

Deontology of experts Contaminated Sites

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Introduction

The term deontology points to the branch of ethics dealing with duty, moral obligations and moral commitment (Collin English Dictionary, 3rd Edition, 1994).

Experts are called upon for their skills and specific knowledge based on scientific and technical training and experience, to produce facts and sound advice on management of contaminated sites.

The deontology of expertise of contaminated sites may thus arise as a question in various contexts.

Experts have been brought to identify the nature and evaluate the size and evolution in time and space of soil contaminations on industrial or former industrial sites.

Such expertise is called upon with specific purposes, namely :

- ✓ to assess the various risks involved, especially for human health,
- ✓ to direct the cleaning process,
- ✓ to bring evidence in a contractual discussion involving, e.g. a transfer of land ownership,
- ✓ or to bring forth specific evidence in support of an application.

In each case experts are hired to achieve specific results, which may be expressed in a contract.

The need for a deontology among experts on contaminated sites can be brought to light in four directions :

1. What kind of truth is attached to expertise ?
2. How skilled the expert should be ?
3. Does an expert have to be an remain independent ?
4. How about confidence ?

TRUTH

No Technique without tradition. Such a statement was made by Marcel Mauss, a founding father of French sociology who knew how to raise questions.

It has been brought forth in a more recent reflection about Nature by Pierre Legendre, who taught History of law.

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Pondering on the specific authority attached to expertise, we can come up with an answer : expertise has to deal with truth.

What truth ? Where does the truth attached to expertise come from ?

Expertise acts as if it were true on behalf of the customer who hired the expert.

The customer, as an owner of the contaminated land or as an operator of the facilities may resort to expertise in order to uphold his position in a discussion with a buyer, with the public administration, or in an actual or future litigation.

The report made by the expert is supposed to be true so that it may support a decision, whether to buy the contaminated land if the pollution is deemed acceptable, or to clean the land up to a certain level, or to apply for a claim against a potential liable party.

If a formerly industrial site is to be bought by a real estate operator on behalf of a report made by a pollution expert, the consent of the buyer may lie on the truth attached to the report.

In the facts as delineated by the report were not accurate, then the consent may be void and the contract nullified.

If an operator liable to a clean up process is about to shut down an industrial site, the public administration will take a decision on what should be done in order to avoid nuisances and future risks, and the local authorities may decide to reclaim the land for other purposes.

Hence the following deontological rules to be observed by the expert :

- the expert has to anticipate the type of decision which may be taken on behalf of the report and the risk involved
- the expert has to be competent and use the right skills.

SKILLS

Three sets of skills have to be brought forth in the fields of :

- Science and techniques,
- Communication,
- Negotiation.

Experts are supposed to be endowed by scientific knowledge and technical know-how.

But these assets are subject to evolution and have their own limits.

Besides, the expert has to communicate the results of the investigations made and how they can be constructed.

Now the expert has to emphasize on formal speech and writing in order to be understood by experts as well as by non experts.

Also he must be apt to discuss the relevance of the customer's expressed requirements as compared to the real needs and purposes.

He way have to help the customer to formulate those needs.

Finally the expert must know and respect the rules of negotiation.

In order to strike a balance between the monetary and time constraints and the requirements of his mission so that the results may benefit the customer. Otherwise the customer must be clearly aware of his own commitments.

In order to bring forth useful arguments on behalf of the customer's cause.

Hence a few rules for the professional experts :

- to care for constant knowledge updating,
- to perform precisely and cautiously in speech and writing so that the findings may be understood and used adequately,
- to negotiate adapted time and monetary framework for each mission and use the findings on behalf of the customer's cause.

INDEPENDENCE

Independence may be required from an expert for a variety of reasons.

Independence from the customer : the expert must avoid to get involved into the customer's business in order to be able to make statements according to findings and the knowledge he has, and not be bullied by the customer into making false or half distorted statements.

Independence from in view of his own interest : findings on pollution may lead to a clean up process. The clean up should be clearly distinguished from the findings, so that the expert may not be inclined to bring forth a particular clean up technique he could sell whereas using another technique might be more useful and/or cheap.

Hence the following rules :

- No indulgence into false or distorted statements,
- Prevent conflicting interests,
- Set the customer's needs ahead of own interests.

CONFIDENCE

The findings should not be used or otherwise made public without the customer's prior consent.

The expert has to work on the information released by the customer. This information has to be accurate but it should not be used for other purposes than those accepted by the expert.

The customer has a right on the expert's own findings.