



Democratic dialogue, active listening and inclusive citizen participation: creating spaces for inclusive civic participation in times of pandemic and social crisis

The objective of the project is to create spaces for inclusive civic participation during the pandemic and the socio-economic crisis that Sri Lanka is facing and to strengthen democratic institutions, the rule of law, and public accountability. As engaged citizens, we aim to ensure that government responses to the crisis are aligned to principles of constitutionalism and that government by exception will be restricted; misinformation and hate mongering prevented and that social solidarity will be strengthened through the positive engagement of change makers and influencers.

To achieve these objectives, the project has established an informal "civic watch" that analyses the government's rapid responses to health and economic challenges; promotes a public discussion on policy issues, documents fundamental rights violations; provides timely, fact-based information to citizens on emerging issues that impact on democratic values, constitutional principles and fundamental rights. The project also aims to conduct advocacy campaigns to strengthen democracy and the rule of law, as well as to conduct a needs assessment that enable citizens to articulate their needs, anxieties, and aspirations in the post-pandemic context.

This report was written by Aksel and Pascal Bell as a contribution towards the project. The Law and Society Trust (LST) appreciates their engagement in this project. The views expressed in the article do not necessarily reflect the views of the Board or the Management of LST.

Cover art by Sangeeth Madurawala

Let's Talk About Borders: Tourism, Citizenship and Covid—the Sri Lankan Response

Introduction

COVID-19 is pushing societies to face difficult decisions in an unprecedentedly destructive manner. Prominent among them is the conflict in priority between the health and safety of citizens on one hand and, on the other, protecting the economic system which sustains them. The world over, a key area of tension between health interests and economic interests was the area of international travel. In Sri Lanka, three million people depend on the tourism industry, which also constitutes a key source of foreign revenues to the Sri Lankan economy.

The nature of the pandemic, being people-borne, called for a stemming of international arrivals in the island. Yet, this health-based need to stem arrivals had to be balanced against the needs of various groups now reeling from the shock to the economy. For a majority of Sri Lankans, the first question, naturally, was whether borders would close totally and, if not, how far the government would go in controlling arrivals short of total closure. Initially, the main worry was the impact on the tourism industry, but eventually the domestic capacity for quarantining and Covid treatment also played a role. Without total closure, and with limited quarantining resources, procedures on screening arrivals for Covid were crucial to keeping the virus at bay. At the same time, even as leaders in government were weighing total closure and deploying rhetoric meant to discourage Sri Lankans overseas from returning in numbers, various groups of citizens overseas began arriving anyway, while still others were stranded abroad, calling home for help. As tourist arrivals continued to be restricted, Sri Lankans engaged in tourism-related industries were also mounting pressure on the government to relax border restrictions to some extent. This complex of conflicting interests characterised the field of border policy as Sri Lanka navigated the first year of the Covid pandemic. How the government managed these moving parts in border policy has contributed significantly to the overall outcomes of its (evolving) Covid-19 strategy.

This discussion paper takes a closer look at the government's various approaches to border control in the year 2020. The paper will discuss controls and restrictions on arrivals; the approach to screening and quarantining arrivals; the developments surrounding the issue of repatriation; it will chart Sri Lanka's move towards reopening its borders in the latter part of 2020, and it concludes with reflections on the overall handling of the pandemic.

Controlling arrivals

As early as January 2020, the public were on alert about an epidemic to have emerged in China and showed great interest in steps the government was taking to protect Sri Lankans. China was among the top three tourist sources for Sri Lanka at the time. According to the Sri Lanka Tourism Development Authority (SLTDA), with 167,863 Chinese visitors – 9% of the total – holidaying in Sri Lanka in 2019. In January 2020 alone, Sri Lanka received 22,363 Chinese tourists, which accounted for 10% of the total traffic.¹

However, at these earliest stages, total closure of the border was not considered. On January 25, then Minister of Health Pavithra Wanniarachchi informed the public of the measures being implemented. According to her, "All passengers arriving at the [Bandaranaike International Airport] are informed about the Health Desk prior to their descent. Passengers can obtain assistance from the medical team positioned at the desk if symptoms of the infection are noticed. However, the

passengers' body temperatures will be automatically detected when they walk through the terminal. All the passengers arriving from China will be closely examined."²

