Ideas for policy: Covid-19 and India

Policy approaches for protection of workers, welfare and data rights

Aapti Institute

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Disclaimer: These scenarios represent our immediate hypotheses and analyses. We aim to evolve these as the situation unfolds, and also gather comments from the spaces and communities we occupy.

Introduction: Problematising technology in the pandemic

It is trite to say this in late April 2020 - almost four months into the Covid19 pandemic - but the crisis has altered our world fundamentally. We will, as we recover from the health crisis and the loss of loved ones, inherit a crumbling economy and a global slowdown. There is no dearth of scenarios exploring what will likely happen, but we know a few things to be likely, if not certain – likely. In the short-term, government spending will remain focused on health as efforts are made to develop vaccines and test treatment lines, resources required to jumpstart economic activities and consumption may be limited, and social distancing and shutdowns will slow down economic growth.

As Aapti, a public research institute, we are deeply concerned about the social implications of the pandemic, as also its intimate link with individual rights and liberties, and the current state of digital technologies today. We are living in a time of deep digitisation of work, the state, and our personal lives, built on the extraction and commodification of our personal data. The architectures for this digital transition have been laid down over time, but the current crisis will change justice, innovation and freedom and their interface with digital technologies forever. It is critical to examine this moment and the friction between public welfare, and individual rights and liberties, alongside inquiring into the responsibility of the state and the potential of technology. The decisions we make now will reframe the world for a long time, and it is critical to ask the right questions and build thoughtful and mindful responses to it.

To unpack the consequences of the pandemic, and also explore the policy toolkit available to us, at Aapti we ask ourselves three big questions:

1. In a world that is seeing increasing informalisation of work with more participation on the platform economy, in what way must we shape labour and industrial relations to empower, support and enable workers in the platform economy to seek better lives?

2. How do we ensure citizen rights and constitutionalism in an era of the digital state?

3. Is there a new social contract for data?

Using these questions as an anchor, we explore implications and potential policy and civil engagement opportunities of the pandemic. For the purposes of this document, we focus on our areas of work - the futures of workers, governance and citizenship, and the data economy. We place the lens of technology, and look at the specific implications of the pandemic for spaces already mediated by technology (platform and tech work) or those that are likely to transition toward increasing digitisation or are on pathways to it (state-citizen relationships). We also examine the changing data economy - already a reality even before the pandemic - but one whose principles, boundaries and moral laws are being renegotiated as we speak.

Approach: How are we doing this?

We use Ed Yong's fascinating essay "How will the pandemic end?" to frame three potential outcomes of the unfolding of Covid19. He posits three trajectories 1) ***unlikely*** - in which all countries respond in an adequate and synchronised manner and fight off the disease, 2)

dangerous in which we allow people to get the virus, and over time build immunity, but this would also result in loss of life for vulnerable and immuno-suppressed population ('herd immunity'), and 3) ***long***, in which we continue to socially isolate periodically, and use the time to flatten the curve and develop a vaccine. These three possibilities offer us related but largely mutually exclusive outcomes upon which to build our scenarios, focusing on implications and policy outcomes.

At the time of writing there are over 2 million cases around the world, and the number continues to rise, though some countries, including China, are closer to flattening the curve. It is clear that the *unlikely* scenario has proven to be just that - countries have responded to the calls for social isolation much slower than what is required to arrest the spread of the disease, immunity from the coronavirus is still not well understood, and vaccines are still a few months away. Therefore, we situate our analysis somewhere between the above mentioned *dangerous* and *long* possibilities. This is not to preclude the possibility of global cooperation around sharing medical equipment, data and research about potential treatment lines, and vaccination.

A factor to note is that our analysis is focused on India but from this we extrapolate global trends. We recognise that India, given its size and complexity is an exception; however, the country's challenges and response to the covid-19 crisis are comparable to the experiences of large liberal democracies. India is also fertile for analysis given recent investment in digital technologies - it offers the space to understand implications of virtualization of life more broadly. India also has imposed a three week (now extended in part to 5 weeks) national lockdown to contain the spread. Analytically, in the Indian case, it is hard to parse the implications between India's complexity and the pandemic itself, and we proceed aware of this.

We explore policy and civic engagement toolkits that need to be deployed immediately as well as in the medium to long-term. Policy tools for the medium- to long term address the residual concerns and lagged impacts of COVID-19, as well as look into ways to build resilience among the communities of concern. The immediate toolkit provides a set of actions that need to be deployed in the first instance, and they apply to government (central and federal) policies, as well as to civil society and citizen groups. The latter may explore the possibility of differentiated strategies depending on scenarios.

