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Censorship, Denial of Informed Participation, and Human Rights Abuses Associated with Dam Development in Chile

By Barbara Rose Johnston and Terence Turner

The American Anthropological Association (AAA) Committee for Human Rights (CfHR) recently released a report on possible International Finance Corporation (IFC, a member of the World Bank group) involvement in human rights abuses associated with hydroelectric dam development on the Biobío River in Chile (Johnston and Turner). This report responded to a complaint filed with the CfHR by anthropologist Theodore Downing, who charged that the IFC contributed to the ongoing violation of Pehuenche human rights.

Many members of the Pehuenche, an indigenous group in Chile, are being forcibly resettled as a result of the recent construction of a dam on the Biobío River at Pangué, and efforts to build a second dam at Ralco, both located in Pehuenche territory. Downing's complaint denounced actions by the IFC (which financed the dam project); ENDESA (Empresa Nacional de Electricidad S.A.), a Chilean-based transnational corporation; Empresa Electrica Pangué S.A. (Pangué S.A.), a limited liability subsidiary of ENDESA and the recipient of an IFC loan for the construction of the dams; and the Pehuen Foundation, set up by ENDESA in consultation with the IFC.

The Chilean environmental and indigenous non-governmental organizations (NGOs) charged that ENDESA and the Pehuen Foundation had committed abuses against the indigenous Pehuenche Indians. Downing, who served IFC as an independent external consultant to investigate and report on these charges, alleged that ENDESA violated Pehuenche human rights with the knowledge, acquiescence and, in some cases, active collaboration of IFC personnel. He documented these violations in his report. IFC refused to release the report, and subsequently threatened to sue Downing if he made the report or any of his research findings available to the Pehuenche or to the public. In response, Downing charged that the IFC's actions constituted a violation of his rights and professional obligations as an anthropologist, whose participatory research methods required him to share his findings with the population he had studied.

Downing's report contained documentation of extensive, unmitigated damage resulting from deforestation of Pehuenche community lands, multiple confirmed threats of involuntary relocation, practices by the Pehuen Foundation that constitute a dramatic assault on the customs and cultural traditions of the Pehuenches, and actions to cover up vital information that would permit the discussion of alternatives to lessen the present and predictable cultural, economic and environmental damage. The Foundation itself was established as a result of secret negotiations between IFC and ENDESA on ways to mitigate the social impacts of the Pangué dam; it was restructured in further closed-door negotiations in April, 1997, so that it became an instrument facilitating Pehuenche resettlement to make way for the Ralco Dam. The absence of informed participation and lack of structural opportunity for such participation contributed crucially to the Foundation's subsequent failures to meet mandated goals.

To investigate Downing's complaints, the CfHR consulted independent sources of information about the case, including World Bank staff, members from both the IFC and the IBRD (International Bank of Reconstruction and

Development, the main member of the World Bank Group). The CfHR held an open forum at the Association's Annual Meeting in November 1997 where representatives of the IFC, the IBRD, Chilean sociologist Claudio Gonzalez Parra, and Downing spoke and responded to questions from members of the Committee and the Association at large. Committee members also met and spoke extensively with these and other people connected to the case.

Issues Relating to Informed Participation

The CfHR report noted that the Pehuen Foundation represented an unique effort to reinvest a portion of development project profits back into the community, and Downing's evaluation included evidence of its positive effects on some families in some Pehuenche communities (Downing). However, although Pangué S.A. hired some Pehuenche, and three Pehuenche served on the Pehuen Foundation board, no Pehuenche was involved in efforts to set up the Foundation or to establish a plan for effective and sustainable development.

Also, the Pehuenche were not involved in the April 1997 agreement between IFC and ENDESA which used the Foundation to resettle a higher number of families for the construction of the Ralco dam. It appears that both the developer (ENDESA) and the lender (IFC) interpreted "informed participation by the Pehuenche" to mean simply ensuring the presence of Pangué-area lonkos (community leaders) at some Foundation board meetings. Ethnographic data contained in the Downing report indicate that while lonkos are respected community leaders, they do not have authority formally recognized by the Pehuenche to make decisions binding on their groups. Political organization is based on kinship, and the Pehuenche community consists of highly individualistic groups of families and lineages. The fluid and dispersed leadership patterns of the Pehuenche makes it difficult to determine who speaks for the entire group. Furthermore, although the three Pehuenche representatives are elected by their communities to sit on the Pehuen Foundation Board, they lack reporting and feedback mechanisms to dispense information in their communities and seek community-wide input. They can be replaced by a Pangué company appointee if they do not appear at a meeting, and they can be removed from the board if its voice vote decides that they are an impediment. In short, Downing's evaluation found, and the CfHR investigation confirmed, that efforts by the IFC, ENDESA, Pangué S.A., and the Pehuen Foundation to secure the Pehuenche's "informed participation" were fatally flawed from the start.

