

SCANDAL FOOD
& FOR
SCANDALIZATION THOUGHT

DEEP VALUE ADVISORS

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Content and Purpose of Memorandum

What is a scandal? How is it made? Is there escape? This memorandum provides insights into the nature of the public scandal and the mechanisms of scandalization.

Most importantly, it will help the reader survive.

Values at Risk

For the potential victim of scandalization, just about everything is at risk: Accumulated wealth and sources of future income; reputation and self-esteem; political, business, and personal networks; friends and family bonds. The victim is expelled from society and branded as an outlaw. In the electronic media age, there is no place to hide.

Things to Consider

Prior to engagement, three things are worth considering:

First, secure the unconditional support of your spouse and immediate family and of two or three true friends.

Second, diversify your private portfolio internationally, well in advance, so to make sure you have access to funds when needed, unless this would create a misleading impression, such as having lost confidence in your company, or being a flight risk.

Third, blend a core defense team out of good comrades and loyal allies. Do not let anyone onto the ship who is not willing or able to row, and push those who show signs of mutiny or exhaustion off the boat immediately. Show possible routes, safe havens along, and that there are lifeboats for all. Lead strongly, manage effectively, give praise sincerely, and provide emotional reassurance often.

Occurrence

Any social group, however defined, could instantly name 20-30 actual or perceived social ills, instances of maladministration or mismanagement, or institutional or systemic lacks which in its view could be labeled “scandalous.” At any given time there are hundreds or thousands of such deficiencies known, many in the public domain, which do nevertheless not assume the form of a public scandal. Depending on size of country, political system, culture, media landscape, etc. there will be 5-15 large scandals per year, 1-3 having a cross-border or international dimension.

Probabilities

Again depending on these factors, 60-80% of all scandalized individuals and organizations are forced to resign or to give in within days or weeks. Grave accusations are likely to trigger a 1/3 survival rate, minor charges a 1/3 failure rate. Confession (20%) and denial (20%) tactics tend to yield significant below average results, whereas active defense tactics (50%) promise a 2/3 chance of surviving. Failures typically result from inferior defense tactics and plain mistakes (90%) and unfortunate coincidences or bad luck (10%). Almost all fatal mistakes are made at the very outset. Successes may be attributed to superior strategy (70%), lucky punches and good luck (30%). Winning strategies rely heavily on implementation and delivery. Friendly fire is fatal (80%). Of all successes, up to 4/5 entail elements of proactive justification. The later the justification and the longer the process, the more successful the defense. To this end, shaping arguments after their persuasive power is far more promising than relying on their truth value, and appeal to emotion is far more promising than appeal to reason. In 60-70% of all cases the average media consumer is in a position to recognize that the actual deficiency does not justify public demands even before the scandal fully emerges. In 40-50% of cases the diligent media recipient could, upon critical assessment, discover that allegations are unfounded in almost every material respect. This does not have any demonstrable mitigating effect. Demanded consequences are disproportionate as a rule, and damage caused is excessive. In hindsight, 70% of respondents cannot explain public outrage or their own previous discontent. Recipients however do not normally question themselves, but turn their attention to the next scandal. As time passes, most will remember that the victim “was guilty of something” and feel that “some consequence” was deserved.

Time

Most actual or perceived deficiencies have been known long before but have not yet resulted in a scandal. The deficiency is then scandalized and a scandal emerges, often only after several attempts. It may take 1-14 days for a scandal to fully evolve and trigger lethal consequences. The root cause is set at the very beginning. Once set, momentum may grow very fast and quickly prove to be unstoppable. Meaningful intervention must come early, too. The latest point in time to suggest a counter-frame is 1-5 days after the aggressor frame has been presented.

Interests

Not every perceived deficiency results in a scandal, and not every scandal implies an actual deficiency. The reason is that scandals do not just happen; they are made and orchestrated, motivated by interest. With the exception of only the victim and its allies, everybody else is interested in the scandal: Enemies, profiteers, opportunists, habitual backstabbers, jealous people, weak characters; media and journalists; and most importantly audiences. Taking a stand against readers' wants does not sell newspapers. Defenses are not sensational, attacks are. Hunting down and taking out the target is thrilling and conveys a sense of power and meaning. Watching the victim's demise until it perishes excites strong mass and individual stimuli.

