IPS Institute of Policy Studies

**Report on IPS Closed-Door Discussion on Civility in Cyberspace:
From Laws to Self-regulation?
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In recent months, the Ministry of Information, Communication and the Arts (MICA) has mooted the idea of a voluntary Code of Conduct to establish social norms for online behaviour. The idea of a Code has garnered mixed reactions. Some have expressed scepticism, wondering if the Code of Conduct is a backdoor for political censorship. Others have seconded the effort, agreeing that a Code would indeed engender more civil behaviour on the Internet.

On April 26, the Institute of Policy Studies (IPS) held a Closed-Door Discussion (CDD) with about fifty participants including bloggers, Internet industry players, academics and civil servants on the need for a Code, its feasibility and the possible form it could take. This is a report of the session, accompanied by speeches and presentation slides from the speakers.

I) Opening Remarks by IPS Director Mr Janadas Devan

 Mr Devan said that we would like to think of our age as peculiarly depraved when it comes to invective, but the truth is that public discourse, and political discourse in particular, has always been "coarse, vulgar, garish". He gave examples of insults used by ex-British Prime Minister Winston Churchill and American founding father John Adams against their opponents. Only occasionally is public discourse brilliant or "informed by the better angels of our nature". In journalism, what readers today take for granted – that the news media should be non-partisan, that they should report fairly and accurately and objectively, that there should be a strict separation between the news and opinion –are all of "very recent vintage". They were not accepted as the norm in the 19th century, when newspapers in the United States and Britain were clearly and openly partisan. Today's Fox News or MSNBC, widely known for their partisan coverage, are relatively sober affairs when compared to the Hearst papers of the early 20th century or even Horace Greeley's New York Tribune in the first half of the 19th century. Historically speaking, the garish and vulgar Drudge Report came before the sober and intelligent New York Times, bloggers and columnists came before news reporters, Mr Devan noted.

There is nothing natural or guaranteed about what we now assume to be the best practices in journalism in particular and political discourse and conduct in general. These best practices have been in existence for a remarkably short period of history and they are by no means expressive of settled aspects of human nature, or even societies, Mr Devan added.

II) Presentations

There were five presentations at the CDD and they are summarised below.

1) "Some Fundamental Questions" by IPS Deputy Director Mr Arun Mahizhnan

Mr Arun raised some fundamental questions to help frame the debate.

a) The government has started off with the question "Why we *should* have a Code of Conduct?" MICA Minister Dr Yaacob Ibrahim has said that a Code is needed to encourage "gracious and good etiquette online". However, we should also ask "*Why* we should have a Code of Conduct?" It is equally important to understand the nature of cyberspace and ask whether transplants from the analogue world would work in this "alien soil".

b) What exactly are the problems the Code is trying to solve or at least minimise? Is a Code the best solution?

c) How effective would such a *voluntary and non-binding* code be in solving the problems that have been targeted by it?

d) A Code of Conduct is a form of self-governance, which requires that "self" to be clearly identifiable and hence accountable. But who makes up the "self" in cyberspace? All netizens? Individual bloggers? Groups of activists? Webmasters? Do we know who they are? The definition of 'self' is the most critical question in a self-governing code.

e) How do we make all netizens accountable? Who is the disciplinarian of netizens? If lack of compliance has no penalty, what is the point of the Code?

f) What happens if the vast majority do not subscribe to the Code? Does it make sense to have a Code regardless of the number of subscribers? Even if it is only a minority, could it be a symbolic and aspirational statement that stands for what we believe in as a society? If so, what is the symbolic value of the Code? It is instructive to look at past lessons from the government's other symbolic decision -- to ban 100 websites. The AIMS committee and many others have advised the government to drop the fig leaf but the government has rejected this idea as it obviously believes the symbolism works.

g) IPS research has found that most leading blogs and websites already have self-governing guidelines because they know who exactly their self is. So why the need for a common code? In a world that is founded precisely on the principles of freedom, independence and individuality, does it make better sense to let each develop their own code or to oblige them to subscribe to a common code in the fashion of organised communities or a nanny state?

h) A voluntary Code would work well only with the coalition of the willing. But what should we do with the recalcitrant?

i) How do we evaluate the success of the Code? Can we come up with a set of criteria that would help us gauge its effectiveness so that we could see for ourselves if we took the right path at this juncture?

j) If a Code of Conduct is not the solution, what other approaches can we take to minimise the real and serious problems in cyberspace?