Censorship of the Downing Report

Downing submitted his report to the IFC in March 1996. The IFC, in violation of explicit guarantees, withheld the Downing Report from the Pehuenche and the broader public from March 1996 until December 26, 1997.

The IFC's standard contract for consultants gives the corporation exclusive control of the results of consultants' project evaluations for three years, restricting the circulation of these reports without its permission. To avoid the restrictive constraints of this standard arrangement, Downing negotiated a special provision in the contract, guaranteeing his right to share the results of his research both with the Pehuenche and the Chilean public.

In defending their part in suppressing Downing's report, representatives from the IFC indicated they were constrained from releasing the report because of their obligation to protect the business interests of their client (Pangué S.A., and its parent company, ENDESA). They noted that the Downing report contained unfavorable environmental and social information that their client considered erroneous, defamatory or confidential. At no point did the IFC challenge the accuracy of Downing's report.

The CfHR noted that the act of withholding this report constituted a breach of individual and group civil and political rights. During the 18 months that the IFC kept Downing's report secret (March 1996-December 1997), ENDESA was negotiating resettlement packages with individual Pehuenche families, with the assurance that the Pehuen Foundation would implement the resettlement program. Yet, Downing's independent evaluation of the Pehuen Foundation demonstrated that the Foundation failed to meet the economic, social, cultural and environmental needs of the Pehuenche already affected by dam development on the Biobío.

It also sharply questioned the ability of the Foundation to mitigate the impoverishment that will result from resettlement associated with further dam development. Withholding this crucial documentation on the Pehuen Foundation from the Pehuenche prevented them from making an informed decision about their future. ENDESA asked the Pehuenche to sign resettlement agreements (exchanging ancestral land rights for land high in mountains,

several hours distant from their homes) without giving them an understanding of the effects or potential effects of Pangué Dam development. Furthermore, they were not informed about the Pehuen Foundation's structure, its role in funneling income back into the Pehuenche community, or their constitutionally protected right to participate in the decision to build a dam within their ancestral territory.

Ethical Implications

The performance of the IFC and ENDESA raises several hard questions. Does negotiation of secret agreements about the future of an ethnic group, without the knowledge or participation of the group or the government authorities responsible for indigenous affairs, constitute a violation of human rights? If so, should the agencies under whose aegis the violations occurred be responsible for taking remedial action? Should they also make material restitution to the victims of their acts, who may now be expelled from their land and deported "resettled" to an unsuitable area where they will probably find it difficult to survive? The AAA CfHR unanimously believes the answers to these questions are yes.

The Pehuen Foundation is the proposed vehicle for mitigating the social impacts of Ralco. Despite receiving requests from the Pehuenche, the Mapuche, the Chilean government, academics and NGOs for access to the interim evaluation report, the IFC decided to withhold the report from distribution until after completion of the review period for the Ralco Dam environmental assessment. This affected the Pehuenches' ability to participate in decision-making processes in an informed and equitable manner.

Does the IFC's censorship of key information bearing on their livelihood, lands, forests and cultural future constitute a violation of the Pehuenches' human rights? Furthermore, restricting the flow of information from the affected peoples during a critical decision-making process effectively prevented the Pehuenche from making decisions in an informed fashion. Who is responsible for repairing the damage to Pehuenche rights to self-determination? What recourse do people like the Pehuenche have when project planning, funding, oversight and implementation happen in ways that protect private business interests first and foremost while (wittingly or not) creating situations where human rights are abused?

Downing's report indicates that IFC and ENDESA staff manipulated Pangué project language to suggest that the Pangué project was a stand-alone dam, rather than part of a larger, two-dam project, with limited environmental and social impacts. IFC's characterization of the dam justified infrastructure development (roads, social-impact mechanisms like the Pehuen Foundation) essential to the planned series of dams on the Biobío.

Downing's evaluation presented evidence that ENDESA used IFC loan funds earmarked for Pangué (for social-impact mitigation through the Pehuen Foundation) to support Ralco development. These are violations of the IFC/ENDESA loan agreement, at least as publicly disclosed, as well as World Bank directives. But the loan has been sold off to a private German bank, and as a result, the IFC has only a 2.5% interest in Pangué, and no financial involvement in Ralco. Who, then, is now responsible for addressing the social, economic, political and cultural survival problems that the Pehuenche will face as a result of the deceptive manipulations that accompanied the planning and construction of the Ralco dam?

