

## **Professionalism in Africa: A Quaint and Outdated Notion, or an Essential Building Block of Development?**

by Chloe Schwenke and Marianne Camerer

### Abstract

In most of Sub-Saharan Africa professions as traditionally understood are weak and getting weaker, in some cases approaching complete irrelevance. Many are rapidly losing what remains of their social, legal, and moral justifications for any of the traditional claims for special prerogatives, substantial autonomy, or an elevated level of public trust, and their status as special moral duty-bearers in the service of social welfare and development is increasingly open to question. Should professionalism be allowed to wither and die in Africa? Can and should anything be done to bolster professionalism, or is this simply an outdated notion with no relevance to contemporary Africa?

This paper focuses also on the moral and ethical role of the individual professional, and the professional association, in fostering development and good governance, with a critical assessment of the overall state of professionalism in Sub-Saharan Africa. Starting with an overview of the values and meaning of professionalism, both historically and in the current African context, the author questions whether the professions in Africa really do embody a consistent set (within each profession) of internalized values that are in turn reflected in the manner in which professionals perform, and the ethical standards that they subscribe to.

The authors also consider the expanding and often ill-defined boundaries of what constitutes a “profession”, with specific reference to whether there is scope for a redefinition of this concept in the developing world. The moral relationship of trust and accountability between the professional and society is considered, both in theory and in practice, and an assessment is offered regarding the relevance of the recognized professions to the needs of development, good governance, and integrity in Africa today. The role and performance of the state and donors in supporting professionalism is also considered.

This paper is informed by field survey research (partly carried out under World Bank funding) in Kenya, Uganda, and South Africa, which provided current data (based on in-depth interviews and focus group discussions) to generate an overview of the current state of professionalism (both in terms of individual professions, and professional associations) in the following professions: accounting & auditing, civil engineering, and medicine.

Finally, the authors suggest specific recommendations for redefining and strengthening specific professions in Africa, and improving their role in development and good governance.

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Introduction

When an American architect designing a building project in the small African country of Djibouti came upon a complex regulatory snag relating to the sewerage system, she took the problem to the office of the Ministre des Travaux Publiques for clarification.<sup>1</sup> The official listened patiently and with courtesy, but then simply shrugged and said that there was...no answer. The persistent architect could not accept that there was no answer – surely some solution to this regulation’s prohibition could be found. After it became clear to the official that the architect intended to stay all day if need be until “no answer” ceased to be the answer, he beckoned to the architect to follow him to the back room. In this unmarked office sat the French advisor, whose discreet presence in Djibouti remained a convenient but scarcely concealed secret. In short, a solution to the irreconcilable bureaucratic impasse was achieved, involving no unethical or illicit transaction. The technical, cultural, and political systems of America, Africa, and France somehow came together to find a way to make the project’s sewerage system compatible with that of the municipality’s!

Africa is a continent of many systems – some compatible with each other, some incompatible, most somewhere in between these two poles. Cultures coexist and collide in Africa; here lifestyles that have remained largely unchanged for centuries share societal space with the cutting edge of fast-paced globalization. No surprise then that values and attitudes span a very broad spectrum, and people’s priorities – even within the same local community – are often dramatically disparate. Africans are resourceful, as many of them must be simply to survive, and from this resourcefulness multiple strategies – “games” – are derived. Each has its own set of rules – yet most are unwritten. Even when rules are stated, one finds that another set of unwritten rules tends to prevail; often the written rules exist to provide some official space for the unfettered operation of

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<sup>1</sup> This anecdote refers to an experience in 1984 with one of the authors, while renovating the residence of the American Ambassador in Djibouti, a very small Francophone country in the Horn of Africa.

the unwritten rules. There are rewards and risks attached to these games, and the greater the rewards, the more serious the risks – and the more confounding and mysterious the rules.

In most of Sub-Saharan Africa, for most Africans, the “game” is relatively straightforward, and desperately serious. The reward is staying alive; the risk is death by starvation, disease, or violent conflict. No one asks to enter this game; its players are mostly born into and are inevitably trapped in its harsh rules. For most Africans, this is the only game available, and the many strategies that they use to “win” are a tribute to human creativity and dogged persistence. Most Africans have few opportunities to abandon this game in favor of any other game less harsh, less punishing, or less undignified.

Yet other games or strategies – many of them – do exist in Africa. They include the taking up of arms and living the various lifestyles of those who depend on brute force to achieve survival and success, however that success might be measured. Others claw their way up out of poverty through talent, cleverness, education, diligence, exceptionally good luck, or recourse to other less virtuous measures. If one does graduate to the relative economic security of middle class or even “elite” existence, he or she enjoys the freedom to engage in different games. At this stage, the stakes entail nothing more than acquiring significant wealth (“winner”), less moderate middle class wealth (“still a player”), or loss of middle class status through economic or social failure (“loser”), yet the rules are extremely complicated. With wealth comes an extended web of family obligations and societal pressures, expectations of patronage duties, and demands from political interests. Always in the background are the high-stakes political games on offer, in many cases on a winner-take-all basis.

