THE
SOCIAL
LICENSE
HOW TO KEEP YOUR
ORGANIZATION
LEGITIMATE
JOHN MORRISON

The Social License

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The Social License

How to Keep Your Organization Legitimate

John Morrison

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"Those who expect to reap the blessings of freedom, must undergo the fatigues of supporting it."

Thomas Paine, *The American Crisis*, Philadelphia,
12 September 1777

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For Fiona and our children (Caitlin, Roisin, Felix, and Theo)

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Preface

I have spent the past 25 years working in the field of human rights, initially in refugee resettlement but for nearly 15 years on the issue of business responsibilities towards human rights from the vantage point of civil society, international organizations, governments, and business itself. This book is highly personal and subjective: it draws on my own experience as well as concepts and examples that have inspired me in trying to consider the societal impacts of different types of organizations.

I have seen occasions where business itself has stepped up voluntarily to show real leadership when government officials, elected or not, have demurred from doing so. Alternatively, I have seen times when business has lobbied hard against changes that have been needed to advance wider societal interests. Similarly, non-governmental organizations (NGOs) play an essential role in holding both governments and business to account, but NGOs themselves can also be highly unaccountable and they do not always represent the interests of the most vulnerable.

The book takes the broad concept of "social license" as a way of considering how different activities may acquire or lose legitimacy in the eyes of society. Whilst the term "social license" is a relatively new one, I link it to a much older idea—that of the "social contract" that binds society itself and also legitimizes the role of what I consider to be one of the most fundamental of all organizations, that of government. I believe that thinking about social license in relation to the social contract raises some interesting ideas and questions for all types of organizations in how their activities might be sustainable in social terms.

The social license relates to the activities of any organization. Obtaining and securing the social license cannot be directly managed or self-awarded; rather, it

is the result of interactions between a number of factors that will be explored in greater depth in this book. It is these factors that organizations can manage, not the social license itself. The fact is that it is much easier to notice the absence of the social license than to recognize its presence. The presence of the social license might be described as an equitable balance, or harmony, between different societal interests that allows a specific activity to continue and to thrive. However, as the social license is dynamic, it can always be withdrawn by society.

I have long felt the gap in our understanding of how the world operates from debates about business and society in particular. The concept of corporate social responsibility has taken us only so far while emerging work on business and human rights has taken us much further, in my opinion. Perhaps some of the ideas in this book represent my own reflections on the still wider question—what does it mean for the activities of any organization to be legitimate in societal terms and what can organizational managers and decision-makers do about it? What follows are not the reflections of an academic, nor is this book meant to be a management guide. Rather, the story I tell is aimed at shifting our collective thinking and to start asking some of what I see as the right questions.

Some of the ideas I present throughout the book are inspired by my current role as Executive Director of the Institute for Human Rights and Business. However, the views expressed here are wholly my own as are the mistakes I have made. I am very interested in any feedback and views these ideas stimulate—these can be tweeted to me at @jomo1966.

Part 1

Introduction

chapter 1

Macondo

"Their Power in the utmost Bounds of it, is limited to the Publick good of Society"[1]

John Locke (1689)

20 April 2010

At 8.50 pm the rig personnel felt "a kick." They had been monitoring the cement pumped down to the bottom of the production casing of Block 252 of the Mississippi Canyon in the Gulf of Mexico, one of the deepest deepwater oil wells in the world. The rig was 48 miles off shore, in 4,992 feet of water and drilling to a depth of 20,600 feet.[2] The jolt they felt was an imbalance between the pressure of the drilling fluid and the hydrocarbons in the reservoir at the bottom of the well deep below the sea. Within ten minutes these hydrocarbons had flowed up the riser onto the rig floor and caused the rig to explode—a chain of events that would kill 11 platform workers and cause the largest offshore oil spill in US history. The platform was the *Deepwater Horizon*, contracted by BP to exploit the "Macondo Prospect" (named after Gabriel García Márquez's fictional Colombian village). The rest is a matter of recent history.