Action

AAA President Jane Hill acted upon recommendations by the CfHR by writing letters to the World Bank, IFC, ENDESA, and other interested parties that formally condemn the IFC's action in keeping secret Downing's report as a violation of the human rights of the Pehuenche, a violation of Downing's terms of employment as an IFC consultant, and a violation of Downing's professional responsibility as an anthropologist to share his research results with the people he studied and communicate his results to the public. Although preparations are proceeding for forcible removal and resettlement of the Pehuenche population of the Ralco area, the Pehuenche have not yet been moved. Accordingly, the AAA, through its president, has called upon the Chilean government to stop the forcible resettlement of the Pehuenche of the Ralco area and the construction of the Ralco dam.

In addition, it called upon the IFC and the World Bank Group, ENDESA, and the Chilean government to enforce the human rights guarantees of the Chilean constitution and international human rights law, including measures that: (1)

ensure the full involvement of Pehuenche in all development plans affecting them; (2) ensure that any resettlement or other impact mitigation measures are shaped and implemented with informed Pehuenche consent; (3) ensure that consent is secured through culturally appropriate decision-making processes that reflect group rather than individual consent; and (4) provide the means and mechanisms that allow compensation to the Pehuenche by those institutions responsible for the damages. These letters, and a copy of the full report, are posted on the AAA website at <http://www.amer-anthassn.org/chrhome.htm>.

Conclusion

The CfHR report concludes that the IFC played a determining role in fostering conditions and actions that led to abuses of Pehuenche human rights, and that the IFC violated the terms of its employment agreement with Downing. In threatening him with a punitive lawsuit if he disclosed the content of his report, the IFC abused its relation with him as a consultant. The CfHR is concerned that this case of human and environmental rights abuse will become an all too common story, as development financing becomes increasingly privatized, allowing institutions and agencies the ability to negotiate in secret, to retain control over “sensitive” human and environmental information, and thus, to circumvent the rights-protective laws, policies and procedures presently contained in national governments and multinational lending agencies. This case demonstrates a culpability gap—one that we are concerned will widen in the years to come. IFC ownership of information generated by the “independent, outside evaluator” and their 18-month censorship action also has broader ethical implications. Efforts to manage and respond to environmental problems on a global scale inherently rely upon an “objective” scientific base. This case illustrates how under prevailing conditions corporations and political institutions can define and shape problems, control the scientific data, and possess the power to manipulate freely information flows in ways that serve their own business and political interests.

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IN THE NEWS

INADEQUATE PROTECTIONS FOR RESEARCH PARTICIPANTS

A report by the U.S. Department of Health and Human Services (HHS), released to Congress on June 11, has found that the federal system designed to protect individuals who participate in medical research is not achieving its goals. This system failure has led to a decline in the safety of research participants, according to the HHS report. The federal system depends on the screening of federally funded clinical-research studies involving human subjects by institutional review boards (IRBs) at universities and research institutes. The report observes that the IRBs have become overburdened by liberal increases in the amount and complexity of human research, contributing to increases in both research abuse and in the risk of personal injury to participants in research. Significant reform in the IRBs and the system as a whole was described by the report as paramount to maintaining trust in the research ethics of the scientific community. Proposed changes to the federal system of regulation and review include the rewriting of regulations to apply to both public and private research, continuing IRB review of approved research, increasing the breadth and depth of IRB member training, and extending IRB membership to individuals from local communities.

Swiss Reject Genetic Engineering Restrictions

Switzerland’s “Gene Protection Initiative,” to ban both the use of transgenic animals in research and the patenting of genetically modified organisms, was rejected on June 7, in a nationwide referendum by a convincing 2 to 1 margin. The leading cause of the referendum’s resounding rejection has been identified as the dialogue regarding research

ethics that was established between the Swiss scientific community and the public. Through such events as organized marches, public forums, and a news conference given by four of Switzerland's living Nobel Prize winners, research scientists associated with both academia and industry were able to inform the public of their concerns with the Initiative. The Swiss government has established a national bioethics commission to provide a foundation for a continued dialogue between researchers, industry, government, and the public. The government has also responded by moving forward on the "Gene-Lex" proposal, designed to engage scientists and researchers in the modification of current laws governing transgenic research. Meanwhile, proponents of the referendum may launch a new initiative centering on genetics, agriculture, and food.

PTO Issues Declaration on "Immoral Patents"

In an attempt to create a dialogue concerning the patentability of living creatures and focusing on the ethics of patenting humans and human chimera, Stuart Newman, a New York Medical College Biologist, and Jeremy Rifkin, President of the Foundation on Economic Trends in Washington, DC, applied for a patent for making hybrid research creatures. The patent was filed to challenge the "morality" criteria of the United States Patent and Trademark Office (PTO).

