

Building the Capacity: Professionalism and Ethics¹

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*“Confidence . . . thrives on honesty, on honour, on the sacredness of obligations, on faithful protection and on unselfish performance”
(Franklin D. Roosevelt)*

1. INTRODUCTION

The International Federation of Surveyors’ definition for the “Functions of the Surveyor” (as adopted on 23 May 2004 at the Federation’s General Assembly) begins with “A surveyor is a professional person with the academic qualifications and technical expertise . . .”. Then again, it is no coincidence that in 1998, FIG in its Publication Number 17 “Statement of Ethical Principles and Model Code of Professional Conduct” stated that –

“A professional is distinguished by certain characteristics including:

- *mastery of a particular intellectual skill, acquired by education and training;*
- *acceptance of duties to society in addition to duties to clients and employers;*
- *an outlook that is essentially objective; and*
- *the rendering of personal service to a high standard of conduct and performance.”*

This fits into an age-old understanding that professionals are those who are equipped with both knowledge (qualifications) and training (expertise) thus able to discharge their professional duties, obligations and/or responsibilities competently. Since those times and till this day, professionals continue to be expected to assume additional responsibilities to those held by the average population and consequentially, are expected to conduct themselves appropriately. This, as it is argued, is because professionals are equipped with both additional knowledge and training as compared to the average population, having the competence and capability to make informed decisions and judgment. This stature, normally brings with it both authority and standing in society, which is enjoyed, together with the accompanying

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recognition and rewards! Professionals enjoy the confidence and trust of the average population.

This confidence and trust that is enjoyed in part can be attributed to the fact that just about every Professional subject themselves to some form of “oath” or “code of professional conduct” that reflects the profession’s beliefs and values on its responsibilities to the society, the economy and of late, the environment. In many jurisdictions, this very “code of professional conduct” forms part of the regulatory framework governing the profession.

The surveying profession is no exception. It was recognised that “whilst it is the responsibility of national professional bodies to set local standards for professional conduct, FIG has sought to help its members by preparing the following statement of ethical principles and model code of professional conduct which identify the key issues that need to be included in any national code.” (FIG’s Publication Number 17)

The current FIG Council (2007 – 2010) has made “Building the Capacity” its key priority for its term of office and promoting professionalism and good practise has been at the fore of each preceding councils and bureau and certainly for this present Council. There is a sense that it is again time to build upon the efforts of previous councils and bureau and the matter of professionalism and ethics within our surveying profession are, once again, debated, deliberated and considered. There are indeed sufficient reasons that now is the time for such an endeavour.

2. PEOPLE IS OUR FOCUS

In many of FIG’s recent symposiums, conferences and working weeks, we encounter key words such as “governance” and “capacity” and the increasing realisation that key to it all, is “PEOPLE”, not “Programs”, not “Processes” but PEOPLE who can and must make the difference. The 7th FIG Regional Conference has such a focus and “Serving People” is encapsulated within its theme. The profession must realise that it is not systems that we serve but rather people that must be served and this whole issue of “Do the right thing” as Keith C Bell remarked at the presentation of the opening plenary session of the Ha Noi Regional Conference.

3. THE UNLUCKY ONES

People living in the path of Typhoon Ketsana could not avoid its devastating powers. Formed on 23rd September and dissipated on September 30th 2009, Typhoon Ketsana recorded winds upwards of 165 km/h, in its seven days, killed about 500 people directly and injured, estimated, another 600 - 700, displacing thousands, with estimated damages of about US\$700 million. Its destructive path takes it across Philippines, China, Vietnam, Laos, Cambodia and Thailand.

In the aftermath of the Padang Earthquake on 30th September 2009 where upward of an estimated 1,200 lives perished, causing widespread damages and untold misery, Time Magazine (12th October 2009) reported this natural disaster and it was written “a natural disaster is almost always lethal and cruel. Yet it’s very randomness means, at least, that you

can have as good a chance of escaping it as not - so long as you're lucky". Those that perished in the recent Typhoon Ketsana and the Padang Earthquake were the "unlucky", according to the author of this particular piece of reporting in the Time Magazine!