History has shaped these many games. The vast majority of Africa was colonized by European powers, which imposed their own elaborate games with rules unlike any ever seen in Africa before. Even now, with that colonial era rapidly fading into historical memory, many of those games linger in modified forms, and can – with hindsight – be

viewed as perhaps the vanguard of a trend in globalization that is introducing new, rapidly changing rules, players and games into this complex social, economic, political, and moral environment.

Of course the “games” described above are the social, legal, cultural, and moral arrangements that structure human social and economic relationships in all societies, at all levels of the economic scale. What makes Africa so unique? Primarily it is the vast differences between certain players and their games; the gap between Africans of different economic levels is immense. Ill-clothed, poorly educated peasants struggle to survive alongside wealthy capitalists speeding in their Mercedes off to hunt the elusive next deal. Here armed militias play by very rough, brutal rules, while all around them live people whose values are similar to those of peace loving, religiously devout, hard working peoples anywhere. The boundaries between these worlds are perilously thin; some of the sons and daughters of these ordinary citizens are coerced to become armed (and often deeply traumatized) combatants who return to take the lives of their parents, siblings, or cousins – on the orders of their military commanders. Africa is a continent where the hopes of ordinary people are overshadowed by the awesome scale of tragedies of “games” that have gone very badly wrong indeed.

The rural-urban divide in Africa creates its own chasm between the various games pursued. African cities provide the context for elaborate economic, political, and social endeavors, often motivated more by self-interested materialism than the desire to be effective agents of change, supporting the common good. Tall, modern buildings pay tribute to sophisticated systems of technical accomplishments, management expertise, and economic savvy, yet outside these edifices are cracked sidewalks, clogged streets, and masses of unemployed or under-employed people. Modern hospitals, with well-trained doctors and nurses, co-exist alongside witch doctors and bush clinics, run by “doctors” of dubious qualifications, with no drugs (or expired drugs) to dispense. Lawyers and accountants advise governments and corporations in how best to craft sophisticated legal and financial instruments to support an increasingly globalized level of commerce, trade, and business, while the majority of people structure their own

finances and business affairs in the informal economy, away from ledgers, regulations, and taxes. The space-age landing crafts of the globalization invasion – elegant embassies, five star hotels, and global corporate offices – share the same cityscape with ramshackle pork joints and shanty “jua kali” enterprises.

Arguably there are at least two Africas. One Africa has adopted – or is in the process of adopting – the global set of rules, seeking to become a global economic and political player, supported by a social, financial, political, and infrastructural base that is questionably inadequate to enter and stay competitive in this game. The other Africa is too busy staying alive to even truly notice – much less benefit from – the tall buildings and the shiny aircraft. Even in South Africa, one of the wealthiest countries on the continent, according to recent news paper reports half the population survives on R20 (less than \$3) a day.

This paper considers a game originally set in the era of colonialism, transformed by the sweep to independence, and eroded by the pressures of “free market” globalization. That game is “professionalism”, defined as the practice of certain limited set of historically recognized, well-established, and often monopolistic fields of expertise, (such as law, medicine, engineering).

The qualities of a professional group are summed up by a former President of the Institution of Electrical Engineers in Great Britain, as the following six traits:

We may place first Knowledge and Skill held as a common possession and to be extended by united effort. Next is Educational Process in ordering which the professional group has a recognized responsibility. The third is a Standard of Qualifications for admission to the professional group, based on character, training and proved competence. Next follows a Standard of Conduct based on courtesy honour and ethics, which guides the practitioner in his relations with clients, colleagues and the public. Fifth, we may place more or less formal Recognition of Status by one’s colleagues or by the State as a basis of good standing. Finally there is usually the Organisation of the Professional Group, devoted to its common advancement and its social duty rather than the maintenance of an economic monopoly.”

Professional status is therefore an implied contract: to serve society over and beyond all specific duty to client or employer in consideration of the privileges and protection society extends to the profession.<sup>2</sup>

Traditional professions in Africa, while rich in rules and traditions, often highly formal in structure, are linked to a dissipating legacy of historical values. To even that nascent Africa of glistening glass-and steel and digital connectivity – a new (if still largely marginalized) player in the globalized world – many of the rules and values of traditional professions appear irrelevant or simply anachronistic. To that other and, sadly, more familiar Africa, beset by violence and poverty, the elaborate game of professionalism as it has now been reinterpreted in much of Africa, seems remote at best, and of questionable relevance in addressing the needs of the poor.

#### Professionalism: An Imported Game with Multiple Rulebooks

As an American trained architect registered and practicing her profession in Kenya<sup>3</sup>, one of the co-authors received an in-depth exposure to the transformation in professionalism.

The profession of architecture, with strong roots in Britain and America, is among the best known of the traditional professions and the author combined both heritages – an exceptionally good American university education in architecture, with professional apprenticeship and registration in Great Britain. At the start of an adventurous career in Africa, she had no trouble locating employment in Kenya, and soon was working with one of the largest architectural firms in Nairobi.<sup>4</sup>

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<sup>2</sup> Extract from D Cowan, “The Sectional Title Act: a challenge and an opportunity for the professions of Land Surveying and Architecture”, on what is a profession and what is expected of a professional man in the pursuit of his calling.