In a "media advisory" issued on April 2, entitled "Facts on Patenting Life Forms Having a Relationship to Humans," the (PTO) declared that inventions, either human or non-human, that consist of tissues of diverse genetic constitution may be declared not patentable under the utility requirement in Title 35 of the United States Code. The PTO's justification for their ability to deny patents on a morality basis is founded on the 1817 ruling of the federal court in *Lowell v. Lewis* (Fed. Cas. No. 8568). In *Lowell v. Lewis*, the courts interpreted the utility requirement of Title 35 to allow the PTO to reject inventions deemed to be "injurious to the well being, good policy, or good morals of society." The fear that PTO judgments regarding an invention's morality will be made in a subjective and inconsistent manner has alarmed legal scholars, patent attorneys, and medical researchers. In addition to inspiring debate regarding the interpretive flexibility associated with the PTO's morality declaration, Newman and Rifkin's patent has instigated public reexamination of the ethical and moral implications of current U.S. policy on patenting both plant and animal life.

Germany Reacts to Research Misconduct

The first major incidence of scientific fraud in Germany, the falsification and manipulation of data by two researchers in nearly three dozen publications, spurred its primary grant agency to action. The Executive Board of the Deutsche Forschungsgemeinschaft (DFG), was prompted to create an international Commission on Professional Self Regulation in Science to develop recommendations for a new code of ethics for German scientists (PER XI (1), Winter 1998). The Commission was established to explore causes of misconduct in the scientific system, discuss preventive measures, review existing methods of professional self-regulation in science, and issue recommendations on how to safeguard them.

The Commission's Proposals for Safeguarding Good Scientific Practice, issued earlier this year, focus on the basic principles that govern the professional conduct of good scientific practice. The promotion of honesty among scientists, scholars, students, and the public was described by the Commission as "one of the principle tasks of the self-governance of science." The DFG Commission recommended that "honorary authorship" of scientific publications be suspended, that universities and research institutions be responsible for promoting good scientific practice and for dealing with scientific misconduct, that universities and institutions that fail to conform to the recommendations will not be eligible to receive DFG grants, and that the DFG should appoint an independent Ombudsman to assist scientists and scholars in the ways of good scientific practice.

The International Commission's confidence in the ability of the scientific community to continue to develop a consciousness of good scientific practice, juxtaposed against scientific dishonesty, was the primary reason for excluding a recommendation for a government bureaucracy to investigate scientific misconduct. DFG President Wolfgang Frühwald supported the conclusion that Germany should promote self-regulation of science, in place of a government entity similar to the U.S. Office of Research Integrity (ORI). The DFG Commission's report, a commentary on the report, a section on problems confronting the scientific system, and international influences on the

report can be found on the WWW at http://www.dfg-bonn.de/ak_tuell/self_regulation.htm .

Guidelines Published for DNA Research

The Human Genome Organisation (HUGO)'s Ethics Committee has proposed recommendations on the control and access of DNA samples in genetics research. These latest guidelines address pertinent issues that include the collection, sharing and source of DNA samples. They reaffirm the rights of scientists to conduct research and obtain further information on samples, as well as overrule subjects when necessary to provide relevant data to immediate relatives. Several guidelines are intended to protect the privacy and autonomy of research participants: 1) the choices offered in the consent process should reflect the potential uses of the DNA sample and its information 2) security mechanisms must be put in place to ensure the respect of the choices made and of the desired level of confidentiality 3) the subject is notified of and has consented to the policy 4) the samples to be used have been coded or anonymized 5) there should be no disclosure to institutional third parties of participation in research, nor of research results identifying individuals or families, unless authorized by law. The guidelines gave special consideration to access by immediate relatives who are at high risk of having or transmitting a serious disorder and for whom prevention or treatment is available. However, in the absence of need for access by immediate relatives, stored samples may be destroyed at the specific request of the subject. Additionally, the guidelines called for an international standardization of the ethical requirements for the control and access of DNA samples.

These recommendations are based on the principle that access to samples is essential to the continued progress of genetics research and the relief of human suffering. At the same time, the privacy and autonomy of research participants must be secured by following strict sample protection guidelines.