Under a headline "World's Biggest Banking Disasters", the Evening Standard of 24th January 2008 reported that France's second biggest bank, Societe Generale, revealed what it described as an "exceptional" fraud by a junior trader totaling €4.9 billion. □It added that during 2007 and the early days of 2008, a futures trader misled investors through a "scheme of elaborate fictitious transactions". Barings Bank, one of Britain's oldest, collapsed in 1995 after Nick Leeson, the original rogue trader, lost £860 million while betting on the future of the Tokyo stock market. (Evening Standard, 24th January 2008)

However, we all know that these phenomenal losses and in the case of Barings Bank, its ultimate demise, are "man-made disasters" and losses through fraud and rogue behavior were staggering, overshadowing losses of many natural disasters!

The meltdown of September 2008 - as it is known in these times, the global financial and economic crisis arising from the collapse of the US sub-prime housing mortgage industry caused untold miseries not only in the United States of America. Today, the United States of America is experiencing unemployment rate topping 10%. In simple understanding, one in ten working adult is out of work. Staggering statistics indeed! For some people, it was reported that a lifetime of savings has evaporated!

Lehman Brothers is now history. On September 15th 2008, the firm founded in 1850 filed for bankruptcy and at that time, the firm had some 26,000+ employees. Lehman Brothers was into investment services then, services rendered by professionals.

Justifiably, many including the man and women in the streets, the very people that depend on and trusted these professionals on Wall Street, asked, "What happened?" "What on earth happened to a firm of professionals?" "It's the failure of financial professionals and their regulators!" "Regulators! - aren't regulators professionals too?" "Where were the forces of regulations?" "Why did regulation fail on such a huge scale?" Is the regulation flawed? Was there not "code of professional and ethical conduct" these financial professionals subscribed to? And if there is one, is this code flawed?

Just recently, the G20 Leaders who gathered in Pittsburg, United States, agreed to "tough regulation" for the financial industry in the midst of recovery!

This current global economic recession, and many has remarked as the worse in their lifetime, has brought into sharp focus the very behavior and conduct of professionals, especially professionals within the banking and financial services industry. Professionals who have the additional knowledge (qualification) and training (expertise) as compared with the average population, who can be counted upon to make informed decisions and judgment, who enjoyed the confidence and trusted by the average population.

As for the current global economic recession, many are of the opinion that we have experienced the worse and are on the road to recovery. However, the general belief is that it

will be a long hard climb! In this tough economic climate, many a practicing professional claimed that survival in the marketplace is crucial but does the struggle to survive in the marketplace provides a reason to disengage standards, professionalism and ethical conduct! Many a practicing professionals felt that it is a tightrope one has to walk, but is this so?

4. SURVEYORS: LAND, PROPERTY AND CONSTRUCTION PROFESSIONALS

Then again, was it a coincidence that the New Zealand Real Estate Agents Act 2008 will be implemented in November 2009? A related headline in the New Zealand Weekend Herald read, “Cowboys caught in the act - The stakes have been raised for agents who flout the law”. We then read “Professional real estate agents are welcoming stricter scrutiny”. The author of this piece began with “Stories of rogue real estate agents bulge out of newspaper library files. Some home buyers and sellers have been taken to the cleaners over the years by the person they trusted to handle the sale or purchase of their home or investment”.

We can readily conclude that there exists a “breakdown of trust”. It wasn’t that there were no “code of professional conduct”, the tougher Real Estate Agents Act 2008, which will come into force on 17th November 2009 will demand a level of professionalism to which the public deserves, so the article proclaimed.

There is, an existing regulation that dates back to 1976 and the key changes in the new legislation were reported to be -

- a) A new and more onerous Code of Professional Conduct and Client Care, which real estate agents must comply with or face disciplinary action;
- b) A Real Estate Agents Authority to oversee licensing, complaints, disciplinary and enforcement processes and provide information to consumers;
- c) An increase in the compensation available to the public to NZ\$100,000;
- d) The creation of a public register of branch managers, agents and sales people that will record whether they have had any disciplinary action taken against them in the previous three years;
- e) Membership of the Real Estate Institute of New Zealand (REINZ) by agents will no longer be compulsory.

