

Holding the Powers that Be Accountable to Our Ethics Code to Protect Our Integrity and the Peoples We Serve

By David H. Lempert

Although it never before occurred to me to organize colleagues to protect our professional and ethical standards, I also never believed that I would be so consistently pressured (in some cases threatened) by the U.S. government or their agents to do harm to the very people whose interests I was hired to protect as an applied anthropologist, or to cover up government wrongdoing, and, in some cases, to break the law and risk my professional status.

The Problem

For me, the issue of professional ethics and standards is now significant enough that I am actively seeking to leave a career in international development work rather than to have to take the risks and take actions that negate all of the reasons for which I chose the profession (and which are stated succinctly and beautifully in our code of ethics for applied anthropology; to protect the dignity of communities and diversity of peoples).

In the past several months, as a consultant in international development, I have found myself consistently under pressure by either private contractors and/or U.S. government or bi- or multi-lateral government agencies (often acting in concert) to: censor or distort findings in evaluations, suppress research findings that should be public information, change conclusions, agree to unanimous reports with no minority or dissenting opinions (generally where professional opinions from anthropologists are invited only as token or minority views and then ignored or denigrated), promote certain ideological views that deny the autonomy and aspirations of particular communities, and disrespect the opinions and rights of citizens and groups who are the subjects or potential beneficiaries of the research and recommendations (the stakeholders).

In some cases, although I could go to jail in the United States (or, theoretically, tried before the world court) for acceding to these pressures, what have most obviously been put at odds are, on the

one hand, an ethical and professional duty to protect the rights of others, be they indigenous peoples, foreign citizens, or U.S. taxpayers, and on the other, a reputation for integrity and my ability to earn a living.

I have continually found myself either having to avoid or resign from projects in which an anthropological view would be very valuable, or being told that I will be replaced by colleagues who are less scrupulous. I know that many colleagues are being placed in the same position. Indeed, in the last three years, my employment for reasons of choice (and reputation) have been limited to only six months in the field, on some eight different assignments; many of which violated one or more of the professional obligations to which I feel bound. The number of projects that I would not consider or for which I could not sign contracts, because I believed that the structure and goals of the projects violated my obligations, was several times this.

Weaknesses of Current Protections

Unfortunately, neither the American Anthropological Association nor the Society for Applied Anthropology offers positive protections of ethical practitioners. They offer advice and hint at stigmatizing individual anthropologists who choose to violate the guidelines, but they provide no means of ostracizing those organizations that put pressure on anthropologists to violate the codes.

If we cannot organize to protect each other and to adhere to a code of professionalism, we are, essentially, a club of hobbyists with shared backgrounds, competing against each other and allowing organizations to force us down to the lowest common denominator of ethics in their hiring policies, in the same way that wages and other working conditions continue to be driven down by competition.

Our alternatives in trying to enforce standards are either to take the individual risks of trying to uphold a code that our own association won't more forcefully back (which immediately gives us little credibility) or to seek support else-

where, as follows.

- In the case of legal violations, it is possible to appeal to the inspector generals of government agencies, but they, also, only offer limited help. They can act only when there is a violation of the law (like pressure to censor a government evaluation, which is a felony), but not where the dignity or lives of foreigners or native peoples are at stake. Moreover, the new relationship between government and "private" firms that are now funded to do their work, removes much of this oversight.

In a legal trick—essentially, a new kind of shell game—with government and private actors (to whom a different and much weaker set of rules applies) exerting pressure on consultants but hiding the source of the pressure, it is increasingly difficult to hold either to the law. Further, even when ethical obligations are paralleled in codified law, one has to search to find that law and then to convince an inspector general that it is a priority. Having an available lawyer in the association or an easily accessible database detailing U.S. legal codes that parallel ethical and professional obligations would be helpful, but this would only be a start.

- Going to the media or to an advocacy group, alone, without association backing, is also an alternative but a risky one. The issues might be too complex to present effectively, and being a well-publicized but isolated complainer on ethical grounds might, ironically, even work against an anthropologist who hoped to come back into the academy to teach. It is likely that it would foreclose future opportunities with government or private clients.