Change in Regulation Proposed for Research Involving Pregnant Women

The U.S. Department of Health and Human Services proposed changes to existing rules designed to protect pregnant women and fetuses from risks involved in research studies. The recommended changes would "institute a policy of presumed opportunity of inclusion of pregnant women in place of one of presumed exclusion." The proposed rules also call for an end to the two parent consent requirement, stating that a lack of paternal consent should not disqualify a pregnant woman from federally funded clinical trials. Although pregnant women and fetuses are adequately protected by existing guidelines, they have essentially been excluded from research studies due to the narrow interpretation of the policies. The proposed rule changes state that a woman's pregnancy should not be the basis for this exclusion. Furthermore, a pregnant woman's decision to participate in any research studies is always preeminent and is not to be hindered in anyway solely because of her pregnancy. The recommendations state that pregnant women should be considered for participation in studies unless an institutional review board determines that there are compelling reasons that she should not. The standards for which this decision is based will remain the same, that there will be minimum risk to both the woman and the fetus's health. Another important proposed change is the elimination of the requirement of paternal consent. Under current guidelines, many women and their fetuses are unable to participate in clinical trials that could have benefited the health of the fetus, because of the lack of written paternal consent. If consent from a single parent is indeed sufficient, then that parent has to be the mother, given the nature of pregnancy. The proposed changes also strengthen the existing requirements for informed consent. The woman must be told of any reasonable foreseeable risk to the fetus prior to her participation.

IN THE SOCIETIES

AIBS

The American Institute of Biological Sciences (AIBS) conducted a roundtable in late April to discuss issues surrounding current mammalian cloning techniques. Panelists provided background information regarding both the potential benefits and risks of cloning in medical applications, and the ethical and regulatory concerns of cloning research. The panelists also engaged in a discussion about current misconceptions surrounding cloning technology. Panelists echoed a growing concern that proposed federal legislation could be so ambiguous that it would deter research that may contribute to medical advances in areas such as infertility treatments and replacement organ

replication. Current federal regulations require that researchers file for FDA approval prior to conducting cloning research. In the states, California and Michigan have already taken legislative action against cloning. Roundtable participants acknowledged a need for scientists, the public, and the government to engage in dialogue with respect to the ethics, application, and regulation of cloning research. To receive further information about the AIBS Biology Roundtable Series, the Biology Roundtable on Cloning, or to receive audio tapes of the event, contact AIBS Communications Representative Jodi Kolber at (202)628-1500 extension 253; Fax (202)628-1509; E-mail jkolber@aibs.org; WWW <http://www.aibs.org>

IEEE

The seventh annual meeting of the Association for Practical and Professional Ethics (APPE), held earlier this year from February 26 to March 1, provided *The Institute of Electrical and Electronics Engineers, Inc. (IEEE) Spectrum* with the opportunity to conduct a roundtable discussion on engineering ethics education. The discussion was the second in a series for *IEEE Spectrum*, the first focused on professional support for engineering ethics. Excerpts of the discussion on ethics education can be found in the June 1998 (Vol. 35, No. 6) issue of *IEEE Spectrum*.

ETHICS, LAW & PUBLIC POLICY

PROFESSIONAL ENGINEER SELF-REGULATION

by Arthur E. Schwartz, General Counsel for the National Society of Professional Engineers

In recent years and for a variety of reasons, there has been increasing interest among engineers, engineering societies, regulators and others in considering possible alternatives to the current state engineering licensure scheme that is in place in the majority of states (and that is possibly best represented by the Model Law developed by the National Council of Examiners for Engineering and Surveying (NCEES) and currently endorsed by the National Society of Professional Engineers). Recent legislative and regulatory activities in several states to amend dramatically significant portions of state engineering licensure laws or even to eliminate such laws and regulations entirely illustrate ongoing dissatisfaction among engineers, regulators and others with the manner in which the practice of engineering is currently regulated at the state level.

Introduction

The regulation of the engineering profession has evolved significantly over the past seventy-five years. During the early years (1920s-1950s), a period in which the requirements for engineering licensure were less standardized than they are today, state engineering boards were typically granted a high degree of independence and autonomy within state government in regulating the practice of engineering. However, beginning in the 1960s and 1970s, with the arrival of the so-called "consumer reform movement," and in the interests of greater public accountability, state governments began to examine and regulate more actively the activities and practices of state professional boards.

Among the well-known trends resulting from the "consumer reform movement" included "sunshine in government" laws, regulatory "sun-setting," and the appointment of "public members" on professional boards. However, among the less publicized outcomes of the movement were:

- Centralization of professional boards;
- Merging of professional boards with business and occupational boards;
- Creation of "super-agencies" to provide administrative staffing & budget review; and,
- Development of "one-size fits all" regulatory practices and procedures.

In addition, professional licensing fees (including engineering licensing, examination, permit, fines, etc.) collected by the individual professional boards and used by them for board administration began to be viewed by state governments as a source of general governmental revenue. In many instances, these funds were redirected from the specific professional boards that generated them to state revenue fund accounts for general public use.

Centralized staffing practices that were introduced during this period often caused uneven distribution of resources and personnel, resulting in deficient staffing and diminished knowledge and expertise by state employees responsible for administering the licensing process.

During this period, the state of Delaware stood alone in resisting these changes, instead, looked northward to the self-regulatory scheme utilized in the Canadian provinces to regulate the practice of engineering.

A New ERA?

