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On Leadership



LEGAL SCHOLAR

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Who's-on-first in the Gulf

Q: President Obama finally meets this week with BP chief Tony Hayward on the Gulf oil spill. **From a leadership perspective, which man has been the less effective in his handling of the crisis? What should he have done differently?**

There is enough blame to go around. In a crisis like the Gulf spill, two separate but closely related processes are critical to address the *immediate issues*: first, finding and updating vital facts; and, second, devising and updating crisis-response actions. Fault lies with BP and the administration on both counts.

Both failed to have clear, transparent processes that clearly demarcate private and public responsibilities in continually developing the facts and in constantly modifying the crisis - response actions.

Such clarity in process and responsibility is especially important in a crisis like this one, where the scientific and technical facts are complex and constantly changing, with every change fraught by large implications. (Questions of what past acts caused the crisis and how to prevent such events in the future have to wait.)

The immediate issues have been apparent from the early days of the spill:

--How much oil is flowing from the broken well?

--How can that oil flow into the Gulf be stopped?

--Where is the oil going---on the surface and sub-surface---and at what speed?

--How can both surface and sub-surface oil be contained or removed?

--What natural and human resources are in harm's way and how can damage to them be eliminated or mitigated (chemicals? booms? clean-up? berms? etc).

--What damages to human activities (loss of jobs or commerce) require immediate monetary compensation?

What has not been apparent is who is responsible for the processes of developing the critical scientific, technical and economic facts underlying those questions, who should be making decisions about appropriate crisis action responses, and who should be responsible for implementing those responses. BP's leadership is clearly at fault on virtually all of these immediate issues.

The company should have been much more careful about factual statements and much more transparent and inclusive about how to develop facts in the evolving catastrophe. Similarly, it should have been clearer, sooner about the types of crisis-response actions it was contemplating, how they met (or didn't meet) the growing problems, and how BP would close the gap between problem and actions. Rather than being ahead of issues, it has frequently been reactive: from estimating spill size to compensating those with immediate damage to setting aside enough cash to handle the escalating bill for public and private damages.

But the administration is culpable for:

--Not having a high-level crisis leader of national stature;

--Not having clear task teams of public and private experts on each of the immediate issues noted above;

--Not clearly articulating what we know, what we don't know and how and when we are going to improve our knowledge base with respect to those issues (a critical failing when technical and scientific issues need public explanation);

--Not having clear and frequent reports on the developing armament of crisis-response actions for each type of issue; and, perhaps most importantly,

--Not indicating clearly whether private or public actors were responsible for making decisions about response actions (e.g. stopping the flow of oil from the well) and which public or private actors were responsible for implementing them (e.g. government responsible for deciding how to contain the oil, but both public and private parties responsible for different aspects of implementation).

The Gulf oil spill is a catastrophe caused by private enterprise but it is a national disaster requiring strong, systematic public-sector definition, collaboration and coordination on immediate issues. Such a strong, clear and comprehensive administration approach would also have given coherence to its ad hoc (and at times ad hominem) critiques of BP, however much substantive, not political, criticism may be deserved.

The BP board of directors should appoint a strong independent panel to review the Gulf explosion, just as it did after a BP plant exploded in Texas City in 2005. The board will need to decide whether, in light of his questionable handling of the immediate issues and in light of the causes of the disaster, CEO Hayward should retain his job.

As with so many other issues, President Obama has chosen, for better or worse, to be the national point person on the Gulf eco-catastrophe. By failing to appoint a public-sector crisis manager of national stature, he is seen as personally responsible for the problems identified above.

Although he could never evade ultimate accountability, President Obama surely could have had a responsible leader, either from his cabinet or an ad hoc selection, as the visible day-to-day public manager of the crisis, a continuous, stable, in-control voice and face to the public. The president's board of directors, the American voter, will pass their judgment on the importance of the administration's failings this fall and in 2012.

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