These tough questions have to be answered, so that if and when a Code is put out to the public, it will stand scrutiny.

2) "Internet Code of Conduct", by Chief Executive Officer of the Media Development Authority (MDA), Mr Aubeck Kam

Mr Kam noted that the Internet has enabled spontaneous and intensified interactions among citizens and that today, cyberspace is very much a part of citizens' social space and public space. While many virtual discussions are conducted responsibly and constructively, negative online behaviour such as flaming, stalking, addiction, unauthorised circulation of private information is also seen online. Hence, there is a need for a more conducive online space that encourages and enables enriching experiences for everyone.

In engendering a safer online environment, the government will take a two-pronged approach. The first prong involves legislative measures: these include existing laws like Defamation, Sedition and the Maintenance of Religious Harmony Act. Legislation on data protection and cyber bullying are also in the pipeline. The second prong involves public education— this is where a community-driven Code of Conduct fits in.

The government believes that a Code would encourage the online community to foster a culture of netiquette as part of the self-regulatory approach. Since the Internet is a public space, the community is best placed to determine what online behaviour is acceptable and what is not. Moderators, website owners, and the Internet community as a whole could help set the tone and guidelines for online interaction and behaviour. The same social norms in the physical world should apply for online interaction and behaviour.

In this respect, Dr Yaacob has suggested four social norms to guide online behaviour: having respect for one another, not abusing fellow citizens, not making false statements and being considerate to one another. Though good netiquette is subjective, it is possible to have some fundamental principles, Mr Kam said.

He noted four key aspects of the Code:

a) It will not be mandatory or enforceable.

b) It will be self-regulatory: a self-regulatory Code would mean that the community defines what is acceptable; users feel a sense of ownership for the Code and apply it to everyday online interactions. To succeed, a Code requires individuals in the community to uphold the principles by asserting them, defending them, and being models of those principles.

c) It will not contain criminal or civil sanctions: the code should not be used to invoke state action or investigation. The less we resort to police reports to solve perceived online slights, the stronger we would be as a community for that. If something is important enough to warrant sanctions, it should be laid out in the law. Dealing with hate speech, for example, will be too onerous for a code to handle. Laws are already in place for that, and a code should not attempt to do better.

d) It will focus on netiquette and not content restrictions.

In summary, the Code should encourage good netiquette and astute and discerning use of the Internet. It should discourage irresponsible online conduct; spreading of insensitive comments on race, religion, physical disability and gender; deliberately misusing information to spread untruths; disregard of social norms (eg. cyber bullying and cyber stalking); and uncivil behaviour.

The Code should be concise, clear and resonate with the community. It should reflect acceptable social norms that would be applicable online, and allow for free but responsible speech online. Mr Kam suggested that the Code could be akin to the guidelines TOUCH Community Services teaches in its cyber wellness programme in schools. They consist of seven simple principles including "Be respectful to everyone", "Be responsible for your online actions or face offline consequences" and "do what is right, not just legal". A Code of Conduct could be pitched around this level, avoiding legalism (as found, for example, in many Acceptable Use Policy statements) and focusing on clear and concise principles that the community can agree upon. The Code should be framed for specific users (i.e. moderators, website owners, etc) to instil a sense of ownership and responsibility. It should also discourage illegal or criminal activity.

However, the Code should not discourage the use of the Internet nor be too onerous for users to adhere to.

Most importantly, this voluntary Code is meant to resonate with what the community wants. It is intended to promote netiquette and not circumscribe content.

3) *"Civility In Cyberspace: Going Beyond Laws to Self-regulation?" by Director of the Singapore Internet Research Centre Professor Ang Peng Hwa*

Prof Ang noted that academic literature shows four conditions to be fulfilled in order for industry self-regulation to work: a motivated industry, maturity in the market, a small number of large players, and a government regulatory backstop. The Internet did not satisfy the first three criteria, he said. The industry is not motivated to self-regulate, its business model has not yet stabilised and there are a large number of small players on the Internet. The government has indicated reluctance towards a top-down process, which means that there would not be a regulatory backstop if self-regulation does not work.