Some engineering boards and engineers have recently concluded that regulatory centralization that occurred in the 1960s and 1970s has caused a significant diminution of the authority and the stature of the state engineering licensure boards. Engineers and their boards often cite lax disciplinary enforcement, declining funding for board operations, bureaucratic inertia in addressing professional concerns, inadequate record-keeping and a general lack of accountability as evidence of the decline. Many engineers and others have noted that professionals provide services in a highly complex area which the public has little or no ability to judge, and that professional regulation must therefore be a mechanism to protect the public from unqualified and unworthy practitioners.

Within the past year, Oregon and Florida have enacted revisions to their state engineering licensure laws aimed at reversing some of the negative regulatory features of their boards' operations.

The following is a summary of some of the changes that are being implemented in Oregon and Florida as well as a description of the unique system that has been in place for twenty five years in Delaware.

Oregon

In 1997, the Oregon legislature passed and the governor signed SB-546, a bill that creates a pilot program to assess the practicality and cost efficiency of establishing, among others, a semi-independent professional engineering licensing board. Under the legislation, the engineering licensure board would have the authority to, among other things:

- contract with state agencies for the performance of services as the board deems appropriate;
- establish personnel policies and contract purchasing;
- adopt a budget that would not be subject to review or approval by the Legislative Assembly;
- prepare annual financial statements;
- elect to donate all or part of the revenue derived by the board from civil penalties to the general fund of the state treasury;
- sue and be sued;
- enter into contracts;
- own and dispose of real or personal property;
- fix compensation for its employees; and,
- establish a bank account for monies collected or received by the board.

Finally, in the event of a non-public board member vacancy, an election is to be held allowing licensees to nominate a qualified person for the position. The board is then to forward the vote results to the proper appointing authority and, if the appointing authority approves of the election results, the person nominated will be appointed to the board. If the appointing authority does not approve of the election results, the appointing authority may request that a new election be held or may appoint a qualified person that it selects. Under the legislation, the board is empowered with the authority to adopt a formal process for the election of non-public members, including receiving nominations, verifying legal qualifications, and distributing and counting ballots.

Florida

In May 1997 the Florida legislature enacted a new law that will shift day-to-day responsibility for the engineering profession from the state to a new private nonprofit corporation. In effect, Florida's engineers would be regulated under a system that is more like the Florida Bar.

Engineers sought the legislation to distance themselves from a state bureaucracy that many perceived as listless and ineffectual. It is intended that the privatization of certain functions that are performed by the department will encourage greater operational and economic efficiency and, therefore, will benefit regulated persons and the public. The new law will also allow personnel to be more focused, develop the expertise necessary to handle complex professional and discipline matters, and even answer basic questions from licensees and the public.

The new law “privatizes” the administrative, investigative, and prosecution duties related to the Board of Professional Engineers. To accomplish this, the law creates the Florida Engineering Management Corporation (FEMC), which will assume the responsibility for contracting out the aforementioned duties (presently handled by board and department staff) on July 1, 1998.

Activities such as processing applications, administering examinations, issuing and renewing licenses, handling complaints, investigations, prosecutions, and inspections will be assigned to the new private corporation. The Florida Engineering Board retains all rule-making and license issuing authority, as well as all final decision-making authority for disciplinary penalties. The seven member FEMC will be composed of licensed engineers, with three members appointed by the Secretary of the Department of Business and Professional Regulation, and four members appointed by the Board.

Delaware

Since 1972, the Delaware Association of Professional Engineers (DAPE), an association established by state statute, has regulated the practice of engineering in Delaware. DAPE was created by a statute enacted by the Delaware legislature (Delaware Professional Engineers’ Act, Delaware Code, Title 24, Chapter 28). All professional engineers licensed under the laws of Delaware, and residing or having a place of business in the state, are “Members” of the DAPE. Professional engineers not residing or having a place of business in the state are “Associate Members” of DAPE and are not entitled to vote. All persons certified as Engineer Interns are “Affiliate Members” and are not entitled to vote.

The statute also created a “Council” of DAPE which serves as the DAPE governing board. The Council consists of 15 voting members — 12 of whom are elected by the members (licensees) and 3 of whom are appointed by the Governor. The law requires the Council to be comprised of representatives from civil, chemical, electrical, mechanical and any other engineering discipline. The Council must have at least one member employed in government, industry, private consulting and education. Each of the three counties in Delaware must also be represented.

In addition to serving as the governing board of the DAPE, the powers of the DAPE Council include the authority to subpoena witnesses and compel their attendance, and may also require the production of books, papers, and documents in a matter involving an application for registration, the revocation of registration or practicing or offering to practice engineering without registration.

