011). In addition, and as mentioned previously, “the urgency to react quickly conflicts with the principle of separation of powers and the rule of law that usually oversees the actions of the state and guarantees horizontal accountability.” (Zwitter, 2012, p. 100) Therefore, the COVID response has justified the Executive assuming law-making powers that normally belong to the Legislature (Engler et al, 2021). Jan Hinrichesen (2020) cautions that we need to be aware of how the pandemic is being “used for the reorganisation and resurrection of nationalist logics, the revitalisation (in many dimensions of this term) of the authoritarian art of government, and the swaying of public opinion into acceptance of the state of exception as a normal governing paradigm.” (Hinrichesen, 2020)

Pandemic and neoliberalism

Even though liberalism in all its incarnations theoretically appeals for less government involvement in citizen life, its ‘neo’ variant paradoxically relies on strong arm rule to force through the necessary structural changes particularly in developing societies, but also elsewhere. In a context of the gradual withdrawal of the state and weakening of state institutions resulted by these developments, the pandemic proved to be a storm that hit it under the belly. Alfredo Saad-Filho in his essay on ‘Covid to end of neoliberalism’ states

The pandemic hit after four decades of neoliberalism had depleted state capacities in the name of the ‘superior efficiency’ of the market, fostered deindustrialization through the ‘globalization’ of production and built fragile financial structures secured by magical thinking and state guarantees, all in the name of short-term profitability. (2020, p. 478)

While neo-liberal policies “let our public services deplete, turned our education and healthcare into profit-driven businesses, hoarded profits at the expense of undervalued and underpaid workers, favoured profitability of a militarised world over human security and well-being, and aggravated inequalities between people and countries” (Isakovic, 2020), the pandemic served by and large to perpetuate this state of affairs, quite contrary to the “great equaliser” narrative, as many scholars have endeavoured to show (Bowleg, 2020; Marmot and Allen, 2020). Isakovic (2020) argues that the ability to adhere to quarantine regulations, live under pandemic conditions, and recover from the financial and psychological impact depend on socio-economic factors such as age, gender, class, geography etc. This argument lends itself to the next theme invoked in various chapters of this volume, which is that of ‘disposability’, i.e. who counts more than whom, encapsulated by the concept ‘necropolitics’.

Necropolitics and disposable lives

The pandemic has also served to expose the cruelty of neoliberal governmentality that assigns differential importance to different groups of people. In this system of thought and practice, some lives matter less than others, and hence are considered more ‘disposable’. Achille Mbembe’s concept of necropolitics constitutes an important framework in this regard (2003). In Mbembe’s understanding, the closer one is to dominant power, the more their life is worth (Vagehese, 2021). The vulnerabilities of ethnic and religious minorities and marginalised economic groups take new meaning when viewed through this lens, arming us with one more conceptual tool to comprehend the logic underpinning pandemic governmentality in Sri Lanka.

The broader social inequalities such as working conditions, living conditions, and social worlds, long structured by racial inequalities in addition to pre-existing health conditions, determine the severity of the impact of the pandemic (Sandset, 2020). The Institute of Employment Rights, a UK-based Think Tank, notes that “Black, Asian and Middle Eastern women are twice as likely to be in low-paid work and occupations that expose them to a high risk of

Covid-19 infection.” (*BAME women ‘at twice the risk’ of both Covid-19 and low pay, research shows*, 2020) Therefore, certain racialised forms of discrimination and economic impoverishment tend to expose communities to neglect and inaction, placing them at a higher risk of COVID-19 infection (Sandset, 2020). Judith Butler’s reflections are instructive in this regard: “there are ways of distributing vulnerability, differential forms of allocation that make some populations more subject to arbitrary violence than others.” (Butler, 2006, p. xii) Sandset (2020) argues that the relationship between the pandemic and pervasive disparities in health and the economy exemplifies how the necropolitical outcomes of COVID-19 are not just the result of a ‘state of exception’, but rather also of a ‘state of acceptance’. Hence the danger is that people tend to ignore the effect of very real structural violence and readily accept that some lives are more precarious and that the vulnerability that they experience in the face of COVID is indeed a naturalised ‘fact’ (Sandset, 2020).