Future of Workers: Holding platforms accountable

The platform economy has been fundamentally impacted by the covid-19. Tech-workers are impacted by the drop in demand for e-commerce, food delivery workers are on the frontlines of the health crisis, with high risks of exposure, and there is a drop in demand for services like ride shares and personal services at home. At the same time, delivery workers, particularly those engaged in enabling essential services are being recast as 'public infrastructures'. While platform tech work arguably allows flexibility and the opportunity to benefit from arbitrages in demand, our own research shows that the aspirational 'entrepreneur' tag applied to platform workers obscures significant hardships – such as that workers are surveilled in their work through the very technology that enables them to find work, and receive little protection against income and market volatility. This experience is also significantly gendered - while women benefit from flexibility due to care giving expectations at home, they also are at raised risk for sexual harassment and are burdened with expectations around emotional labour.

At a global level, there is likely to be, and already being recorded, a historic decline in employment, both formal and informal. The ILO estimates that a total of 195M lost in the second quarter of 2020. It also estimates that over 400M people in India will fall deeper into poverty. These numbers are likely underestimated, especially for a country like India where 90% of the workers are in the informal economy. Even start-ups are beginning layoffs. Equally, the nature of work is changing - remote work is becoming the norm, more types of work will be automated, and delivered digitally, innovations for last mile delivery infrastructure (such as drones) will become more ubiquitous.

In the covid-19 scenario, these trends intersect with existing conditions, to exacerbate harms and concerns. In the subsequent paragraphs, we place the locus of inquiry in thinking about the implications of each of Yong's scenarios for platform tech work. We attempt to understand sector-level outcomes in terms of Yong's work, though the policy and civic responses relate to protecting the rights and livelihood of the most vulnerable workers.

The labour market for platform tech work and migration are closely inter-related as many platform workers in India are migrants, pulled into work in urban areas. As we are already seeing, reporting on India's Covid-19 situation and the lockdown suggest the large numbers of migrants experiencing distress. While the overlaps between migrants in distress and platform tech workers are less understood, the demographic force of migration and platform work are deeply inter-related, raising with it questions and vulnerabilities around welfare inter-operability.

In the long term, we believe that there needs to be a reimagination of platforms' relationships with workers. This includes thinking about enabling workers to better negotiate more humane terms with platforms, regulations that treat platform workers as employees and critical to their businesses, and forms of collective bargaining and encode employer-employee relationships more formally to enhance negotiating abilities of tech workers. This push towards a recognition of the fundamental power differentials between those who provide work and those who enable it is a necessary trajectory in this sector in any case, but must be prioritised. Indeed, philanthropic capital must buttress civil society in thinking about this critically and finding ways to push lawmakers and hold platforms accountable.

Scenario	Implications for platform tech economy	Policy and civic response
Dangerous	*Decline in aggregate demand and supply for tech work/micro- tasks leading to:* 1. Return migration of tech workers - lowered incentives to come to place of work 2. Inability for workers to pay EMIs + asset depreciation[1] *Business/work practices shift towards contactless* 1. Digitisation of payment	*Immediate* ● Mandate salary protection, furlough policies, basic income/stipend (platforms) ● Ensure interoperability of welfare to allow workers to redeem benefits in places of work or origin ● Mandate health insurance + health and safety norms (masks, sanitizers, training) ● Support alternative deployment of skills and assets using matching platforms – e.g. mask/PPE, transportation of goods ● Civic engagement on dissemination of information relying on offline and online networks of contact; matching resources and needs *Medium- to long- term* ● Imagine platform workers as public infrastructure; civic engagement critical to re-frame terms of debate ● Deploy fiscal policies geared towards consumption and demand generation ● Move towards greater universality of welfare benefits to prevent exclusion ● Legislate for regulating scope of tech work articulating rights
Long	*Volatility for tech work timed to each major social distancing event* 1. Migrants return slowly and in waves 2. Unable to create sustainable relationships In cities due to unpredictability - leading to greater marginalisation *Increasing platformization and shift to*	*Immediate* ● Develop new models for financing assets, which account for variations in income, with transition plans to shift ● Build welfare programmes approach that account for volatility in income -

[1] Some estimates suggest that ~30% of Ola drivers will default on their car loans

	platform economy for other types of work (e.g. domestic work, low-end office workers) 1. Emphasis on asset-light tech work (e.g. domestic work) *Business/work practices shift towards contactless* 1. Reliance on contactless payment - no cash 2. Increased automation (e.g. drone delivery)	including, but not limited to welfare interoperability ● Ensure investment in health insurance + health and safety norms (masks, sanitizers, training) ● Civic engagement to focus on dissemination of information, resource matching *Medium- to long- term* ● Legislate scope of platform work articulating rights – formalise employer-employee relationships, rights for bargaining and claim-making ● Imagine tech workers as public infrastructure; civic engagement critical to reframe terms of debate ● Build platform for tech workers to help manoeuvre movement to and from cities, access resources

Governance and the people: Navigating a digital state

Technology offers the possibility of addressing many aspects and concerns of the spread and monitoring of the pandemic. The state, which is at the forefront of marshalling resources to address the pandemic, has leaned on technology solutions to trace and track potential positive cases. The reliance on technology for Covid has, thus far, taken the form of contact-tracing applications which allows citizens as well as the state to respond with alacrity over potential contacts.