Because the Delaware law is so comprehensive and identifies all aspects of the regulatory process, Delaware has promulgated no regulations under its Act. Instead, DAPE is under the direct purview of the Delaware legislature. This oversight results in stringent adherence to the requirements of the law (e.g., sunset review, FOIA requirements, etc.) as well as an immediate and beneficial link to those directly responsible for setting public policy in the state.

Those most familiar with the Delaware experience characterize the system as one of almost total independence with the exception of the requirement of an Annual Report from the DAPE to the Governor. In addition, DAPE is totally self-supporting, with all revenue being derived from licensure fees, examination fees, certificate of authorization fees and return on investments. Licensure fees are among the lowest in the nation (currently \$18 per year) and cannot be increased except by an affirmative vote of the majority of the licensees. Currently, DAPE’s annual budget is approximately \$300,000 with approximately 5,200 licensees.

Conclusion

While the 1972 Delaware law set the standard for professional engineering self-regulation, recently enacted laws in Florida and Oregon include significant variations that could be useful in assessing the most effective manner in which

to regulate the practice of engineering. With the trend in governmental functions being increasingly privatized, engineers in other states will be carefully watching developments in Florida, Oregon and elsewhere to learn from their experiences.

RESOURCES

In Print

Ethics and the Professions, edited by Ruth Chadwick (Brookfield, VT: Avebury, Ashgate Publishing Company, 1994; \$59.95 plus s/h). To order, call (802)-276-3162; Fax (802) 276-3837; on-line <http://www.ashgate.com/html/checkout.cfm>. A collection of essays that examines, through both theory and practice, the concepts that define professional ethics. The perspectives of law, social work, medicine and moral philosophy are employed in order to investigate the conceptual basis of professional ethics. The concept of a profession is examined in order to assess whether a profession is based on knowledge and expertise or simply on an ideal of service. Next, accountability, as a conceptual contributor to professional ethics, is explored. The idea of holding professionals accountable is considered by linking a professional's conduct to ethical criteria. Thus, the application of ethical discretion to decision making defines accountability. Finally, *Ethics and the Professions* examines both the meaning and the functions of codes of conduct. Collectively, the essays are intended to offer a new perspective on professional ethics, influenced by changes in society and applied ethics. The volume's papers are based on the 1993 annual conference of the Society for Applied Philosophy.

The Ground of Professional Ethics, by Daryl Koehn (New York, NY: Routledge, 1994; \$17.95 plus s/h). To order, call (212) 216-7800; Fax (212) 564-7854; on-line <http://www.routledge.com/routledge/service/service.html>. Koehn argues for a revolutionary professional/client relationship that is founded on trust in a covenant to serve a particular good. This relationship, promoted by both parties, promotes advancement of both self-esteem and professional legitimacy by exceeding the desires of the client. Through a discussion centered on the professional/client relationship, the text also examines what clients can expect from professionals, what grounds justify a professional's termination of service to a client, when it is ethical to transgress client confidence, and the role of political pressure in professional life. The resolution of each topic is based on the idea that the professional is not bound to each specific desire of the client. The professions of medicine, law and the ministry are used to illustrate how the professional/client relationship can operate, in each case, for the advancement of health, social justice, or salvation.

ANNOUNCEMENTS

On September 26-29, 1998, the **Australian Association for Professional and Applied Ethics** is sponsoring its Fourth Annual Conference in Sydney, Australia. The theme of the conference is Responsibility and Accountability in Administration, Business and the Professions. The conference will cover a broad spectrum of topics - from theoretical papers in moral philosophy, to papers drawing upon insights in the social sciences, through to presentations on ethics teaching and practice-based case studies. Contact Damian Grace, School of Social Work, UNSW, Sydney 2052; [61] 29-385-51-72; Fax [61] 29-662-89-91; E-mail d.grace@unsw.edu.au; WWW <http://www.arts.unsw.edu.au/aapae/>.

The first national **Conference on the Management of Biomedical Research Laboratories** will be held October 1-3 at the University of Arizona, co-sponsored by the University and the Office of Research Integrity (ORI), to give veteran, new and prospective laboratory directors, research administrators, postdocs, and graduate students an opportunity to exchange views on managing laboratories. Topics to be addressed during the conference are: the role of laboratory director, mentoring, managing the research agenda, quality control, data management, collaborative research, and assigning credit for productivity. Contact Noah Lopez (520) 626-9060; Fax (520) 621-3269; E-mail noahl@u.arizona.edu; WWW <http://conferences.arizona.edu/biomedlab98>.