All governments, democratic or otherwise, have employed extraordinary measures that severely curtail civil liberties, in order to stop the spread of virus. COVID-19 has legitimised this state of exception, under which not only the citizen’s freedoms and rights are suppressed, but also rulers concentrate power with no vertical or horizontal accountability. Under the war rhetoric against the pandemic, in many states, governance has come under the increasing control of the military and surveillance has become normal. These new authoritarian tendencies are not only used to battle the virus, but also exploited in many countries to suppress dissent against accelerated neoliberal structural changes. Finally, given that the ‘state of exception’ normalised by pandemic governmentality has produced a ‘state of acceptance’, the current undemocratic methods of governance have the ability to survive beyond the pandemic. This troubling political quagmire is what motivated this study and its quest to undertake an examination of the impact of Sri Lanka’s COVID response on its politics and society.

Sri Lanka's immediate pre-pandemic governmentality

Sri Lanka painted a promising picture at the dawn of independence, with a high proportion of the population literate, a strong welfare foundation particularly in the areas of health and education (Jayasuriya, 2004), and a fairly cosmopolitan tradition of Parliamentary democracy to complement these (DeVotta, 2010). However, 70 years post-independence, Sri Lankan democracy under the rule of the Rajapaksa family is fast descending into a despotic ethnocracy (DeVotta, 2021). Since the war victory against the Liberation Tigers of Tamil Eelam (LTTE) in 2009, the Rajapaksa family started consolidating their leadership in Sri Lankan politics. Unlike any other political force, the Rajapaksa's managed to rally the support of the Sinhala-Buddhist community and emerge as their protector from all enemies of the nation. Despite being electorally defeated in 2015 at the hands of a broader democratic coalition, the Rajapaksas returned to power more strongly in 2019 just before the pandemic hit the country. The failure of the 'Good Governance' coalition to live up to its promises, corruption, internal rivalry and factionalism, and finally its failure to prevent the Easter Attack paved the way for return of the Rajapaksas. As Uyangoda (2020) describes:

This failure also gave the SLPP one of its most effective electoral slogans with potentially lasting and far-reaching political consequences – a radically new political alternative for Sri Lanka with a strong leader, a strong government, a strong administration with military participation, with just one strong centre of power with no checks and balances.

Gotabaya Rajapaksa's campaign emphasised national security and articulated his image largely in terms of meritocracy, expertise, and efficiency. With the ascent of Gotabaya Rajapaksa, DeVotta states, "what stands to follow is the consolidation of a Sinhalese Buddhist ethnocracy and the further vitiation of whatever reserves of pluralism and liberalism are left on the island." (2021, p. 96)

Under the rule of the Rajapaksas (both Mahinda and Gotabaya), the role of military has continued to expand in the affairs of the state. As Ahilan Kadirgarmar observes, in post-war

Sri Lanka, the military have been deployed largely for development purposes (Kadirgamar, 2013). In addition, since getting elected to office, President Gotabaya Rajapaksa appointed many retired and serving military officers to various government institutes (Fonseka and Dissanayake, 2021). Right from the outset, it was clear that he preferred authoritarian style rule that imposes no checks on his authority and does away with opposition and criticism. He made no effort to hide that he trusts the military and professionals who joined Parliament outside of traditional party politics more than the political elites, including those who worked for his electoral victory.

In addition to militant nationalism, the expansion of a neoliberal economic order also continues with the Rajapaksa bothers at the helm. Not only because of his association with the urban business classes who supported his presidential bid, President Gotabaya Rajapaksa also seems to be intrinsically convinced of the promise of neoliberal ideology. This ideological commitment is clearly reflected in his policy agenda since assuming power, including his vision of transforming Colombo city into a modern global city, advocating education reforms to suit the needs of the market, and partnering with global capital to manage state properties, to name but a few.