Soon, the first Covid-19 case was detected in Sri Lanka when a Chinese woman aged 43 was tested positive.³ In response, the government tightened the border against Chinese arrivals by implementing visa restrictions. According to Minister Wanniarachchi, "The Government yesterday (January 28) imposed restrictions on Chinese nationals visiting Sri Lanka ... Chinese nationals who apply for a visa online would no longer be eligible to automatically gain a visa on arrival. Instead, their visa applications, submitted online, will be scrutinised to see which part of China they were travelling from and those coming from high-risk areas will not be allowed entry."⁴

Moreover, the government also adopted a policy of surveillance with respect to such Chinese arrivals. As Wanniarachchi said, "A form printed in the Chinese language is given to all nationals of that country who arrive at the Bandaranaike International Airport (BIA) in which they have to declare information on their places of accommodation in Sri Lanka. Public Health inspectors (PHI) in the respective areas will monitor them during their stay here."

On January 29, Airport and Aviation Services Chairman Retd. Maj. Gen. G.A. Chandrasiri said a special perimeter was being established to screen arrivals. "We do not allow anyone other than passengers to enter this perimeter. We are thoroughly checking those who come ... There is no need to panic as all authorities are keeping an eye on them. We will continue this program until the coronavirus is controlled."

By early March, it seems, the government lifted these restrictions. On March 6, Maj. Gen. Chandrasiri said, "the Bandaranaike International Airport (BIA) in Katunayake will be reopened for visitors from today ... following a study conducted by the management on how best they could manage the crowd at the BIA premises, the decision was made." However, just over a week later, on March 12, the first local cases of Covid-19 were detected, when a local tour guide and an associate were tested positive, and this shifted the paradigm immediately. On March 13, as the country entered a lockdown phase termed a "work-from-home" period, President Gotabaya Rajapaksa said in a televised meeting that, "[the] Primary step should be to prevent others entering from abroad." However, it was explained at the same event that the restrictions imposed on Chinese arrivals had been lifted, because "the risk assessment process followed by the Government now showed China as a low-risk country." The next day, the President's Media Division announced that, "the President had instructed officials to suspend issuing visa to people from European countries for two weeks..." and the Civil Aviation Authority (CAA) suspended arrival of passengers from "France, Germany, Spain, Sweden, Switzerland, Netherlands and Austria".

As the surreal, first week of lockdown passed, questions about closure of the border became more earnest. Indeed, by March 17, the Government Medical Officers Association (GMOA) had recommended the closure of the airport to the President. On the other hand, Airports and Aviation Services chair Maj. Gen. Chandrasiri said, "There is no requirement to shut down the operations of the airport at the moment. We have taken meticulous steps to control the spread of COVID-19 within the airport premises and we have been able to manage it very well so far." 13

However, the next day, President Rajapaksa announced that the airport would close with immediate effect. In a televised meeting, he is visibly adamant that there can be no further discussion on this point.¹⁴ He explains that the transmissions were due to returnees who slipped through the screening process and their contacts, and that the priority should be to trace them and quarantine them. When questioned about Sri Lankans overseas who wished to return, the President insists that the process would be overwhelmed if arrivals increase significantly. As such, travel restrictions

were extended to cover 15 (predominantly European) countries.¹⁵ Within a week, the Department of Immigration and Emigration suspended all types of electronic visas granted to all foreign nationals who had not already arrived in Sri Lanka.¹⁶ Two days later, the President's Media Division issued a statement requesting Sri Lankan expatriates "to safely remain where they are now until the risk of COVID-19 virus is minimised."¹⁷ It further said, "that the requests made by Sri Lankan students, businessmen, and employees overseas to return will be considered after containing the disease in the country."¹⁸ The suspension of visas was to be in effect till March 31, midnight, but this was later extended up to April 7.¹⁹ The same week, issuance of new visas to all foreign nationalities was also suspended by the Department of Immigration.²⁰

Screening and quarantining arrivals

Especially until the border was closed totally, preventing arriving travellers from spreading the virus within the country was important. However, in hindsight, the policies adopted by the government in screening arrivals for Covid may raise some eyebrows.