“It is clear that one of the main problems with the 1976 Act was that consumers did not have ready access to an independent complaints and disciplinary process. From November 17, 2009 complaints will now go to an independent body instead of being dealt with in-house” as reported in New Zealand’s Weekend Herald of 26th September 2009. To add insult to injury, it was further commented that “both the public and politicians believed the current agent’s professional body, the REINZ, which was charged with disciplining agents, was toothless - or looked after the boys, as some have put it.”

On Monday, October 5th 2009, 10 days after the series of article in the New Zealand Weekend Herald, The Straits Times of Singapore carried on its front page that “Property Agents are to be regulated”! The report stated that the “Singapore Government is moving quickly on a plan to regulate real estate agents in the wake of growing calls to improve the standards of the industry. The plan was to set up an independent body that will house a

dispute resolution center; requiring agents to sit a compulsory examination and that all accredited agents be monitored through a central database run by this independent body”.

The reporter observed that in Singapore, there were two industry bodies in existence - the Singapore Accredited Estate Agencies and the Institute of Estate Agents - and their existing functions may become redundant in the light of the new regulatory framework.

In one country, legislated regulation will be implemented, in another, contemplated, to raise the ante of professionalism and ethical conduct within an industry! Both situations point to a number of weaknesses and perhaps, failures, including that of the professional bodies itself and their codes of professional and ethical conduct. The professionals and their professional bodies were perceived to lack the ability or even the will to safeguard the interest of the average population and their reluctance or weakness in disciplining its own membership. We are reminded again that as Professionals, Surveyors, the land, property and construction professionals, are equipped with both additional knowledge and training as compared with the average population, and can be counted upon to make informed decisions and judgment.

5. PROFESSIONAL CONDUCT

Professionals, the majority of whom, subject themselves to membership of professional bodies as well as “code of professional conduct”. “Codes of Professional Conduct” reflects the profession’s beliefs, response, intent and values on its obligations to the economy, the society and the environment. These “codes” are embraced by the individual professional arising from shared intent, identity and collective responsibilities. Many of these “code of professional conduct” form part of the regulations governing the profession.

Then again, the average population will ask as to whether “code of professional conduct” could prevent these spectacular man-made financial disasters we have witnessed over the past twelve months? Where is the trusted service and certainty of advice that professionals with their qualification (additional knowledge) and expertise (training) are supposed to deliver? In the space of ten days, we came across the need for and the introduction of new legislation to regulate real estate professionals in two different countries.

Justifiably, the average population is asking “What is happening to professionals who are equipped with both knowledge and training, who enjoyed authority and standing in society, who in many instances are relatively and handsomely rewarded through their profession by the consuming populace?”

6. BUILDING THE CAPACITY AND PROFESSIONALISM

United Nations Development Program in 1998 offered this basic definition of capacity: “Capacity can be defined as the ability of individuals and organizations or organizational units to *perform* functions effectively, efficiently and sustainably”. In the marketplace, “Capacity Building” is of major importance to everyone involved in the development and promotion of trade in professional services and it involves upgrading human resources, uplifting inter-organizational trust and co-operation, strengthening agencies and stakeholders, and building networks and institutions. Increasingly, one is realising that invariably, people, is the primary

focus. Specific to the ASEAN region, The ASEAN Framework Arrangement for the Mutual Recognition of Surveying Qualifications requires professionalism and ethical behavior from surveying professionals so recognized under the MRA. Thus it is imperative that professionals seeking recognition subscribed to codes of professional and ethical conduct.

The importance to inculcate professionalism, excellence and ethics, not only in the instruction, training and raising of the surveying professional, particularly when upgrading human resources could not be overstated. However, It pays to see if many of these training, learning and capacity development program include a component on instructing, instilling, inculcating professionalism, excellence and ethics amongst the very people involved.