It could be persuasively argued that for most of the post-independence period, Sri Lankan democracy has functioned in a 'state of exception' than a 'state of peace', to borrow the language of Giorgio Agamben (2005). Sri Lanka has taken recourse to the emergency mode of operation – and counterterrorism laws since the emergence of youth militant groups in the North – on many occasions in its post-independence history. Starting with 1953, the country had declared states of emergency on 20 occasions up until 2006 (Manoharan, 2006, p. 24), and continued to operate in this mode until the end of armed hostilities with the LTTE in May, 2009. While these measures were introduced to supplement security measures on the ground, such as maintaining high-security zones, increasing the number of checkpoints, cordoning off active combat areas as civilian no-go zones, etc. it is noticeable that the conditions that made such laws necessary were only ever viewed as matters of law, order, and

security, rather than those that warrant structural reform (Uyangoda, 2000). As such, many Acts and special laws – such as the Criminal Procedure (Special Provisions) Law No. 15 of 1978, Proscription of the Liberation Tigers of Tamil Eelam and Similar Organisations Act of 1978, and the Criminal Procedure (Special Provisions) Act of the same year (Manoharan, 2006) – were introduced with the aim of curbing unrest, and specifically militancy, the most draconian of which arguably is the Prevention of Terrorism Act (PTA) of 1979.

The PTA makes provision for the search, arrest, prolonged detention, and trial without preliminary inquiry of any person, among other things (Sections 4-16), immunity of law enforcement personnel from prosecution (Section 26), and for the Act to prevail over any other existing law (Section 28). It deserves special mention here as it continues to be invoked at present, ostensibly to quell the rise of religious extremism, as was evidenced by the March 2021 amendment made to the Act, titled Prevention of Terrorism (De-radicalization from holding violent extremist religious ideology) Regulations No. 01 of 2021 (*Concerns Relating to the Recent Regulations Issued Under the Prevention of Terrorism Act, 2021*). It is widely known, however, that the Act and its regulations are used to generally suppress dissent and discourage opponents of the government, as much as for curbing the rights and freedoms of minority communities (ibid; *Sri Lanka's draft Counter Terrorism Act: a license for continued state oppression, intimidation and torture, 2017*).

Pandemic governmentality, then, has not triggered a state of exception anew, but instead has extended the state of exception that the country's democracy has been functioning in for the past several decades. What this volume presents in 7 chapters will yield fresh and unique insights into the relationship between pandemic governmentality and democracy in Sri Lanka, within this historical context.

The study

The present volume evolved from a survey of a much broader research project. Since the country announced the pandemic situation, focus has mainly been on the health crisis and sustaining life under quarantine regulations. Except media coverage, there has not been a systematic inquiry into the adverse impact of pandemic governance on society. It is in this context that Social Indicator, the survey research arm of the Centre for Policy Alternatives, ventured into a survey to capture public opinion on the government's COVID response. By design, however, quantitative research can only provide an understanding of the broader picture. Therefore, the research team decided to expand the study through a series of case studies to understand the implications of the pandemic governmentality of the Rajapaksa regime. While deepening the investigation with the evidence gathered through multiple methods, the scope of the inquiry was limited to a few selected areas; the government's policies to respond to the COVID-19 pandemic, and how the government's COVID response impacted on livelihoods, education, minorities, and local socio-political networks. Each team member initially produced an essay based on the knowledge gathered through multiple methods and sources. Upon further discussion and deliberation, these essays were then developed into many of the chapters that make up this book. While this study does not seek to provide an exhaustive analysis of Sri Lanka's COVID response, it does contribute valuable insights into the systematic decaying of Sri Lanka's welfare democracy.