Early on, in January, screening appears to have been extremely lax. A health desk was setup at the airport and passengers were informed prior to their descent they could avail themselves of the desk if they noticed any symptoms of infection. At the same time, passengers' body temperatures were automatically detected when they walked through the terminal, and passengers arriving from China were "examined" closely. When Sri Lankan students in China began arriving, they were only "requested to attend regular medical screenings and be vigilant about their body temperature. They [were] also requested to wear face masks for at least 20 days." However, when the government embarked on a much vaunted 'rescue mission' with Sri Lankan Airlines to bring back 33 students studying in Wuhan, Government specifically took measures to quarantine them in the Diyatalawa Army Camp. Thus, as early as January, the government was aware of the relevance of quarantining to preventing viral transmission, but did not resort to it at least in terms of arrivals from China. Further, it seems the government was unaware of the possibility of asymptomatic cases since no measures were in place to screen them. Sri Lanka did not officially start screening arrivals with PCR tests until June 2020.

In terms of quarantining arrivals, too, the government seems to have failed to err on the side of caution. A total of 8,507 Sri Lankans had returned to Sri Lanka between March 1 and 9; instead of sending them into quarantine directly, returnees were expected to register with their local police and health officials and enter into voluntary "self-quarantine".²⁵

Initially, the public were afraid of quarantining. While the government was aware of how many had returned from overseas, the number of those who had registered in their localities did not tally with the total amount of arrivals. Various public officials were seen in media stressing the importance of quarantining, and President Rajapaksa even claimed he had ordered the prosecution of a returnee who had not disclosed their symptoms to health authorities. Similarly, local communities were against quarantine centres being established in their neighbourhoods. This was first evinced in the example of the Hendala Leprosy Hospital, which, when announced early March as a quarantine centre, sparked protests by residents in the vicinity and political interventions were needed to resolve the dispute.

Given that self-quarantining did not take place as uniformly as expected, the government on March 10 announced that quarantine would be mandatory for those returning from South Korea, Italy and Iran, while travellers from other countries were also requested to self-quarantine for 14 days. ²⁸ Thus, returnees from the specified countries were transported by military officials from the airport to three quarantine centres established in military camps, namely, those in Kandakadu, Punanai,

and Diyatalawa. Meanwhile, the military was also preparing the creation of more centres.

The very next day, criticism of the quarantine facilities began emerging on social media. Addressing the media, Minister of Health Pavithra Wanniarachchi rejected the criticism and asked that fake news not be circulated on the internet. She said, "Perhaps those returning to the country are unaware of the risks involved in this situation or maybe it is selfishness, but as the Health Minister of this country, I have a responsibility, especially to those residing in the country, to protect them and prevent this disease from spreading."²⁹

Despite this heavy emphasis on prevention by the health minister, Sri Lanka only quarantined returnees from South Korea, Italy, and Iran initially. Indeed, curiously, returnees from China were not sent into quarantine at this stage. When questioned on this decision, Dr Anil Jasinghe said that the risk assessment process followed by the Government showed China as a low-risk country.³⁰ The next day, all returnees from Europe were declared subject to mandatory quarantine.³¹

Although returnees from "high-risk" countries were to undergo mandatory quarantine, some succeeded in avoiding it. Indeed, on March 18, President Rajapaksa called on police, army, PHI and Grama Sevaka officers to trace such returnees and quarantine them.³² It is interesting to note that individuals avoided quarantine despite being provided, at least in the initial stages, with transport from the airport to quarantine centres by the military. Moreover, while the administration responded with displeasure and force to those avoiding quarantine, it seems to have failed in fostering confidence and trust among returnees that quarantining will be safe and beneficial. Indeed, even as late as April, cases were being detected close to returnees from such countries as India, Indonesia and Dubai who had not quarantined properly.³³ Soon, even more returnees would arrive in the island, and transmission by returnees failing to properly quarantine became a leading cause of the spike in positive cases.³⁴

Repatriation

As evident from the discussion so far, a major theme emerging in the context of border policy was the issue of repatriation. As the pandemic spread all over the world, Sri Lankans living overseas began returning in waves. Loss of jobs abroad seems to have been the leading cause for this, though the intensity of the pandemic where they were leaving also motivated returnees. For Sri Lankans at home, repatriation posed a challenge in terms of health system capacity, especially at a time when cases were rising, and more and more people needed to be quarantined.