The Association for Practical and Professional Ethics will convene a conference, **Ethics in the Professions and Practice** at the University of Montana campus on August 2-6, 1998. Participants will choose a four-day focused seminar on a topic of special relevance to their teaching, research or practical or professional interests. This year's seminar topics are Ethics in Engineering Price Waterhouse Ethics Symposium Business Ethics: Practice and Pedagogy, Religious Perspectives and Care for the Dying, Narratives, Case Studies and Theories in Ethics, the Animals in Our World: use and Abuse, Strategies for Teaching Ethics. Contact Brian Schrag, Association for Practical and Professional Ethics, Indiana University, 618 East Third Street, Bloomington, Indiana 47405; (812) 855-6450; Fax (812) 855-3315, E-mail appe@indiana.edu; WWW <http://php.ucs.indiana.edu/~appe/home.html>.

The University of South Florida is sponsoring a workshop on **Teaching Ethics and Computing** August 2-7, 1998 in Tampa, Florida. The workshop is for faculty who are or soon will be teaching "ethics and computing" to Computer Science, Computer Engineering, or Information Systems majors. The orientation is applied ethics, with the aim of having concrete relevance to computing profession, and will have the technical depth relevant to CS/CE/IS majors. The major part of the workshop is devoted to developing specific topical material relevant to ethics and computing. Participants will develop model activities and assignments to use in their own teaching and share with others. The materials developed will become part of a web-based resource for faculty. Contact Kevin Bowyer at (813) 974-3032 or Fax (813) 9745456; E-mail kwb@csee.usf.edu.

The **International Programme in Bioethics Education and Research** will convene its 7th European Bioethics Seminar, August 3-7 1998 in Nijmegen, the Netherlands. The seminar will be conducted by scholars from a number of European nations. Special attention will be given to traditions in health care ethics. The seminar is designed to provide the participants with both a theoretical and practical understanding of contemporary issues in bioethics. The seminar is primarily directed to health care providers and teachers in the areas of ethics, philosophy and theology and senior students undertaking courses of study in the health professions. Contact Bert Gordijn, Dept. of Ethics, Philosophy and History of Medicine, Catholic University of Nijmegen, PO Box 9101, 6500 HB Nijmegen, the Netherlands; [31] 24-361 53 20; Fax [31]24-354-02-54; E-mail b.gordijn@efg.kun.nl; WWW <http://www.azn.nl/fmw/maatschp/bioeth1.htm>.

The **Harvard University Program in Ethics and the Professions** invites applications for Resident Fellowships and Faculty Fellowships for the academic year 1999-2000. Six Fellowships will be awarded to outstanding teachers and scholars who wish to develop their competence to teach and write about ethical issues in business, education, government, law, medicine, public policy, and social science. Fellows participate in the weekly seminar of the program, may attend courses in one of the professional schools or in the Graduate School of Arts and Sciences, and conduct their own research on ethics. Deadline for receipt of application is December 17, 1998. Contact the Program in Ethics and the Professions, Harvard University, 79 Kennedy Street, Cambridge, MA 02138; (617) 495-1336 ext. 3990; Fax (617) 496-6104; E-mail ethics@harvard.edu, WWW <http://www.harvard.edu/pep/>.

The Centre for Research Ethics, Uppsala, in collaboration with the Depart. of Public Health and Caring Sciences, Uppsala, and the Kennedy Institute of Ethics, Washington DC, are organizing a conference **Gene Therapy: Ethical, Legal, and Social Perspectives** in Uppsala, Sweden October 28-30, 1998. Participants are invited to present papers at the parallel seminars. Abstracts should be submitted by email (but not as attachments) to the Scientific Secretariat no later than September 1, 1998. An abstract should contain no more than 200 words in addition to title of paper, name of author(s), academic title, department, and university. Some of the papers presented at the conference will be published in the series "Studies in Bioethics and Research Ethics." Contact Uppsala Turist och Kongress "Gene Therapy", Fyris torg 8, S-753 10 Uppsala, Sweden; [46]18-471-21-75; Fax [46]18-71-01-70; E-mail David.Kronlid@teol.uu.se; WWW <http://www.fef.uu.se>

The **National Bioethics Institute**, hosted by Oregon State University in Corvallis, Oregon, August 1-6, 1998 is seeking applications for a faculty development workshop designed to assist faculty in the life sciences in integrating discussions of ethical issues into existing science courses. Institute sessions are devoted to ethical theory, moral decision making, and pedagogy. Particular attention is paid to ethical issues of relevance to agronomy, animal science, biology, biochemistry, biotechnology, botany, entomology, environmental studies, forestry, genetics, and zoology. Applicants must be tenured or tenure-track life science faculty members. Teams of applicants from a single institution are encouraged. Contact Professor Gary Comstock, 421 Catt, ISU, Ames, IA 50011-1306; (515) 294-0054; E-mail comstock@iastate.edu; WWW <http://www.bioethics.iastate.edu/>