Chapter outlines

Bhavani Fonseka and Kushmila Ranasinghe highlight the much needed institutional aspect of pandemic governance, laying out in intricate detail the many regulations instituted and task forces established during this time. In addition, they discuss two pieces of highly questionable legislation rushed through the blur of pandemic-related activity, namely the 20th Amendment and the Colombo Port City Economic Bill. Fonseka and Ranasinghe visit the question

of the implications of these institutional measures for substantive democracy in general, and Human Rights, accountability, and social inequalities more particularly.

In my chapter, I examine the function of pandemic governmentality, or the procedures, technologies, and rationalities of the Gotabaya Rajapaksa regime during the COVID-19 pandemic, arguing that it is reflective of the rule that those currently in power aspire to have. I argue that the pandemic response is primarily founded on and for the President's political vision – an efficient system of governance with the participation of the military, an obedient and disciplined society, and the rule of the technocratic Rajapaksa coalition. Further, I observe that this approach, particularly in the pandemic context, has contributed to reproducing inequalities and marginalities in society, and set a precedent to normalising extensive surveillance in the march towards disciplining society, the antithesis of a substantive democracy.

Nipunika O. Lecamwasam looks at the economic impact of pandemic policy making on Sri Lanka's social security regime and welfare commitments in that regard. She argues that the supposed trade-off between lives and livelihoods need not be so, if mediated satisfactorily by welfare provisions and that Sri Lanka's steady erosion of the welfare state, corruption, and mismanagement have combined in the pandemic situation to result in a 'hollow state' that leaves it to the citizens to see themselves through external shocks such as COVID-19.

Sakina Moinudeen focuses on the highly ethnicised nature of the pandemic response in Sri Lanka, and how the stigmatised representation of those who contract the virus has further fed into these destructive communal tendencies. Using developments concerning the Muslim minority through the pandemic to buttress her claims, Moinudeen argues that the health crisis has created the perfect backdrop for the government to continue its ethnocentric, anti-democratic system of governance with impunity. She also reflects on the implications of these occurrences for substantive democracy in Sri Lanka, noting that the arbitrary and selective application of laws, along with excessive powers vested in the Executive, signal a deeper erosion of the democratic foundations of Sri Lankan society.

Hasini Lecamwasam examines the implications of pandemic-time educational policy for Sri Lanka's system of free education, and argues that free education may no longer even be itself given how access to its online delivery is now mediated by individual spending capacity rather than institutional provision. Through a critique of the state's increasing withdrawal from its welfare obligations in the educational sector, she highlights how the neo-liberalising state gradually individualises responsibility, whose effects are trickling down to the individual mindset in the form of an all engulfing neo-liberal ethos that valorises such tendencies as 'independence' and 'self-sufficiency'.

In her chapter on migrant women workers of Sri Lanka's Free Trade Zones (FTZs), Kaushini Dammalage looks at the extremely discriminatory pandemic policies of the state and their corrosive effect on this group of citizens. Her specific focus in the chapter is on how pandemic-related policy making and other pandemic-time developments have come to bear on the capital-labour nexus, and the state's mediatory function in the equation. Dammalage argues that the continued exploitation of FTZ workers is in the interest of both capital – that benefits out of widening profit margins facilitated by low production costs – as well as the state that benefits out of the revenue generated by capital owners. During the pandemic, circumstances permitted the further intensification of such exploitation by both capital and the state, as Dammalage posits.

In his chapter, Shashik Silva dissects the role of informal contacts and networks in accessing COVID-19 related services. He notes how, despite the prevalence of official institutions and mechanisms for service delivery related to the pandemic, the entire process is de facto organised around politicians who act as the central nodes of distribution of such services, affording a more efficient service for those who circumvent the official apparatus and instead opt for such informal channels. Silva argues that even healthcare professionals who have emerged as important mediators in this network are ultimately dependent upon politicians. While acknowledging the role of patronage-based, informal networks in affording those in the margins access to services in a way they would otherwise not have, Silva nonetheless concludes the chapter

cautioning about the propensity for such networks to give rise to new inequalities and strengthen existing ones, thus undermining the spirit of democracy.

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