However, in February, at the earliest stage of repatriation, the government showed much enthusiasm. While students in other regions in China were returning on their own, the government launched a "mercy mission" to bring back Sri Lankan students stuck in Wuhan, at the epicentre of the pandemic.³⁵ Yet, soon, the government began discouraging returnees. Mid-March, the President insisted on a complete ban on arrivals, citing quarantine capacity as the reason.³⁶ By the end of March, all arrivals at the airport were suspended and President's Media Division advised Sri Lankan expatriates to stay where they were.³⁷ However, at the same time, some special cases of repatriation were also evident. For example, the Foreign Ministry facilitated the return of 48 Buddhist pilgrims travelling in India³⁸, as well as Sri Lankan students in a number of countries, such as India³⁹ and Nepal.⁴⁰ Students in other countries also made requests to be returned, such as 850 students in Belarus, as well as students in Bangladesh,⁴¹ who wrote to the President to facilitate their return. Indeed, despite discouraging them from returning, the government also launched an online platform, called 'Contact Sri Lanka', where Sri Lankans overseas could seek government assistance for repatriation. By end-May, 42,522 members had signed up on the portal to return home.

Interestingly, in the request from the Sri Lankans in Bangladesh, specific mention is made of how they would "pay for their air travel, and quarantine themselves upon arrival" The public had initially been assured that quarantine centres will be free of charge. Mid-March, Lt. Gen. Shavendra Silva had denied allegations that "a fee will be charged from those who have been quarantined." The Ministry of Health had also issued a statement emphasising that there will be no fee charged from those who are kept in the facilities. However, around the same time, hotels were being 'offered' by their owning companies as quarantine centres, and it seems the government facilitated repatriation missions if the returnees in question could access hotel quarantining. Repatriation was facilitated with assistance of Sri Lankan Airlines, who defended the high cost of a repatriation plane ticket in April, saying "the cost of running a special flight is extremely high as the aircraft is running empty in one direction and is coming back half full, also paying high fees to open airports in foreign countries which are closed for passenger traffic."

The pandemic exerted a significant impact on jobs in the Middle East, where the majority of Sri Lankan migrant workers are employed.⁴⁷ As a result, many Sri Lankans were unemployed without any funds, and needed assistance from the government to return home. Thousands had registered with the online portal created by the government for Sri Lankans overseas. Mid-April, Ministry of Foreign Relations joined forces with the Foreign Employment Bureau to facilitate repatriation.⁴⁸ Plans also included welfare assistance to those stranded abroad to cater to their immediate needs. Despite these plans, reports of assistance not reaching the intended targets abounded in media, as protestors outside Sri Lankan diplomatic missions posted live videos of themselves alleging abandonment and neglect. However, the government insisted this was not the case. In late June, Minister of Tourism Prasanna Ranatunga said, "We cannot give an exact date for the reopening of the airport, as the top priority of the Government is to contain the spread of Covid-19 and to repatriate Sri Lankans still stranded in various parts of the world." Yet, even as late as July, according to Foreign Relations Secretary Ravinatha Aryasinha, "52,401 [Overseas Sri Lankans] from 117 countries [remained] to be repatriated as of 16 June 2020. Students awaiting to return [were] 2,590 (4.9 %), short-term visa holders 5,825 (11.12%) while of the rest, 39,001 [were] migrant workers (74.43%), of which 26,321 (50.23%) [were] living in the Middle East." According to him, as of June 25, only 10,355 Overseas Sri Lankans had been evacuated on repatriation flights since the process began on 1 February 2020 with 33 students being evacuated from Wuhan.⁵¹ He further stated that the choice of who will be repatriated was being made at the highest levels of governance: "In enabling repatriation of [Overseas Sri Lankans], the Foreign Ministry closely coordinates with the Presidential Secretariat and the COVID-19 Presidential Task Force which decides as to which flights are to be operated and the respective modalities. SriLankan Airlines collaborates on the travel logistics, the security forces are responsible for quarantine and the health authorities prepare for medical checks and contingencies."