<sup>3</sup> Stephen Schwenke practiced as a Kenyan-registered architect in Nairobi from 1980 to 1989

<sup>4</sup> Mutiso Menezes International

In American and British professional practice, an architect is taught to, and indeed expected, to hold herself accountable to her professional peers. This takes the form of a “crit” – an occasion at which an architect presents his or her design ideas to in-house colleagues, and receives a critique that may seem to outsiders (were they to be invited, which is rare) quite bruising to the ego, but which is founded on the (professionally accepted) premise that constructive criticism is essential to improve the quality of the architectural design. It is an institutionalized ritual within the profession in America and Britain, and while unwritten, the “rules” are clear. Criticism is to be objective, and certainly not ad-hominem. In time, each architect will be making similar presentations, and the peer review that it premised on trust, respect and a sense of mutual accountability is fundamental to successful professional practice, particularly on large, complex projects.

In Nairobi, the author felt right at home when – two weeks into his new job – the firm held an ostensible crit session. One of the senior partners made his presentation of his new design for a college campus to a gathering of twenty or so architects within the firm. The first comments made by those in attendance were full of lavish praise. The author, however, disturbed by some fairly obvious weaknesses in how the site was organized, offered a mildly stated comment to this effect. The result was dramatic. The room exploded into a collective gasp, and then rapidly many of the architects there attacked the author’s criticism in scathing terms, with no pretense of being objective. The crit session in Nairobi was not what it had appeared to be. Clearly the rules of the game were very different in Nairobi; only praises were countenanced under this unwritten rulebook. To criticize one’s colleague (especially by the expatriate “new girl”) was perceived as audacious and disloyal, malicious and inappropriate, and whoever dared to do so was publicly excoriated.

In Sub-Saharan Africa, the original “rulebook” – the culture, values, and standards associated with professionalism – was introduced during the period of European colonization. One of the legacies of this colonial era is that many of the rules of this particular game, which defined the institutional structure of the professions, came to

be incorporated into the laws of the former African colonies of the European powers. The more recent rules of globalization have reinforced this legacy. Every country in Africa is a member of the International Labour Organisation (ILO) and through that membership countries officially recognize within their respective national legal codes, the formal professions (as identified in these ILO standards<sup>5</sup>). These professions, both old and new, have become established roleplayers in local economies in Su-Saharan Africa, to varying extents.<sup>6</sup>

Professions in Africa have inevitably changed over time, evolving from being closely modeled (and in some cases directly aligned to) European professions, to become more indigenous, less formal, and more business-focused. The original Euro-centric professions originally replicated the institutionalization of monopolistic, self-regulating “guilds” that looked after their members’ interest while at the same time promising the public that their members would demonstrate consistently high standards of individual virtue, integrity, collegiality, and competence from their members.

By professing such virtues, and by stating an institutional commitment to serve and to uphold the public interest and be worthy of higher than normal standards of trust, African governments – like their counterparts in more developed states – allowed the professions to establish and retain their monopolies and their self-regulatory prerogatives (although the degree to which these privileges are enjoyed by various professions varies considerably). As correctly noted by Michael Bayles: “Professionals do not have a right to practice; it is a privilege conferred by the state.” (Callahan 1988)

The ethical focus of colonial era professional bodies was founded on the adoption of the “gentleman” standard, which referred to generalized but widely held assumptions regarding educational standards, economic capacity, and virtuous character. That all

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<sup>5</sup> See <http://www.african.gu.se/maho/miscmaps/ilo.html>

<sup>6</sup> Even relatively new professions recognized by the ILO, such as landscape architecture, are finding formal roles in certain African economies. The profession of landscape architecture is now well established in Kenya, Ghana, Nigeria, and South Africa.

professionals were “gentlemen” in this sense was the common expectation of all who bore the title of “professional”, and of most of their clients.

Since independence, the professions have come to be dominated by indigenous Africans. Often lacking the economic security of their former expatriate colleagues, they would therefore emphasize the commercial opportunities inherent in the monopolistic character of professions. Consequently, the colonial concept of the “virtuous gentleman professional” gradually lost its traction; such ideals resonated poorly with the more hard-edged commercial environments of newly independent nations. Arguably, the new African professionals also lacked the time and economic security to give much emphasis to the maintenance of the more esoteric aspects of professionalism, such as the dialogue on ethical standards, and the role of professions in serving the public interest. Similarly, professions in Africa have seen their character of collegiality and sense of community dissipate, as individual professionals find competition more than cooperation to be the fundamental determinant of professional relationships. Even professional associations (for example SAACE<sup>7</sup>) are also organized to look after their members’ business interests.

These trends are not unique to Africa. The forces of the market and globalization have also affected the character and identity of professions worldwide. A growing focus on maximizing profit and giving priority to business objectives is taking the place of many traditional professional values, and the special prerogatives that the professions once enjoyed without question (monopoly status, self-regulation, elevated level of trust) are now openly challenged by free-market advocates. Professions themselves – particularly in Africa – are losing their institutional cohesion, as reflected by the declining interest of members of the professions in taking on non-billable “professional advancement” activities such as general public outreach on issues of public interest, or public-interest advocacy that the professions traditionally engaged in. Given these trends, it is not surprising that many members of the public (in Africa and elsewhere) now generally misunderstand the concepts and principles that originally framed and distinguished the professions, and the original value structures of specific professions.