Inequality of Arms

The initial impetus is set almost invisibly in the pre-media space. Then the media stage is prepared. Preparation of the attack is hard to detect. When the curtain suddenly rises, the victim is exposed in full stage light. What appears as a surprise attack is in fact the opening scene of a well-planned drama with several acts. As the play slowly unfolds, the aggressor has got 1-3 attempts to reshape his story so that the alleged facts and interpretation offered appear to justify the demanded consequence. The victim is conceded only a single shot. It can hit back once. Facts, explanations, and interpretations cannot be corrected or amended once offered. People may or may not elect to refuse to subscribe to the aggressor frame in the presence of the counter-frame; but if the counter-frame is altered or amended, the fact that it was not correct or complete from the beginning proves the victim wrong and a wrongdoer. Neither the instigator nor the victim may command the media, but journalists will already collaborate by themselves to cast down the mighty, the rich, and the colorful from their thrones.

Nature of the Public Scandal

Each scandal is unique, but all scandals share a common anatomy. Topics are country specific: Germans get upset over money, the British and Americans over sex. Some cultures practice relationship economy, others work towards meritocracy; some are more tolerant of corrupt practices than others. Irrespective of its subject, the following elements appertain to every scandal, everywhere:

- 1) a perceived breach
- 2) of some commonly accepted rule
- 3) which is believed to have caused (or to likely cause)
- 4) serious or considerable damage
- 5) to a postulated common good
- 6) committed by an individual perpetrator or organization
- 7) for selfish reasons
- 8) through act or omission
- 9) culpably or attributably...

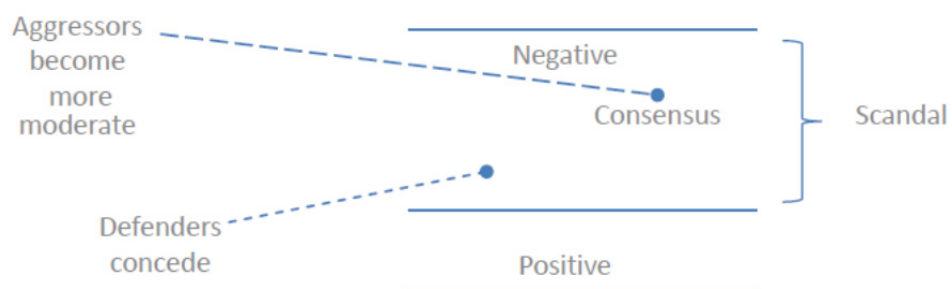
Truth may or may not have relevance, but is not decisive. Truth is often visible but is drowned among indignation and outrage. After the scandal, truth is apparent, but is again lost among the new. A bizarre memory remains. Scandals are a result of perception and of public communication. Orchestration, media attentiveness, and public outrage are accompanying factors of cause and effect, and too form necessary elements of scandalization:

- ... 10) is presented to relevant audiences
- 11) following a plan
- 12) in an orchestrated manner
- 13) in portions
- 14) through the media
- 15) offering a frame for interpretation, solely as guilty
- 16) suggesting one possible sentence
- 17) demanding execution
- 18) rallying for the intended consequence
- 19) causing public outrage among audiences
- 20) so that a relevant majority demands execution.

Scandal and scandalization may end in catharsis, obsolescence, or disintegration. Only the first outcome delivers a verdict. Catharsis, however, never means acquittal, always conviction. The second resembles a suspension of proceedings. Today's scandal may become obsolete by chance through tomorrow's new, even more exciting scandal. The present scandal is overtaken with speed and overwhelmed by irresistible force, and becomes obsolete. It will not be forgotten though. The third outcome represents a mistrial. Momentum disintegrates, slowly grinded in a publicistic conflict until deadlock of opinions, and does not bring about notable consequences ("hung jury").