However, midway through July, despite the government's stated priorities, repatriation of Sri Lankans overseas was halted temporarily. Ministry of Foreign Relations Director General for East Asia Kandeepan Balasubramaniam said to the media, "We have temporarily suspended repatriation process until the local COVID-19 infected numbers reduce to a manageable level ... We do not want to strain the capacities of the quarantine centres. The repatriation process will resume once the local COIVID-19 infected numbers are contained." This may have been justified by the fact that a large number of the Covid-positive cases being detected at the time were linked to returnees. Nevertheless, it would have been preferable to expand quarantine capacity and strengthen the system of quarantining returnees than to abandon fellow Sri Lankans to the pandemic abroad. In any case, though a suspension of repatriation was announced, repatriation flights continued to be reported in the media. For example, in early August, a flight repatriated 87 Sri Lankans, consisting in Buddhist monks, students and Sri Lankans. ⁵² Later in August, a repatriation

flight from Perth, Australia was reported,⁵³ and September saw the repatriation of newly unemployed Sri Lankans from Seychelles.⁵⁴ Indeed, by October when repatriation was slowed again due to the emergence of new clusters, Army Chief Shavendra Silva told media that about 300 to 400 Sri Lankan expatriates had been arriving daily up to then.⁵⁵ However, by October, many Sri Lankans were awaiting their return to Sri Lanka, while fatality among Sri Lankan migrant workers was rising as high as six times more than Sri Lankans at home.⁵⁶

Restarting tourism

As lockdown eased in June, and with general elections in the offing, Sri Lanka was lurching towards a false sense of normalcy. Over the previous months of lockdown, life had completely changed for many, with jobs and businesses lost, and the ensuing struggles having been intensified by the lockdown itself, since food and essential service distribution systems had mostly excluded the economically stricken. The restriction of international arrivals impacted people and companies engaged in the tourism industry, especially small- and medium-sized enterprises as well as self-employed tour guides, drivers, kiosk owners etc. Naturally, the government was under pressure to reopen borders and restart the tourism industry.

These pressures contended with the need to eliminate the virus within Sri Lankan borders—so as to protect all Sri Lankans. Initially, the government was steadfast in remaining closed. Though in June there had been promises of reopening borders for tourism by August 1, Tourism Minister Prasanna Ranatunga serially announced postponements of this date,⁵⁷ and borders remained closed for the rest of the year.

However, talk of reopening remained alive. The Sri Lanka Tourism Development Authority unveiled an app that would allow foreign tourists to travel while "tracking ... their movements" within the country. The Authority also introduced and then fast tracked a 'Safe and Secure' compliance certification system to all entities registered with the Authority while waiting to resume operations post-COVID-19. However, as of early September, only 160 applications had been received and interest in securing certification seems to have dwindled. Although a welfare package was also introduced for those economically impacted in the sector, a large number of people in need of welfare were formally ineligible. According to Sri Lanka Tourism chair Kimarli Fernando, this is because about 25,000 entities operating the tourism sector were informal and unregistered. The same reason accounts for the low number of applications for safety certification. A two-year Sri Lanka Tourism Strategic Action plan was also introduced in August, on the heels of a 90-page guideline on accommodating post-Covid tourists, applicable to all types of accommodation, from "5-star hotels to homestays". However, all these measures were in anticipation of reopening borders on an unknown, future date; the decision of reopening borders, according to Fernando, was one for the health officials to make.

In September, too, the reopening of airports remained postponed indefinitely, but with high anticipation. According to Minister Ranatunga, "the recommendations regarding the opening of the airports [had] been submitted to the Cabinet", and the Ministry would reopen as soon as health officials gave the green light. State Minister of Tourism D.V. Chanaka had said earlier that tourism was ready to restart within 12 hours of approval from health officials. Meanwhile, for the first time, in October, the government was mooting the possibility of implementing tourism bubbles with select countries. However, the idea was not approved, with a view to prioritising the elimination of Covid. As Minister Ranatunga said, "We have discussed this opportunity of bringing down group travellers from Europe, Far East Asia and Russia at the COVID-19 National Task Force meetings as well, but approval was not granted by them to allow any foreigners in the country due to the COVID-19 pandemic." In any case, all indications were that, even if borders were

reopened, the priority would be to facilitate repatriation over restarting tourism.⁶⁸

However, in mid-October, things took a turn for the worse. Brandix, one of Sri Lanka's largest apparel companies, came under the spotlight after a cluster of infections occurred among its workers, allegedly due to a failure to implement adequate protections against Covid-19 in one of its factories. With more than 1,500 workers testing positive for COVID, country went into high alert and partial lockdown once again. ⁶⁹ The precipitation of cases further put off the possibility of fully reopening Sri Lanka's borders.