- Another alternative, sad but true, is to seek the support of other associations and professional groups that are more active than we are by claiming membership. In a sense, there is almost an inverse relationship between the strength of professional ethical codes (with the Society for Applied Anthropology's being the strongest, in my opinion) and its enforcement (with

anthropology as the weakest).

The American Political Science Association's code is weaker, but disputes are heard and there is a possibility of some sanction against organizations (with an outcome that I am now putting to the test). Legal and medical professional codes are the strongest for protecting the interests of clients and taking the licenses away from their members who violate those oaths, but it is not exactly clear whether violating a trust to foreigners or to taxpayers, when using that expertise to give policy recommendations, would also result in sanctions. In my judgment as a lawyer, it does and should apply to my work as a legal anthropologist or specialist in legal development, just as it should apply to Warren Christopher and his boss.

Suggested Action

For my own protection and conscience, I have already taken to submitting forms of the attached "resource" material—a model form letter for practitioners—every time I am asked to consult on a government project. In a sense, it certainly raises suspicions about me as the

only one making a fuss, and employers do not seem to want to deal with it. Still, given my inability to work any longer under the conditions that I have encountered, I am using it as a teaching tool to raise consciousness among those organizations that solicit me on the basis of my credentials.

My hope is that such a form letter can slowly gain acceptance among the professional associations and that it will inspire others, individually and as a group, to work toward protections for all of us; a rough cut on how we can better protect our standards and safeguard our work through adoption of a pro forma preemployment agreement that reflects our best values.

Moreover, I am simultaneously submitting this article to the ethics committees of the various associations listed below and asking that they support the opening of a database of consulting firms and government agencies, listing whether or not they adhere to these principles and with what exceptions, in the same way that universities have been convinced to upgrade their practices in minority hiring.

It is also my hope that we can move towards a review process with sanctions, similar to that of the American Political Science Association, in which we can openly and regularly publicize the bad deeds of organizations in the hope of exerting social pressure on them to clean up their acts.

Since I am also an attorney in addition to being a social scientist, I have included references to the oaths that I have taken as an attorney and my obligations in that profession in the letter.

I urge anthropologists who would use the letter to include that section, with modifications, as an analogy. The legal profession has high status and the weight and strictness of their licensing of attorneys and disbarment of those who do not protect clients sets an excellent benchmark that can apply to the profession of applied social science in protection of native peoples and foreign citizens.

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ADDRESS

DATE

FIRM NAME

RE: Professional Standards in U.S. Government Contracts

Dear _____:

Because of the unfamiliarity of some international development contractors (and some U.S. government and bilateral missions) of the professional requirements of lawyers, social scientists, and public administration practitioners who now participate more frequently and in more sensitive areas in U.S. government-funded assessments and program implementations, I have taken to submitting this form letter prior to my participation or inclusion in such projects to explain the constraints on my activities in the capacities of a lawyer and social scientist. These requirements are not personal choices but are established by the Codes of Professional Responsibility, interpreted with other professionals in various fields, in the context of U.S. government activities in international development. I believe that they are reflective of the high standards and attention to detail of my professions and that my adherence to them in working for [employer] will be reflected in higher quality and greater respect for your work product among professionals, the public, and host country stakeholders.

While this may be the first time you have seen this, *Practicing Anthropology* has published the social science guidelines below; the American Anthropology Association has published a similar version in its January 1997 newsletter.

The key obligations as I understand them are as follows:

As an Attorney: [by analogy to the legal profession]

1) Presentation of Independent Legal Judgments to Client Beneficiaries—Although development work occurs overseas, the California Bar Association [under which I am licensed/by analogy] has determined that review of laws and codes, judgments, and advice on issues of rights and matters of enforcement and administration of laws meets the definition of the "practice of law." In such activities, lawyers are obligated to present their legal judgments directly to a client (in this case, the stakeholders to benefit from the contract, and the U.S. government) without any dilution of those judgments by nonlawyers. Any "unanimous" reports by a contractor that require lawyers to submit judgments to a team that includes nonlawyers, and in which the lawyers have no guarantee of protected minority opinions, could be potential grounds for sanction (potentially disbarment) for "unauthorized practice of law." (The relevant code sections in California are: 61-25, 1-300, 1-310, 1-320, 3-100 and 3-110.)