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<sup>7</sup> South African Association of Civil Engineers

Instead, professions are often viewed today simply as knowledgeable technical experts and/or as self-serving, monopoly businesses. Other critics are even more cynical, arguing that professionalism is simply a gimmick designed to protect an advantageous position in the market.

Professional status historically entailed a strong moral dimension. In the ethical milieu of Victorian England, for example, professionals were seen by society as people who consciously set aside egocentric values publicly to adopt a set of professional values that entailed high standards of service, diligence, quality, and care. Professionals consciously positioned themselves in that society as autonomous moral agents<sup>8</sup>, and expected to be held accountable in that context. As autonomous moral agents, they were reasonably well versed in ethics, and were aware of a variety of moral resources available to assist them in recognizing and resolving moral dilemmas that arose in the context of their professional activities.<sup>9</sup>

The ethical environment of the professional in Victorian England is arguably well removed from the contemporary professional in Sub-Saharan Africa. There has been a transformation and diminution of the once lofty and prestigious status of professions to something less distinguished by ethical pretensions, a situation exacerbated by the perceived incapacity (or, some would argue, lack of inclination) of many African professionals for self-reflection, self-regulation, or articulation and advocacy of important values or principles relevant to professionalism. Some professions in African countries are perceived to be losing many of the distinctive traits of professionalism, traits generally held to include extensive training, sophisticated intellectual content, providing intellectual advice as their product instead of “things”, providing essential and important

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<sup>8</sup> Autonomous moral agents are defined as persons who are aware of the social context in which they live, and of the nature of the moral options available to them (even if they choose not to pursue such options). The morally autonomous person seeks to be guided by moral principles – but to also be able to accept or reject such principles after self-reflection and informed critical deliberation. The morally autonomous person cares about having moral values, and holds herself accountable – she feels the obligation to give an account to others of her actions, particularly when others are affected by those actions.

<sup>9</sup> These moral resources include codes of ethics, formal moral decision procedures, moral folklore and experience, ethics training, and access to on-going moral dialogue.

services, enjoying exclusivity and monopoly, being held to elevated levels of public trust and public expectations, and being subject to elevated levels of legal liability.<sup>10</sup>

### The Players in the Game of Professionalism

The various contemporary roleplayers who underpin the framework of professionalism in Africa are disadvantaged by a lack of clarity in their respective roles, expectations, and duties. These key roleplayers are the professions (and individual professionals), the state (representing the public), and members of the public who make use of or who are affected by the services of the professions. The various relationships between these roleplayers originated in the context of an assumed social contract between the state (looking after the public interest) and the professions (looking after the interests of their members), yet the principles that characterized all of these relationship between the state, the public, and the professions has been both poorly defined and poorly understood in much of Sub-Saharan Africa. This assertion is supported by the fact that African governments regularly breach the traditional social contract by direct interference in the operations and regulation of professions to varying degrees, and by selectively honoring the monopoly status of professions. For example, in Kenya the government has obviated the requirement of professional registration or membership in the Kenya Medical Association for all medical doctors who are directly employed by the government – by far the vast majority of that profession. This means that both the professional registration board and the professional association represent only a small minority of the professionally trained doctors in that country.<sup>11</sup> A similar situation applies to Kenyan engineers, and other professionals directly employed by the government. This situation differs however in South Africa where the South African Medical Association (SAMA) represents almost 70% (+-1600) of South Africa's doctors who first require registration with the Health Professions Council of South Africa (HPCSA) before achieving eligibility for membership with the professional association.

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<sup>10</sup> Also see Annex One.

<sup>11</sup> In an interview with members of the Kenya Medical Practitioners & Dentists' Board on 15<sup>th</sup> June 2006, it was estimated that the number of registered professional medical practitioners is less than 20% of all those who are professional trained in medicine and active in the provision of medical services.

The Kenyan situation is far more representative of conditions common to Sub-Saharan Africa than is the South African situation illustrated by SAMA. Throughout much of Sub-Saharan Africa, the state directly employs the majority of professionals, and it seldom requires that these professionals be formally registered by the official registration boards, nor do they actively encourage such professionals to be active in their respective professional associations. Arguably, the value to such states of supporting high standards of professionalism (both nationally and in line with international standards) also is poorly understood. Even the distinction between a legally established board of professional registration and a professional association is generally not well understood by the public, and the relationship of both types of institutional entities to the state is also often confusing.

Professional registration boards are the official nexus between the professions and the state. Here the state exerts its regulatory power under the rule of law, yet professionals – not state bureaucrats – typically dominate and control these boards. By allowing professionals to direct and manage these boards, including setting standards for membership in a profession and regulating the performance of a profession, the state had formally acknowledged the monopoly power of the professions to use the legal structures of the state to sustain professional activities and regulate professional standards. However, by releasing the majority of individual professionals (those in government employment) from the requirement to register and pay annual registration fees, the state has effectively disempowered these registration boards and curtailed their sources of revenue.