As the conditions are not fulfilled and self-regulation cannot work, the only way to bring about civil behaviour online is through a regulatory Code rather than a voluntary one. But reform must start with the outcome in mind. Community values on what is acceptable must be explicated. A Code must also take into account the possibility that everyone makes mistakes when they speak. It should differentiate between intentional speech that is harmful

versus unintentional speech that quotes harmful words by others to show them up. Penalties should be based on harm caused rather than offence to others. Prof Ang also proposed a 40-member panel composed of Singapore citizens that would screen all objectionable content. If content is found to be objectionable, the author must apologise and retract his statements. A recalcitrant person will be referred to the police.

4) *"Civility in Cyberspace: Going Beyond Laws to Self-Regulation?" by Executive Director of the Asia Internet Coalition (AIC), Dr John Ure*

Dr Ure said he "would not go all the way" with Prof Ang's proposal of a legal Code. His organisation, the Asia Internet Coalition is an industry group consisting of Google, Skype, Yahoo, E-bay and other companies that promote free and open access to the Internet in Asia. AIC is also concerned with issues such as data protection and online safety for children. It is proposing five principles that could be used as a basis for the Code:

1) Respect for diversity (respect for free speech but not hate speech);
2) Respect for privacy;
3) Respect for copyright;
4) Refraining from posting content intended to shock or induce violence;
5) Respect for the young (no cyber bullying, content for the young should never be sexually suggestive or violent).

He said that the Code seems to be an attempt at bringing good offline behaviour into the online world. However, the online world has unique characteristics of its own. For one, it allows a reach and immediacy that is unprecedented in the offline world. It also allows self-anonymity, flaming and the identification of individuals in witch hunts. These differences should inform any approach to influencing behaviour on the Internet, but AIC would not support a heavy-handed top-down approach. For one thing it would not work. And there is an anomaly: best behaviour on the Internet would embrace issues like respect for gender and sexual orientation which are not always covered by laws in society. This dimension also needs to be taken into consideration as a way to influence Internet users and to align online and offline behaviour.

5) *"Internet Code of Conduct", Chief Editor of The Online Citizen (TOC) Mr Kumaran Pillai*

Mr Pillai made clear that The Online Citizen is against a Code of Conduct. A "one-size-fits-all" approach is unlikely to be effective and will not be accepted by the online community. Instead, the better approach would be to have each site operator -- be it a big company, a group blog or an individual blogger -- decide its own editorial policy towards discourse and user comments on its site. It would have to consider its desired user experience and its tolerance for risk before deciding what types of content it would like to appear on its site, he added.

He said that TOC already has its own moderation policy. This is a one-page document that specifies the site's right to "edit, disallow, remove or delete comments" that moderators deemed to be vulgar, personal attacks, racially or religiously offensive, defamatory, irrelevant to the discussion, too lengthy or self-promotion of services. TOC also reserves the right to ban any recalcitrant offender who repeatedly indulges in comments of the above nature.

TOC mostly uses a "publish first" moderation policy. Comments are immediately posted except for those automatically filtered into a holding area because they contain certain keywords (eg. politician's names or foul language). TOC editors will then decide if the filtered comments should be posted or deleted. Unless it is a blatant defamatory comment, TOC does not remove it, nor do administrators edit any of these comments. TOC is considering "signposting" deleted comments with the message "this comment was removed due to a third party request". This would enhance community norms on the site. TOC is also considering an "editor's pick" of good comments that would go to the top of the comments so as to reward civil behaviour.

Mr Pillai said that allowing uncivil speech online acts as a form of social "steam valve". Not allowing people to "let off steam" may drive them into closed groups where "worse things could be plotted".

More importantly, the Code of Conduct "cannot be an excuse to criminalise legitimate online behaviour in a democracy that the current ruling party is uncomfortable with". Online users have been "rightly concerned about the government's vagueness to date on what it is trying to achieve, on the basis that it may represent a Trojan horse for legislation against online discussions, including criticisms of politicians". TOC called on the government to "clearly and explicitly state that its focus is on cyber-civility of young persons, and that it will not seek to outlaw or restrict online discourse that has not traditionally been understood as cyber-bullying, and in particular online criticisms of politicians".