The trajectory of technology is unsurprising in the case of India, which has already been increasingly deploying technology for aspects of state function - such as through digitised welfare, platforms that enable access to municipal services, etc. Citizen to state reach is also increasingly mediated by technology - both the state itself (myGov) or by market innovations (Change, Jhatkaa, etc.). However, this must not only be framed as a digitising state - that term obscures the underlying retreat of the state.

Our questions therefore look at the implications of Covid in the time of a retreating state that is also digitising. Technology, while valuable in supporting state function, raises a set of attendant concerns. These questions relate both to fundamental questions of justice and the role of the state in serving its people, as also instrumental questions of marginalities in access, and the affordances of technology at the current moment. Technology in the state-people relationship may mean that the state sees only the people and problems that technology allows it to see, excluding those people that are on the wrong side of the digital divide. In particular, it must grapple with the intersection of marginalities in society - those at the wrong side of the digital divide (women, backward communities, sexual minorities) are also most likely to be those most disempowered in accessing the state.

In the long term, we believe that there has to be more debate and thoughtfulness about deploying technology in the people-state relationship, both in terms of claim-making and civic activism, and in the state reaching its people. This includes the recognition of the broader constitutional frame within which all state-people relationships operate, an encouragement of the fundamental right of people to engage amongst each other and with the state, and seek accountability of it.

Scenario	Implications for Citizen state relations	Policy and civic response
Dangerous	*Governance by app* 1. Governments are likely to decrease presence on the ground, and further digitise engagement with the public - governance to be intermediated almost entirely through technology	*Immediate* ● Strengthen mechanisms for delivery of welfare in the last mile (offline architectures – such as support for local NGOs) ● Ensure universality of welfare ● Support resource-matching

	Exclusions in access to the state at the margins of technology 1. Citizens without access to tech may be excluded in access (eg in digitised welfare programmes) *Weakening of tendering process with checks, balances and oversight in urge to develop technology (e.g. MyGate)* 1. Checks and balances ensured through due processes overlooked for emergency response 2. Online responses given primary due to social distancing and perceived efficiencies	with demand through civic engagement *Medium- to long- term* ● Issue guidelines for adoption of technology for welfare by the government ● Build robust grievance redressal mechanisms around deployed government technology
Long	*Rise of claim-making through digital processes* 1. Mechanisms of appeal and redressal entirely through digital platforms, therefore significant exclusion imminent *Citizens reach state (protest, feedback, dissent) through tech* 1. Citizen feedback pushed online as state becomes more digital 2. Only online protests/petitions possible as congregations/meetings are not permitted	*Immediate* ● Build robust mechanisms for delivery of welfare in the last mile, include offline architectures of support in case of exclusion/lack of access ● Reduce emphasis on targeting and ensure universality of welfare ● Continue to retain and support human workers in government technology through training, healthcare, capacity *Medium- to long- term* ● Issue guidelines for adoption of technology by the government, including principles on exclusion ● Enable non-Covid related claim-making and state-engagement through civic technologies ● Build robust grievance redressal mechanisms around deployed government technology

The data economy: Negotiating data rights

Governments are rushing to institutionalise new methods of surveillance to track covid-19 and its spread, across the world. Nothing is off the table - contact tracing apps, facial recognition, thermal tracking etc. are being considered and have paved the way for a new trend “covtech”. These developments have been made easier due to the unbridled growth of technology over the past ten years, especially the increased commodification of personal data. While this response by governments seems valid and important, it also reveals more frightening possibilities for surveillance over time, along with its expansion and normalisation. That said, this immediate surveillance is only a manifestation of an overall encroachment of privacy rights and individual liberties, which are diminished and overrun in the interest of the community or collective.

This overreach of the state is difficult to problematize because of the general acceptability it has among the broader public, which may be willing to compromise personal data and related rights for community well-being. Big tech is also facilitating the needs of the state by providing through contact tracing applications. A drop in consumer demand for products means that the state is the biggest consumer of technological services. The seemingly pragmatic agreements and infrastructures built for surveillance right now are likely to outlast the pandemic and therefore it is important to create checks and balances to the state’s power over personal data right now.

In this scenario, we explore how data rights can evolve and whether there is a new social contract that emerges as a result of this moment - in which individuals are not just passive subjects whose data is being harvested by the state and technology companies, but active contributors who control their data and share it to creating societal value.