In most cases, professional associations are far less formally linked to the state, if at all.<sup>12</sup> Instead these institutions are more akin to professional clubs; they are voluntary associations and are typically conceived as support and advocacy organizations to serve the needs of their members. Professionals are encouraged, but rarely required, to be

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<sup>12</sup> A notable exception in the National Board of Accountants and Auditors in Tanzania, which occupies the middle ground between registration board and professional association, and which enjoys statutory powers (never to date exercised) to carry out surprise audits on government agencies and ministries.

members of such professional associations. The level of services offered by professional associations varies enormously, depending on the interests of the members, the income available through membership fees, and the quality and vision of the leadership of the professional association.<sup>13</sup>

### Professions and Ethics in Sub-Saharan Africa

The linkage of values to professions is not absent in Africa. Clearly African doctors are concerned about health and African lawyers are concerned about justice. While in South Africa reasons given for becoming a chartered accountant include “making lots of money”, young men and women are presumably drawn to the long and arduous training to become professionals for more than economic reasons alone; professions are potentially rich in ethical content, pursuit of high ideals, and dedication to public service. While there appears to be a general public awareness that professions are distinguished in some way by their values and their codes of ethics, there also exists a widespread distrust of the professions to monitor and ensure the adherence of individual professionals to demonstrate consistent ethical performance. Some critics go so far as to argue that in the context of professionalism, professionalism is simply a “conspiracy against the laity”: in other words, that adherence to professional values and ethics serves primarily to advance the collective interests of the profession at the expense of society as a whole. (Cooper 2004)

How “ethical” are professionals in Sub-Saharan Africa? While such a measurement would be daunting, and the requisite data difficult to collect and analyze, it is well established that most professionals in Sub-Saharan Africa receive little or no formal ethics training, and there is very little dialogue among such professionals about

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<sup>13</sup> Professional associations in the North provide such services as professional development (including career advancement and networking opportunities, continuing legal education, publications, and legislative advocacy); practice assistance (including investment, insurance, and special savings schemes, online resources, and advice on practice management and marketing); specialized resources (including for example specialized resources for special groups, such as: government and public sector professionals, military professionals, solo professionals, women professionals, student professionals, etc.); and opportunities for professionals to perform public services (such as emergency disaster relief after a natural calamity). For example, refer to the American Bar Association’s website at [www.abanet.org](http://www.abanet.org)

ethics or how to identify and resolve moral dilemmas generally. Where professional associations do exist, and where they operate ethics committees, these committees are generally called “Disciplinary Committees”. They are perceived to serve only one function – the investigation and possible sanctioning of their members for unprofessional conduct. Generally such investigations only occur as a result of the receipt of a formal complaint (often by another professional who feels his interests have been damaged); disciplinary committees do not have the capacity or mandate routinely to monitor the professional standards of their members. The operations of such disciplinary committees are, by their nature, usually confidential,<sup>14</sup> so it is very difficult directly to ascertain whether such institutional mechanisms are vibrant, active, or effective within their respective professions. It is highly doubtful (yet not empirically established) that there exist within Sub-Saharan Africa any ethics committee in any professional association that takes a strongly proactive role in strengthening professional ethics through education, recognition of moral exemplars, or provision of ethical counseling.<sup>15</sup>

Most professional associations in Sub-Saharan Africa (arguably excluding South Africa) are institutionally weak, and play a very minor role in shaping the ethical performance of their members. A simple survey of their websites suffices to demonstrate that their services are few, their capacities limited, and their resources highly constrained.<sup>16</sup> Few of these professional associations function in a similar capacity to their counterparts in the North, where such associations are able to serve in a robust capacity to support the values and priorities of their professions.<sup>17</sup>

Professional ethics generally, and codes of ethics specifically, have very little influence in guiding the ethical performance of professions in Sub-Saharan Africa. Few

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<sup>14</sup> The accounting profession in Kenya is an exception. Complaints against members are investigated, and the findings are routinely published in the association’s magazine.

<sup>15</sup> The SAMA has a committee dealing with “Perverse Incentives” that presumably guides its members as to ethical business practice in line with professional ideals and the code of conduct.

<sup>16</sup> For a representative example of one African country – Uganda: See the Uganda Law Society at <http://uls.or.ug/>, the Uganda Association of Consulting Engineers (UACE) at <http://www.uace.or.ug/home.php>, and the Association of Uganda Women Medical Doctors (AUWMD) at <http://www.wougnet.org/Profiles/auwmd.html>

<sup>17</sup> See footnote 13 above.

professions give emphasis to ethics, and many have outdated, inappropriate, or no code of ethics. There is no evidence of any on-going vibrant dialogue between African professionals on the topic of ethics, and professional associations in Sub-Saharan Africa are generally unable to provide significant ethical guidance to members, or to provide legal and institutional support to those professionals who seek to take a strong stand (for example, as a whistleblower) in upholding a high standard of professional ethics in the face of challenges from corrupt or conflicting interests.