6) "Civility in Cyberspace: Going Beyond Laws to Self-Regulation?" by an Editor of Temasek Review Emeritus (TRE), Mr Richard Wan

Mr Wan presented an online survey his website carried out, which showed that its readers are sceptical of the proposal for a Code of Conduct. Most of the 86 readers who answered the survey saw it as an exercise for the government to control free speech, or were sarcastic and cynical about the government's intentions. Some rejected the Code outright, others called for the government to liberalise the mainstream media first, or said that websites would "sort themselves out". Only one reader agreed that a Code of Conduct is a good idea. Though the poll is "nowhere near representative", it gives an idea of what some TRE readers feel about the Code of Conduct, Mr Wan said.

TRE already had its own guidelines to position the site as "a credible platform for moderate Singaporeans to participate in". It moderates comments to ensure that the site does not run afoul of Singapore's laws. TRE's Terms of Service prohibits language that abuses or discriminates on the basis of race, religion, nationality, gender, sexual preference, age, region, disability, and speech that is seditious, defamatory, obscene, abusive, threatening or impersonates someone. (See here for TRE's Terms of Service)

TRE looks at every comment before they publish it, if at all. Comments that contain sensitive keywords will go to a special basket where they receive special attention from the website's editors. TRE said it will try its best to moderate every comment before it publishes but as the number of comments increases, there may be lapses.

Mr Wan said there is already legislation (eg. Cap 224 of the Penal Code) against the incitement of violence, racially and religiously offensive speech, criminal intimidation, insult

and annoyance. But current laws leave websites vulnerable to those who post anonymous and defamatory comments in an attempt to take down these websites by legal suits. Websites like TRE are not in a financial position to mount a legal defence. TRE is more concerned about this threat than that of uncivil speech, as it already has a Terms of Service that covers the latter concern.

III) Floor Discussion

IPS Senior Research Fellow Mr Tan Tarn How moderated the discussion that followed the presentations. As this discussion was conducted under the Chatham House Rules, discussants' comments are summarised here on a non-attributable basis. The following issues were the main focus of the discussion:

1) *The government's 'real' intention*

Several participants were strongly sceptical about the government's intentions for a Code. One said that governments must be nervous given recent events like the Arab Spring where social media had aided the overthrow of a regime. The participant, like many others around the table, wondered if and to what extent a Code is politically motivated.

One participant said that the Code is an attempt at community education and can be seen as an extension of MDA's efforts in cyber wellness. It was significant that in no other country was cyber wellness solely focused on children. If Singapore decides to ignore the option of a Code of Conduct which allows for the possibility of community self-regulation, it does not mean negative online behaviour will cease. Quite the contrary, it is reasonable to imagine that there would be increasing pressure on MDA to invoke legal sanctions to respond to such behaviour. The participant added that there are still people who feel that "more can be done" even though the government has acted against some netizens whom others have complained about for unacceptable online behaviour. This would create a "cycle of co-dependency" that would be inimical to Singapore's maturation as a society. A Code, would however, will allow the community to resolve perceived slights in a way that affected parties can see as fair and transparent.

Currently, the law prohibits certain kinds of speech on issues like race and religion, but it is silent on other issues like ageism and prejudice against the handicapped and foreigners. Dealing with the latter categories would be challenging, and these issues may be best solved by a self-regulatory Code.

Besides such issues, uncivil online behaviour is also deterring some from participating in the online conversation. This is a loss and if the environment is more positive, perhaps it would encourage more people to go online, the participant added.

Another participant agreed that some might be deterred by uncivil behaviour and that the online world lacks spaces hospitable to reasonable, middle-of-the-road voices. In fact, this is one issue that bloggers frequently discuss among themselves. However, the Internet could sort itself out, the participant said.

2) *The feasibility of a common Code*

One participant said that the Internet is too big for a single Code as communities and individuals have different opinions on what it means to be a responsible Internet user. Instead, each group could come up with its own best practices. Internet users can then decide which sites to visit or shun depending on whether or not they agreed with the norms.

Another participant said that an eventual Code need not be included in a site's Terms of Service. The Code could be in a form similar to that of the Asia Internet Coalition's five principles. Each site would have different Terms of Service but the Code would be one based on a set of common principles.