The present global economic crisis brings into sharp focus the very professionalism, excellence and ethics of professionals the average population depends on and trusted, not only in the commercial and financial realm, but at all levels of the economy and society. The need to instruct, instil and inculcate professionalism, excellence and ethics when training professionals and building capacity may well helped to avoid these man-made disasters of the scale we witnessed recently in the financial services industry!

It was observed, back in 2005 that “Many on Wall Street say the vast majority of bankers are ethical ones, but nearly all will admit they can lose or win fees based on *how far they are willing to go*. Given the million of dollars in profits that also can be personally earned from one or two banking transactions, the pressure on behavior is sometimes too great to bear”. (Gerald Rosenfeld, CEO Rothschild North America, 2005, Dow Jones & Company Inc.).

In 2005, a few of the best-known names on Wall Street along with some lawyers and academics, think it is time for these creators of mergers and stock offerings to explore the possibility of their own code. It would be the kind that, like the Hippocratic Oath, be taught in schools, framed and hung in offices and called upon when arriving at life’s ethical crossroads. One cannot help but wonder whether the financial meltdown of 2008 would be of a lesser scale or severity if there were such a Code! □□ It has been commented that Investment banking is a troublesome area to regulate. However, it was also observed that there were some on Wall Street who displayed an instinctive skepticism, these bankers readily referred to the fact that individual ethics codes already are in place inside each of the banks. A code was created and famously ignored inside energy trader Enron Corp. prior to its collapse! (Dow Jones & Company Inc., 2005).

(Initiative on Wall Street)

(FIG Publication 17)

“A potential code should have basic principles with respect to who you are accountable to, and what your priorities are between yourself, your client and your regulators. The Code, it was argued could include principles for handling conflicts of interest, behavioral guidelines for dealing with clients and competitors, and some recognition of a banker’s duty to society at large. It is really something that has to be embedded in an organization all the way up and down. Ultimately, it has to be instinctive.” *(Dow Jones & Company Inc., 2005)*

“Professional surveyors recognize that their ethical responsibilities extend to the public, to their clients and employers, to their peers and to their employees. Accordingly they acknowledge the need for integrity, independence, care and competence, and a sense of duty. They uphold and advance these values by:

- supporting and participating in the continuing development of the surveying profession;
- serving with honesty and forthrightness and within areas of their competence; and
- using their expertise for the enhancement of society and the stewardship of resources.”

FIG Publication Number 17 laid out four key principles:

| Integrity | Independence | Care and competence | Duty |
|---|--|---|---|
| Surveyors: (a) maintain the highest standards of honesty and integrity towards those with whom they come into contact, either directly or indirectly; and (b) accurately and conscientiously measure, record and interpret all data and offer impartial advice based thereon. | Surveyors: (a) diligently and faithfully execute their role according to the law; and (b) maintain their objectivity and give their clients and employers unbiased advice, without prejudice or favour either towards or against other organizations or persons. | Surveyors: (a) maintain their knowledge and skills, keep abreast of developments in their fields of practice and apply their expertise for the benefit of society; (b) only take on work that they reasonably believe they will be able to carry out in a professional manner; and (c) exercise care in the performance of their duties. | Surveyors: (a) maintain confidentiality about the affairs of their current and former clients and employers unless required by law to make disclosures; (b) avoid conflicts of interest; (c) take environmental concerns into account in their operations and activities; (d) recognize the interests of the public when providing services to their clients or employers; and (e) conduct their work to the best of their ability, giving due consideration to the rights of all parties. |

FIG plays a key and significant role, in building the capability and capacity to design, build and manage national surveying and land governance systems that facilitates sustainability, security of tenure and the land market. These systems provide the infrastructure for implementation of policies and management strategies in support of sustainable development and providing economic and tenure security. In this regard, All of the stakeholders – international partner organizations, the Government and public sector agencies, the marketplace institutions and entities, the community and society, the man and women in the streets – are looking for economic and tenure security, certainty of advice, competent and trustworthy actions, moral and ethical excellence. Within FIG, we must respond to these demands and in these challenging economic times, play that key and significant role in ensuring certainty, trust and ethical excellence. This role and responsibility must be upheld, for the alternative is unacceptable, when FIG discusses governance so extensively and its focus is on capacity, on serving people.