Given this lack of grounding in ethics during the training of professionals, and the paucity of obvious moral resources to guide and support professionals, the expectations of what constitutes “ethical performance” are neither well articulated nor well understood by most professionals in Sub-Saharan Africa, or by their clients. Arguably there are international and more sophisticated clients who already have certain notional expectations of what constitutes ethical performance from professionals in Africa, yet these expectations remain notional. Were such clients to articulate these distinctive expectations of ethical performance to the professionals whom they engage, there might be an opportunity to influence attitudes regarding the role of ethics in a positive way within the professions concerned. Failing this, however, there are few if any incentives or efforts being made to distinguish, at least in ethical terms, a “professional” category of consultant (i.e., as a group expected to perform at a higher ethical standard) from ethical performance expectations of expert service providers generally.

“Ethical performance” is not a topic restricted to abstract academic musing. In a continent beset by burgeoning corruption, bloated bureaucracies, declining standards of public morality, and little consensus on the “common good”, the ethical standards and moral impact of service providers in all sectors of society is of paramount importance. In terms of development and social cohesion, arguably the awareness of the public to matters of ethics is vitally important. Professional ethics, as a sub-set of (and arguably a higher level version of) ethics generally, is also potentially a valuable means of supporting key developmental goals such as good governance, security, peace, democracy, and effective development.

Professionals provide essential and valuable services to any society, and as life and technology become more complicated, societies come to depend on professional services more and more. Whether globalization is more beneficial than exploitative may come down to professional ethics. For example, the attractiveness to beneficial outside investors of a nation's economy (or, to the contrary, the susceptibility of that economy to organized criminal elements) may depend on the veracity and accuracy of audited accounts, and the professionalism of those auditors who prepare and certify these accounts.

Pursuing ethical performance entails risks. Many professionals and their clients are substantially invested in the unethical, immoral status quo. Professionals who seek to apply higher standards of integrity may alienate themselves from their professional colleagues, and – in the case of whistleblowing in particular – subject themselves (and their families) to risks of retaliation or revenge.

#### “Professional” Status

The social contract that favored professions with monopolistic control over specialized services delivery and the power to regulate themselves, in return for the profession holding itself accountable to the moral demands of a higher than normal standard of trust and ethical performance is weak or poorly understood in most of Africa. Any society in any country that has entered into such a social contract has a legitimate claim on professionals to exercise their professional duties properly, and to hold professionals accountable. In Africa, this claim is seldom exercised. In theory at least, professionals carry heavy responsibilities – often for life – for the quality and direct consequences of their work, particularly when it affects public health and safety. In practice, the degree to which such professionals actually are held accountable (under law

and under public opinion) varies with the level of sophistication of the legal and insurance infrastructures in place.<sup>18</sup>

In most Sub-Saharan African countries, lawsuits against professionals for unprofessional conduct, negligence, or other violations associated with their higher than normal standards, are relatively rare. One might reasonably suggest that over and above limited societal access to justice, this low level of litigation is related to low expectations of the technical quality and ethical performance of professionals; perhaps the average consumer of professional services in Africa doesn't place great store in the distinction of a "professional" as anything of significance. This assumption is certainly supported by the procurement policies and attitudes of some of the most significant economic roleplayers in most of Sub-Saharan Africa – the donors and international commercial investors – who generally fail to distinguish any special category for professional service providers. Indeed, few international donors recognize local professional standards or qualifications as important (or advantageous) factors in their contracting of local experts, as evidenced by the common lack of any procurement requirement for such individuals to demonstrate that they are registered professionals in good standing, or that they will undertake to adhere to their respective professional codes of ethics. In some cases, bilateral donors impose their own standards that contradict or blatantly ignore local professional practice, or they bring in professionals from their own countries who are not locally registered.<sup>19</sup> Procurement procedures for the international financial institutions such as the World Bank are similarly vague or silent when it comes to procuring

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<sup>18</sup> While holding professionals legally accountable for their performance is appropriate in general, litigation can get out of hand. At what point should clients or affected individuals assume some responsibility for "reasonable risks"? Litigation can start a cycle of decline for professions, as professionals spend inordinate amounts of time and money protecting themselves from legal action (a process exacerbated by the market forces that push professionals to compete for work at the lowest possible fees). Example – the profession of architecture in the United States.

<sup>19</sup> For example, in the design and construction management of its Embassy facilities in Africa, the US State Department's Overseas Buildings Office (OBO) ignores local forms of construction contract (usually FIDIC based) and instead imposes its own form of contract that has no linkage to local professional roles. Similarly, the State Department retains local professionals at best for very minor roles in the design and building processes, relying instead on American engineers and architects who often have no prior experience in the African country concerned, and who are not registered or under the control of local registration boards.

professional services.<sup>20</sup> Noteworthy too is the nature of the contracts that both bilateral donors and international financial institutions utilize to engage professional consultants; in such contracts the client-professional relationship is only structured from the perspective of either an *agency* or a *contractual* form. The *fiduciary* form is entirely ignored (see Annex 2), even though the fiduciary form of contract is best suited to describe the ideal relationship between a client and his or her trusted professional adviser.<sup>21</sup> In nearly all instances, such clients currently do not treat “professionals” as a separate category of consultants, and governments fail to support or demand that these distinctions be made, even though they are often enshrined in their laws.