In early November, the Ministry of Tourism installed a Tourism Advisory Committee composed of leading hoteliers and chaired by Jetwing Symphony chair Hiran Cooray. The committee was tasked with drawing up "a framework and ... proposal to open the country for travel again initially through a travel bubble or travel corridor as well as in the short term finding alternate means of livelihood for those dependent on the tourism sector." At the meeting, Cooray "highlighted the financial difficulties the stakeholders were experiencing at present with interest accumulating as most were unable to pay with no income support, noting that there was a need for some form of Government assistance."

In December, "all-inclusive guidelines" on restarting international tourism was finalised by the Sri Lanka Tourism Development Authority with the inputs of the Ministry of Health Covid-19 Clinical Management Expert Committee and submitted for approval. Authority chair Kimarli Fernando had recommended opening airports for international guests from January 1, 2021, onwards. The guidelines many restrictions on tourists' movements after arrival, and accommodation was only to be in hotels with safety certifications.⁷² Meanwhile, Minister of Tourism Prasanna Ranatunga told a Parliamentary Consultative Committee that Sri Lanka should consider reopening for tourists who have been vaccinated.⁷³ However, even at this stage, reopening was still being considered, and no firm decision had been announced. Yet, by Christmas, it was suddenly announced that the first charter plane carrying Ukrainian tourists was due to arrive on December 28 under special safety guidelines, pre-departure PCR testing.⁷⁴ The initial plan envisaged 12 flights between December 28 and January 24, each bringing 215 Ukrainian tourists. Reportedly, the project being piloted was championed by former Sri Lankan Ambassador to Russia Udayanga Weeratunga and fully backed by President Gotabaya Rajapaksa, Prime Minister Mahinda Rajapaksa, Presidential Task Force for Economic Revival and Poverty Eradication Chairman Basil Rajapaksa and Tourism Minister Prasanna Ranatunga. 75 Despite assurances of multiple precautions, within days of their arrival, some Ukrainians tested positive for Covid-19.76 Soon, Sri Lanka Tourism chair Kimarli Fernando wrote to the President informing him that the Ukrainian cohort was travelling beyond her agency's supervision. Thus, despite the careful planning and biding time for months, when borders finally reopened to tourism, it was amidst fear and chaos. To many, the new year felt, as it arrived, pregnant with ominous possibility.

Conclusion

From a bird's eye point of view, Sri Lanka's handling of border policy through the Covid-19 pandemic, especially in its early stages, seems to have been effective. However, looking closer at how the government's policies changed over the course of the first year of the pandemic shows many missed opportunities and broken promises. Though airports were announced to be closed, arrivals continued nearly throughout the year. Though quarantine was announced to be mandatory, this was observed in the breach by many, or relaxed from time to time by the government itself, with the result of imported Covid cases becoming a leading cause for increased transmissions overall. Though repatriation was promised, inequalities characterised the process to the extent that a large number of Sri Lankans abroad, on whose remittances Sri Lanka had long relied on for revenues

in foreign exchange, remained stranded even by the end of the year. Though borders were promised to be opened only after careful consideration and strict implementation of health guidelines, the first travellers proved not only to be carriers of the disease, but also beyond the control of the authorities.

Since the pandemic arrived in Sri Lanka, tens of thousands of lives have been lost to the virus, and many more lives have been upended by the economic ramifications. Taking stock of the causes that led to the precipitation of the virus, especially as results of failures to abide by the law and relevant policies and guidelines, would be essential to fostering more accountable governance in Sri Lanka in the future, as well as an essential step of ensuring that those affected by the pandemic (including its mismanagement) are remedied for their losses. The mismanagement of the pandemic is particularly dispiriting, knowing that Sri Lanka has the capacity to control disease spread very well. This is evident from past campaigns such as the control of Lymphatic Filariasis and Malaria, managed by a competent public health infrastructure. It is inevitable that Sri Lanka is held to these standards when analyzing the government's response to the COVID-19 pandemic. This analysis of the country's border policies and pandemic management is based on Sri Lanka's capacity to control disease spread as seen in the past.

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