

LOSS OF SOCIAL LICENSE TO OPERATE: THE TOP RISK FACING EXTRACTIVE SECTOR IN 2019/2020

Ernst and Young has assessed the loss of a Social License to Operate (LTO) as the top business risk for the extractive sector in 2019/2020.

This exponential rise has come about because the current approach taken by boards and CEOs is not broad enough. Indeed, the stakeholder landscape is changing and miners need to adapt. Furthermore, there has been a dramatic rise in resource nationalism globally, and the necessity of digital transformation highlights needs for a stronger LTO.

Whilst most sections of the metals and mining industry say the right things with regard to LTO issues, few actually take action. Today, LTOs extend well beyond social and environmental issues, into the realm of issues relating to Shared Value. If mining/metals companies are to remain competitive and keep their stakeholders on side, they need to focus more greatly on how they can Create Shared Value, to the point where this mindset needs to become deeply embedded within a company's fundamental DNA.

LTO issues cannot be delegated to a department within the business. Rather, LTO concerns must be integrated into a Company's core decision making process. There is more information about, and bigger platforms for the sharing of that information – just one disaffected shareholder has the ability to destroy a Company's reputation for good.

Wider society is increasingly participative in multiple issues that directly concern mining/metals operations – social media and the internet rally issues-based stakeholder participation *en masse*, especially in relation to issues such as sustainability, pollution and workers rights.

Social media has given minority groups, such as indigenous communities, global reach in respect of their issues of concern.

New business models are increasingly focussed on community owned operations, as opposed to more traditional models, whilst host nation governments have higher expectations of shared value outcomes. Essentially, governments want much more than tax and employment opportunities in return for the granting of access to resources. Increased transparency, as a result of more disclosure regimes, means that positive and negative impacts of mining operations are subject to much closer scrutiny than previously. Increasingly, projects are assessed on the basis of the quality and extent of stakeholder engagement. Kenya, for example, has enshrined the principle of public participation into its constitution, under Articles 10, (2) and 69 (d). Further, disaffected stakeholders are pursuing litigation in respect of past damages, and provisioning for such eventualities will become a key issue for companies and regulators.

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Creating Share Value in Complex Environments:

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[Part II](#)

[Part III](#)

[Part IV](#)

About the Author

Mark Jenkins advises clients on Corporate Social Responsibility (CSR), security and risk management issues affecting the viability of on and off-shore energy, mining and infrastructure sector projects in Europe, the Middle East and Africa. Mark's experience has been focussed on creating reliable community support for projects through the development of a Social License to Operate (SLO) based on effective CSR initiatives. The success of these initiatives has been based on a thorough understanding of local environmental, commercial, and cultural dynamics, especially Islamic ones.

Prospect Law is a multi-disciplinary practice with specialist expertise in the energy and environmental sectors with particular experience in the low carbon energy sector. The firm is made up of lawyers, engineers, surveyors and finance experts.

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