2) Freedom from Governmental Pressures and Dedication to the Interests of the Stakeholders—Legal work in development for the interest of "stakeholders" [in host countries] creates an attorney-client relationship similar to that in a legal services corporation in the United States.

An attorney's primary professional responsibility is to defend the interests of those "stakeholders" and to insulate judgments from any political or financial pressures that could be exerted due to a difference of interests between the client beneficiary and the source

of funding and payment for the services (Code Section 1-600).

As a Social Scientist: (I am enclosing a copy of the Statement of Professional and Ethical Responsibilities of the Society of Applied Anthropology, which is considered to be the clearest and most concise on the issue of applied social science, [as well as the statement of the American Society for Public Administration].)

1) Protection of Open Access to Information Collected and Recommendations Offered for the Communities and Stakeholders of the Host Country—Provisions of codes that mandate respect for the dignity, integrity, and worth of the communities of the stakeholders imply fair exchanges with [host country] citizens who share their time and openness of research results. In exchange for good faith assistance and sharing of resources with U.S. government contractors, there is an implied promise that these communities and ordinary citizens providing assistance [(i.e., not merely government officials of those countries)] will be able to see and receive, presumably at either U.S. government or the contractor's expense in making them available, copies of any written reports that are prepared. It is implicit that the process of information collection is a fair, open and bilateral exchange that gives value and dignity to the stakeholders by providing them something which they can see and use, themselves.

2) Guarantees Against Suppression or Distortion of Policy Recommendations—Social science standards oblige practitioners to take all possible precautions against fraud, falsification, distortion, misrepresentation, and censorship of findings, conclusions, and recommendations. This implies that contractors will guarantee that they will present and protect the dissenting opinion of practitioners (particularly when there are any disagreements among consultants or between consultants and either the contractor or the U.S. government) to the clients and stakeholders. This implies further that such work will appear in a final report and that contractors will not condition or postpone payment or employment on the acceptance by the U.S. government of a consultant's recommendations or create any barriers or pressures that would prevent free speech dissemination of information collected, including the reporting of government wrongdoing.

3) Protection of the Diversity of Communities and Their Rights to Self Determination and Difference - I view this obligation as social science's statement of the two responsibilities of lawyers; that social science practitioners place the interests of the stakeholders (as individuals and diverse communities) first and prior to those of the source of the funding (the agency or the contractor), and that they guarantee that those voices will reach the U.S. government in any professional report through the same kinds of protections that lawyers require in presenting their professional judgment. This obligation goes further in the social sciences in that it requires professionals not to provide simple "formulaic" judgments that reflect an existing approach that may be a prevailing U.S. practice at this time, but that it reflects a sensitivity to the pluralistic needs of the individuals and communities [(not merely the governments or leading sectors) of the host country].

Assuming you have no objection to these constraints that my professions require of me and my colleagues or that you have already been following them in your practices, I eagerly and in good conscience agree to [your use of my resume/my participation] in your [proposal/project]. I would be happy to discuss these and other professional requirements in the context of the particular assignment.

Sincerely,

Copies of The Principles in This Letter are Being Placed on File for General Reference and Use With:
Society for International Development
American Bar Association/ International Section
California Bar Association/ Unauthorized Practice of Law
Society for Applied Anthropology
American Sociological Association
American Political Science Association
American Anthropological Association
American Society for Public Administration

Hosni's Release (from page 19)

continued imprisonment.

And so it proved to be. On December 17, 1996, Hosni was the first of three prisoners to receive a presidential pardon and be released from prison. The other two, opposition parliamentarians Mohammed Mouadda and Khemais Chammari, were also freed by the end of the year, paving the way, the Tunisian government now hopes, for a forthcoming Ben Ali state visit to France untroubled by embarrassing human rights questions.

Hosni's release is cause for celebration and a demonstration that speaking out against a violation of human rights anywhere in the world can lead to its alleviation. Yet problems remain. Nejjib Hosni has paid a heavy price for his defense of human rights and the rule of law and has been granted only a conditional pardon. It is not yet clear that he will be able to return to his work as a lawyer. Much remains to be done if his sacrifice is to bear fruit in the development of respect

for human rights in Tunisia. The Lawyers Committee is continuing to call on the Tunisian government to give Hosni his unconditional liberty, to restore to him his right to practice his profession, and to respect the rule of law.

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