Scenario	Implications for the data economy	Policy and civic response

Dangerous	*Increased state surveillance* 1. States create infrastructure to track individuals in the name of better enforcement of health standards and protocols such as quarantining of infected/exposed people *Big tech and government work together* 1. Given the broader public purpose, big tech actively partners with government *Infringements to data rights done without clear guidelines* 1. Given the urgency of response required to deal with the pandemic, technology development is seen as emergency, and checks and balances are interpreted as inefficient	*Immediate* ● Draft data protection guidelines for all "covtech" that ensure necessity and proportionality *Medium- to long- term* ● Notify expiration of data collected for pandemic-related purposes ● Evolve standards of data minimization, decentralised storing and access controls so that all emergency responses can be run through standards
Long	*Governments become the biggest consumers of technology goods and services* 1. Given that drop in consumer demand, governments become the biggest clients for tech companies and are driven by the agendas of the government *Normalisation and mandatoriness of government surveillance* 1. Given the public health argument for government surveillance - it is seen as necessary for government response, and therefore normalised - it is also made mandatory and enforceable *Empowering of local level authorities to carry out surveillance on behalf of central/federal governments* 1. Due to normalisation, and lack of government capacity, smaller more local authorities such as ward/council level officers can be entrusted to conduct surveillance online as well as offline *Empowering of vigilantes and community based surveillance*	*Medium- to long- term* ● Civil society and government to work together to understand and articulate the limitations of data-driven responses to covid-19 - this would allow an imagination of a response in which technology is only part of a broader strategy ● Make public data demands of the government from big-tech ● Set up an independent oversight board to evaluate the data practices and privacy policies of all "covtech" - in the case of India, prioritise the formulation of an independent DPA ● Create guidelines for applications to ensure privacy-first "covtech" ● Institutionalise transparency to ensure individuals understand the purpose for data collection ● Build mechanisms of trust which ensure that individuals participate in data collection

	2. Given the mandatory nature of surveillance, vigilantes as individuals or non-government enforcers are likely to prop up to push government agendas	such as through contact tracing apps, voluntarily ● Penalise vigilantism veiled as community benefit ● Ensure sharing of data for research and broader societal purpose through open standards where possible, and data stewards where not

Conclusion

Our work in examining scenarios hopes to put in place for a framework for thinking of potential toolkits for each outcome. The policy ideas need to drive towards the following goals:

Institutionalising rights-based legislations

There is a need to institutionalise rights-based thinking at this critical juncture. This means robust legislation and policies that offer social protections and comply with constitutional principles and judicial pronouncements in incursions upon data rights, while simultaneously ensuring that there are adequate public dispute mechanisms that allow the enforcement of these rights. Making rights central to the conversation on health crisis management In particular will ensure that all stakeholders - the government, private sector, communities, individuals - remain accountable to each other.

Building agency-first technology

The pandemic and the lockdown accelerate the underlying trajectories toward greater digitisation of governance. The inevitability of technology and the concerns of the moment, should not, however, blind us to the need to address fundamental concerns around agency, and the loss of agency experienced by Indian citizens in accessing technology due to structural (gender, caste, class) and instrumental (lack of technology, urban informality) reasons . This means considering questions of choice, willingness, ability and access in thinking about technology deployment, alongside compliance with legal and constitutional norms and processes.

Reimagining platform relationships

As individuals, we have two potential relationships with platforms – that through work, and through data. The crisis has exposed individual vulnerabilities in both contexts – tech workers' engagement with platforms is primarily through zero-hour contracts that are one-sided contracts with no negotiation; simultaneously, there is an extractive commodification of personal data in exchange for free and improved services. Both of these relationships need reimagination to place rights at the centre and create a space for equal negotiation. This can be done through better organisations and mobilisation and building solidarities between groups and organisations to Instrumentalise change more effectively.

Creating systems through trust and building social solidarities

Creation of mechanisms and processes that build trust between the public and the government is of utmost important. This trust can be inculcated through greater transparency in communication, in improving access, in ensuring that systems are voluntary, such as, for example the downloading of contact tracing apps like Arogya Setu. Further, social solidarities are a critical tool for working together to address the pandemic. This can be done through communication of common objectives, problematising behaviours and not people, creating effective systems of financial support. These solidarities can reduce the need for harsh policies such as curfews and surveillance, and help fight the pandemic more effectively.

Supporting active participation and citizenship

Even as the state recedes and becomes more digital - it is even more essential to become more actively involved in political action. The shift of the state to digital spaces means that the space for physical resistance and claim-making is reduced. Policies which are built on the shift This involves getting engaged in local communities, educating ones selves and others about our rights, combatting fake news etc. It is through this participation that we can collectively hold the government and technology companies accountable.

Resources:

We are not the only ones doing this. Several experts and organisations have written about possible scenarios resulting from the pandemic. This fantastic database documents the resources/writing that has appeared in the context of Covid-19 globally.

Please send us your comments, questions, critiques at contact@aapti.In