The decline in respect of professional status has not happened suddenly, and arguably would have been far less likely to have occurred had the professions concerned been more assertive in advocating for their privileges, and upholding high standards. It is argued by some professionals in Africa that local business practices – which arguably include the contracting of professionals – depend upon (and, by assumption, find acceptable) some degree of technically illicit inducements and other practices that, when judged by international standards, are ethically problematic. For example, professional commissions for engineers and architects in Kenya are routinely tied to financial kickbacks to the client’s procurement agent to ensure that a professional firm (or, in smaller assignments, an individual professional) makes it onto the short list of those invited to compete. Small cliques of very influential engineers and architects exercise significant (and arguably nearly total) control over how and to whom government contracts are awarded. In some cases, such as where professional technical expertise (for example, in the form of the services of architects and engineers) has been procured by local government on major public housing projects, the firms of such professionals stand to benefit significantly when contracts are awarded.

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<sup>20</sup> In the World Bank’s Guidelines on the Selection and Employment of Consultants by World Bank Borrowers, the Bank only isolates “professionals” as a separate category in just one instance, with respect to professional liability (see 4.13 on page 42 of the Guidelines). It calls upon professionals to adhere to the “prevailing standards of the profession”.

<sup>21</sup> A fiduciary relationship is a relationship based on mutual trust, in which the autonomy and responsibilities of both parties (client and professional) are respected

In professions that are more internationalized, such as the accounting and auditing profession, there appears to be a higher standard of integrity in the competitive processes around awarding contracts for professional services, but there is also a strong domination by these large international firms over the smaller local competitors. The author's research indicates that medical professionals are generally held to be among the most ethical of the three professions surveyed, but even here one frequently finds doctors in public hospitals who give preferential treatment to wealthier patients, or whose professional judgment falls prey to the distortion of financial inducements from large pharmaceutical firms.

In summary, "professionalism" as an ethical concept that distinguishes the quality of services and the standards of care of specific expert service providers faces enormous challenges in Sub-Saharan Africa. These can be grouped as follows:

- The commercialization of the professions leading them towards becoming an indistinguishable roleplayer in the larger business community, driven more by traders' morality (and *caveat emptor*) than professional ethics;
- Lack of understanding by government, the public, and the professions of the character and reciprocal moral obligations that define the terms of the social contract upon which the distinctive position of professions within national economies exist;
- The dissipation of coherence of professions as distinctive and respected moral communities whose members cooperate as much as they compete, and who are identified by strong bonds of mutual respect and common values;
- Weak or non-existent training of professionals in ethics, and the absence of any on-going dialogue regarding moral challenges and values;
- Weak or non-existent capacity of professional associations or registration boards to monitor or advocate for high standards of ethical and technical quality;
- Weak, ineffectual, or non-existent professional codes of ethics;
- The ignorance or failure of major economic roleplayers (such as donors) to recognize any distinctive advantage associated with procuring recognized international standards of professional services, or to hold out appropriately

higher expectations of professional service providers over any other type of service provider; and

- The erosion of a public-service mentality among professionals.

The vitality of “professionalism” as an ethical ideal in much of contemporary Sub-Saharan Africa is weak, and to many consumers, irrelevant. Is this situation evidence of an irreversible trend, linked in part to larger and irresistible forces of globalization? If so, should professionalism as a distinctive concept be allowed to wither and die in Africa? Can and should anything be done to bolster professionalism, or is this simply an outdated notion with no relevance to contemporary Africa?

#### A future for professions in Africa?

The author argues that the most significant factor that distinguishes professionals from other providers of expert services (software designers, hair stylists, personal trainers, etc.) is the ethical orientation of traditional professions, which are based on elevated levels of public trust and a commitment to serving the public interest. Both of these attributes are obviously in the public interest as valuable and desirable social goods, and should be supported and reinforced if possible.

On this premise – that the ethical health and vitality of professions is central to their survival as valued and distinctive economic and social actors – it is essential that professions demonstrate a solid ethical basis to be credible as true professions. What indicators would demonstrate that professions take ethics seriously? The following measures should certainly be considered:

- 1) *Taking ethics seriously* ~ Taking ethics seriously depends on understanding what ethics is, and gaining familiarity and competence in the language and thinking of ethics. A robust level of ethics training of those preparing for the professions is central to this effort, as is the provision of ethics training (ideally based on locally