   3) *The possibility of a 'ground-up' approach*

 A participant noted that in 2008 a group of bloggers called the Bloggers 13[1] suggested the setting up of a citizens committee, the Internet Content Consultative Committee (IC3), as a group for community moderation. Bloggers 13, which also called for the government to abolish the Internet Class License Scheme (1996) and all other Internet-related regulations, said that IC3 should consist of one-third independent content providers, one-third persons familiar with rapidly evolving digital technologies, and one-third regular consumers of Internet content. The committee would give recommendations on controversies regarding digital content. (See here for the Bloggers 13 proposal)

The participant, who was part of Bloggers 13, said that now the same bloggers would disapprove of the Code despite their earlier call for the IC3. And this was because both time and context have changed. In these four years, trust has declined between government and bloggers. This is not surprising given that TOC was gazetted under the Class License Scheme and asked to register as a political association. In the last few months, bloggers have also been threatened with defamation suits from government figures and these cases were, more significantly, the first in a long while.

The participant also noted that IC3 was part of a proposal that called for the liberalising of Internet laws. IC3 was thus mooted so that regulation would be replaced with community moderation. However, current talk of a Code is not rooted in a context of liberalising Internet regulation. Therefore, the government could not expect the proposal to gain traction with bloggers, he added.

   4) *The difficulty of distinguishing uncivil speech from politically robust views*

Another participant acknowledged that while the Code was aimed at behaviour and not content, it might be difficult to distinguish between the two. Grey areas exist where the manner of speech might be perceived as rude and direct, but the views they contain are legitimate and robust. Such speech might cause discomfort, but that does not make it irresponsible, the participant said.

Even if a Code manages to get rid of uncivil comments online, it could not stop them from being made in offline spaces, for example, in coffee shops. The only difference is that the

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[1] Bloggers 13 had come together to submit a proposal to the Advisory Council on the Impact for New Media on Society (AIMS), a panel commissioned by the government to study the implications of the fast-developing new media on Singapore society.

online medium transcends the ephemeral nature of coffee shop speech. "Would one rather suppress these comments or know that they exist?" he asked.

5) Different approaches for user-generated content and own editorial content

The same participant also suggested that site owners should only be responsible for content that they generate but not for user-generated content such as comments. Pre-moderation, or approving each comment before publication, is unsustainable because a website may receive too many comments. If someone complains about a comment, the website should be given the chance to remove it without being held responsible for publishing it. The site should only be held responsible if it does not remove these comments despite the complaint, the participant said.

6) Privacy as a real but separate concern

The same participant also touched on online witch hunts, an area where he felt stronger privacy laws are needed to counter real harm. Many lump the question of witch hunts together with content moderation. However the true offensiveness of a witch-hunt is not in the content per se but in the disclosure of personal information online. Since the sting of a witch hunt lies in its invasion of personal privacy, these cases are better dealt with in privacy law and not content codes.

7) The problem of anonymity

Another participant said there is a climate of fear in Singapore which eggs people towards online anonymity. This makes irresponsible behaviour more likely as it would be difficult to hold these people to account. As for the lack of self-regulation online, the participant said that this was not the case at all. Offensive comments are shot down by other users rather quickly, the participant noted.

Yet another participant noted that anonymity did not necessarily lead to more unreasonable behaviour online. For instance, on foreign news websites, anonymous comments were often intelligent and civil. Regrettably, the level of debate on Singapore's websites has not reached the civility or the rationality of these foreign sites. A successful Code need not require users to identify themselves, the participant added. Foreign news sites prove that it is possible for anonymous users to remain civil if there was enough consensus "to make certain norms stick". If Singaporeans cannot do the same, then we would have to ask ourselves what makes us special as a society, the participant added.

8) The connection between legal proscriptions and the voluntary code

There were some discussions on whether a Code of Conduct could replace existing legislation like the Internet Code of Practice or the Class License Scheme. One participant noted that a voluntary Code of conduct is meant to provide a set of social norms for civil behaviour that the community could agree upon, and different in intent from existing regulations. The participant agreed that laws should be invoked only in cases of demonstrable harm. If there is no demonstrable harm, a discussion within the community could resolve the matter.

9) The 'self' in the Code of Conduct

Participants discussed who the 'self' might be for this self-regulatory Code of Conduct, should it emerge. One view upheld that those sites that feel this Code is sensible and applicable to them would form the 'self'. It is hoped that those who join the cyber-sphere could do so in the confidence that sufficient efforts have been made to uphold principles of civility, and they would be, in turn, influenced to uphold the same norms.

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