A Code can, as surmised, stiffen the resolve of those who want to do the right thing when their confronted otherwise.

7. AN UPDATED STATEMENT

Any code, though containing basic principles that are normally timeless, need to be reviewed and updated to keep pace with the times. It has been about twelve years since the publication of “Statement of Ethical Principles and Model Code of Professional Conduct”. The Council of European Geodetic Surveyors (CLGE) has completed its work on its common European Code of Conduct for its membership.

It is suggested that any updated code should consider sensitive word choices. Nevertheless, it is timely for the surveying community to review and consider an updated code in an era where the reputation and standing of professionals has taken a severe “hit”. Society demands certainty of advice; trustworthy actions, competent service and the highest possible level of practice and ethical conduct.

8. OBSERVATIONS

The international surveying community can begin gathering consensus for an updated code and what that code should enshrine not only in this day and age but also at a point in time in the future. The community must strive for timelessness in articulating her principles but in reality, timelessness is but elusive. However, one can only strive and agree that any updated principles and code be regularly reviewed to ensure that it keep pace with the times and are current for the times.

It has been opined that any updated code will require careful consideration, sensitive choice and use of words. One such statement, for example, might say that surveyors should strive to best represent society’s interests above their own. The code’s basic principles should include accountability and priorities. These should take into consideration any multi-stakeholder situation; it should be between oneself, one’s client, one’s regulator (if any), one’s community and one’s environment. The code’s ability to handle any conflicts of interest is important including mechanisms for disciplinary action. The code could also include behavioral

guidelines and recognition of one's duty to society at large and the environment. Professionals must remember that the average population has expectation towards his or her conduct, action and practices.

Together with the Code, appropriate, swift, effective, independent and just complains and disciplinary processes must be designed. As it has been the case in one jurisdiction, when such a code and its accompanying complains and disciplinary processes are perceived, particularly by both the public and politicians, as toothless, or even more damaging, regarded as that which "looked after the boys", the code and the profession is substantially weakened. Any complains and disciplinary processes must provide confidence to all concerned, including the professionals and not just the public or the politicians, and must be just, independent, dependable and effective.

More importantly, this updated code should be taught, striving to become instinctive, if not for the present, for the next generation of surveyors so that each professional can summon up the courage, do the right thing, when arriving at an ethical crossroads. The principles and code is to be embedded all the way up and down one's organization.

With an updated code, the profession must intentionally infuse it into the many programs, systems and processes that are being designed and implemented. The updated code should be instructed, instilled, inculcated not just amongst those within our profession but also those we associate with, we partner with and we encounter along the way that ALL may enjoy professional, excellent and ethical behaviors, conducts, actions and practices. Our stakeholders, particularly our partners and the society, the public, the man and woman in the streets should also be informed and kept abreast with its development. This is so necessary in this day and age, that the very standing so enjoyed by the profession can be further enhance and uplifted.

The profession's future is not about how well we measure or how precise our measurement is, the surveying professional will measure well and the surveying professional will measure precisely. Rather it is about efficiency, excellence and ethics in management and governance. In the Regional Conference in Jakarta in October 2004, I ended my presentation with the remark that the Profession needs to work towards recognition and be the Profession of Choice. As a Profession-of-our-Choice, it is important that we have the desire, we exercise the discipline and remain determined to do the right thing even when we are asked otherwise.

Timothy Geithner, the current US Treasury Secretary wrote this of his colleague, Ms Christine Lagarde, the French Finance Minister –

*"She has forcefully advocated for greater adherence to international standards, ensuring a **race to the top** rather than the bottom"* (Times Magazine, 11 May 2009 (The Time 100 Most Influential People))

Professional, Moral and Ethical Excellence will ensure the Profession-of-our-Choice RACE TO THE TOP rather than the bottom!

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