- relevant case studies) as a component of continuing professional development curricula.
- 2) *Testing ethical knowledge* ~ Candidates for entry into any of the recognized professions face demanding examinations to demonstrate their technical competence and professionalism. Testing of ethics knowledge and ethical discernment skills ought to be introduced as a significant component of professional registration examinations or interviews
  - 3) *Promoting integrity* ~ A focus on ethics in the professions is not only on preventing or censuring unethical or corrupt conduct. Of equal importance is the promotion of integrity in the professions, through the proactive efforts of an active ethics committee within the professional association or registration board.<sup>22</sup>
  - 4) *Becoming moral agents* ~ The ethical standards of professions are dependent on the ethical awareness and moral orientation of the individual professionals. Higher levels of social and moral awareness of individual professionals are needed, so that each professional is aware of the moral content and potential impact of his or her thinking, decisions, and actions, and so that all professionals can attend to the lifelong task of building virtuous character. Evidence of this transformation might first be noted in improved rates of volunteerism of professionals in pro-bono work for needy clients.
  - 5) *Advocacy for integrity* ~ Professions have voice, and are significant roleplayers in the economy. Where not co-opted through government corruption, or where not made irrelevant by government policies that diminish the importance of professional registration or membership in professional associations, professions have the potential to become effective and vocal advocates for important public goods and ethical ideals. These include higher standards of justice (law), honesty

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<sup>22</sup> The Institution of Engineers of Kenya currently has a policy of making annual awards to engineers who demonstrate high professional standards (and they acknowledge that there are some years when the award lacks appropriately qualified candidates) – interview held at their offices on June 12<sup>th</sup>, 2006.

and trustworthiness (accounting and auditing), safety (engineering and architecture), education (teaching), health (medicine, social work, counseling), and defense (military officers). As empowered advocates for these and similar ethical principles, professions could then provide moral and legal support (by professional associations, for example) to whistleblowers and professionals of integrity. They could also carry out advocacy to the public and to decision-makers on issues of ethical concern to the profession (treatment of patients, accessibility for disabled persons to buildings, legal reforms, environmental protection, etc.).

The interviews conducted thus far by the author in two very different African countries (Kenya and South Africa<sup>23</sup>), supported by anecdotal experiences from several other African countries, remains but a small effort in researching a complex and important phenomenon. Further rigorous study is warranted over a broader geographic region to evaluate the characteristics and impact of professional ethics in the provision of professional services in Sub-Saharan Africa. Among the most important targets of such research, it will be necessary to evaluate the potential role of professional associations to become leading examples of professional ethics.

Even assuming that professionals in Sub-Saharan Africa can be persuaded to reconsider the importance of ethics, the pursuit of improved standards of ethical performance would require preparation and support for those professionals who would be motivated to pursue the “high” road, but who currently lack the moral compass and institutional back-up. Individual professionals clearly are unlikely to succeed in pursuing the ethical high ground unless they were to be strongly backed by their professional societies and by the rule of law. Legal and ethical dimensions would need to be understood, which almost certainly would require an overt (and currently largely missing) focus on ethics in the training of professionals. Whistleblowing also may be needed, which in turn may require financial support, legal counsel, and advocacy efforts by

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<sup>23</sup> Interviews were conducted with representatives from the South African Medical Association (SAMA), South African Institute of Chartered Accountants (SAICA), South African Association of Consulting Engineers (SAACA), South African Institute of Civil Engineers (SAICE). Marianne Camerer led the interviews in South Africa.

professional associations in support of suitable legal protections for whistleblowers. Professionals and their professional associations would need to reshape their public image, which in many instances lacks credibility in terms of commitment to high ethical standards. Political pressures to restrain ethically motivated professionals also must be expected and would need to be properly responded to. All in all, it is a large and ambitious agenda – the prospects for success should be critically assessed before committing the level of investment needed to set in motion the processes of coalition-building needed across professions and professional associations, and among all affected stakeholders.

## Annex One: Deciding What's a Profession

necessary	common	normative
extensive training and education	sense of "calling"	devoted to providing a service
sophisticated intellectual content	licensing, certification, or registration	providing services to all who need them
providing intellectual advice, not "things"	some organization of members	providing services to promote the public interest
providing essential, important services	autonomy in the work	profession is sole judge of how it performs
exclusivity and monopoly	refusal to act unless client first agrees to follow advice given	professional associations encourage moral (code of ethics)
elevated levels of public trust, public expectations		serving social values that are tied to essential human needs
elevated levels of legal liability		

## Annex Two: Models of Client-Professional Relationships

### 1) Agency Model

Characteristics
Client has ultimate freedom of choice in all decisions.
Professional simply acts on behalf of client, promoting client's interest as fully as possible (within the law).
The epitome of advocacy and client autonomy.
Assumes that the client always knows what is in his or her best interests.

### 2) Contractual Model

Characteristics
Professional and client share both the rights and the responsibilities.
Based on assumption of bargaining between equals.

### 3) Friendship Model

Characteristics
Based on close relationship of mutual trust and cooperation.
Client and professional involved in a mutual venture or partnership.
Suggests some form of intimacy or affinity between those involved.

### 4) Fiduciary Model

Characteristics
Based on trust.
Relationship dominated by the concept of informed consent. Professional must objectively present all options, client chooses.
Client is the weaker member of the relationship.
Client trusts professional to provide all relevant information needed for decision-making.

### 5) Paternalistic Model

Characteristics
Professional knows what is best.
Client is assumed to be incapable of making the right decision alone.
Professional assumed to have some form of specialized knowledge or skill.
Professional and client are not involved in a mutual venture. The venture belongs to the client alone.

### **Annex Three: References**

Callahan, J. C., Ed. (1988). Ethical Issues in Professional Life. New York, Oxford University Press.

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