The next few months would be bad for the company. Few US stakeholders would be prepared to defend the company's safety record (largely due to the Texas City and Prudhoe Bay disasters which had preceded that in the

Gulf of Mexico[3]) and even worse, BP's four main competitors were willing to go to Congress to testify against the company for not meeting industry standards.[4] BP faced between $20 and $37 billion in total liabilities—a large sum even for an oil company.[5] The story is now well known. The then CEO, Tony Hayward, stumbled when trying to explain the accident and BP's response to the wider world.[6] By this time, it had become a media feeding frenzy—his tone was perceived to be aloof and there was virtually no one anywhere in the world who was willing to stand in front of a camera and defend his company, other than those his company paid to do so (i.e. his employees and lawyers). Within weeks, a new CEO was in place.

What lessons can be drawn from this example? First, that the risk to human life was not perceived to have been managed well enough by a company that had gone through a cycle of aggressive acquisitions and then cost-cutting. This is not to suggest that BP intended any adverse outcome to occur. Few companies are cynical enough to have such a goal. But the outcome was not anticipated, or if it was, the probability, the company thought, was negligible. Second, so whilst BP's problems all had a technical element at source, they were undoubtedly compounded and magnified by something greater—the social, political, and legal context of the USA. In other words, whilst the problem was technical, the management implications of such a technical risk had a direct bearing on the expectations that society had and still has on the company.

It is important to remember that in 1984 Union Carbide, whose health and safety breaches in Bhopal, India, caused the death of over 3,000 people, arguably faced much less of a reputational issue in the US market than did BP. The Bhopal disaster was a generation earlier and on a different continent but whilst it has left a strong legacy of societal expectation in India, the actions of a US company abroad have left fewer expectations in the home country. So public and political sentiment can be fickle and highly domestic in focus. Legal regimes differ considerably around the world, and therefore so does non-technical risk. However, a human life is a human life and recent efforts between governments, within the United Nations and elsewhere, make the lessons of the Gulf of Mexico increasingly relevant to anyone anywhere in the world.[7] Both these cases, BP and Union Carbide, illustrate how legitimacy in the eyes of society can be a material issue for a business. It can cost the company not just in terms of immediate financial damages but also in terms of its future operations. For example, a recent study has estimated that conflicts with local

communities can cost mining companies up to US $20 million per week when large projects are delayed. Legitimacy and community relations can have real commercial value.[8]

And so to the focus of this book: the "social license." In recent years the concept of the "social license to operate" has arisen within the mining sector in particular. The concept has been defined in various ways, as will be discussed in the next chapter, but has broadly meant "the extent to which a corporation is constrained to meet societal expectations and avoid activities that societies (or influential elements within them) deem unacceptable."[9] This book endeavors to take the social license concept much wider and deeper, showing its relevance not just to all business sectors but also to the activities of governments, civil society organizations, trade unions, faith groups, communities, and other actors. My own experience of working in and with all of these types of organizations suggests to me that a good deal of their legitimacy, in the eyes of society at least, arises from their social license. As I will discuss, the concept is perhaps much less woolly and intangible than some might appreciate if it is pinned to older philosophical ideas—in particular the idea of the social contract between individuals in society.

When taking over from John Browne as CEO of BP in 2007, Tony Hayward made the comment that BP had "too many people trying to save the world."[10] My contention is the opposite. In fact BP would have benefitted from having more people who really understood social risk and social impact in a global sense, and the company would come to suffer as a consequence. Ironically, a few years earlier, BP had had more of these socially minded people, but many left as part of the "de-Browneification" of the company when Sir John Browne stood down as CEO (for unrelated reasons), according to some observers.[11] As I will argue, being part of global solutions and not global problems is much more than an issue of "public relations," "corporate social responsibility," or "spin," but about legitimacy that can be earned through knowledge and actions, not clever advertising or aggressive lawyers.

"World savers" and "tree huggers" are two of the many derogatory terms that some who think they have "hard skills" (e.g. geologists, engineers, bankers, lawyers) throw at those with "softer skills" (e.g. anthropologists, sociologists, political scientists, NGO types). However, there is much in the world today to suggest that human skills (a better term than "soft