Mechanisms of Public Scandalization

How does a deficiency transform into a scandal? Scandals do not happen, they are made. They are started in the pre-media sphere by 1-3 individuals, typically backed by a small number of interested parties. In a next step, the story is advertised among 1-3 chief editors or investigative journalists of relevant newspapers. One or more media outlets may build coalitions; if the investigative journalist cannot break the story in his own paper, he might ask a yellow press colleague to leak the story and then pretend to pick it up. If pursued by leading media, others will soon jump on the bandwagon. Once there is broad press coverage, it will be difficult for any journalist to dissent and defend the accused individual or organization. A typical scandal involves 1 instigator, 1-2 investigative journalists who publish 30-60% of all press reports, 5-15 followers and 10-40 neutral observers. Aggressors may become more moderate, but former defenders will be conceding. After 3-14 days, a relevant majority will ultimately build a negative consensus:



If consensus is reached in the negative sphere, scandalization has been successful. Result is a public scandal. Unless overturned by another scandal, it is highly likely to trigger demanded consequences.

Scandalization has several success factors. There must be a general frame for interpretation; active instigators and journalists; an attentive audience; news flow and a favorable media environment; and practical, economical and journalistic self-interest of media outlets. Two factors appear to be decisive: Coalition building and co-orientation of journalists; and mass psychology.

Followers rather opine and repeat facts previously presented by the opinion leaders which they take for granted, and do less report on the basis of own researched facts. Neutral observers report the scandal rather than the issue under discussion and do rarely do own research. Journalists have no interest to dissent: Disagreeing with one's own audience does not sell newspapers, and does not make a journalist popular with the editor. Watching how individual dissenters are ridiculed by the majority of journalists is no incentive as well: No journalist likes to be seen as a habitual dissenter for lack of own research or thought. Being a one-upper is far better, even if the one-up has no basis. Even worse, non-conformists risk to be expelled from their community as well because they are perceived as denying the commonly accepted rule, as supporting its breach, and as making common cause with the perpetrator.

Journalists will not concede that their research was incomplete, or that conclusions drawn were wrong, or that demanded consequences were disproportionate to the alleged breach. In the context of a scandal, journalistic standards are handled more flexible in light of the threatened common good. If they did concede, they would lose the moral high ground they previously invoked. They would look like wrongdoers, and the alleged wrongdoer would look like their victim. Investigative journalists will not concede errors because this would weaken their future leverage and ultimately question their business model and right to exist. There are indeed instances where journalists resorted to symbolic truth, defending their plain wrong reporting with the argument that things could well have happened, which would have been scandalous, which in itself justified their reporting. Audiences on the other hand cannot cope with inconsistent roles and tend to stick to first impression.

In the context of a scandal many journalists assume the role of a Robin Hood. They do not only want to inform or entertain, they want to coerce others to obey rules in which they believe, and fight for a more just distribution of power and wealth. The victim of scandalization is said to abuse power or to have received money undeserved. It should be noted that successful investigative journalists do possess power and money thanks to their professional success. They climb the career and societal ladder from scandal to scandal, some preaching water and drinking wine. From a media/journalist perspective, the fight for moral high ground may essentially resemble a struggle for societal power and about distribution of wealth.

Scandalization does not rely on collective insight, but on collective emotion. Indignation and public outrage leads individuals to believe that they themselves are affected by something greater, that they have to have an opinion, and that something must be done about it now. In a state of uncertainty and incomplete information they mimic their group. The individual will look for a valid group norm or attitude. The group norm in itself, however, is mere belief held by a handful of dominating group members. These members may be dominating or only be believed to dominate or may have successfully created the misleading impression of their own dominance. The latter holds true for many opinion leading journalists, and is deliberately used as a tool by instigators and investigative journalists.

The individual will then try to derive an opinion from the accepted group norm. This is not normally possible by way of a logical operation. There is nothing to deduce from, not even with some probability. The individual will therefore again turn to its group and observe its behavior and soon believe that the majority of his group subscribes to the thesis of the scandal; he will then subscribe, too – firmly believing that he has independently built a well-founded own opinion. Individual belief and behavior will quickly be reinforcing.

Wrong decisions by individuals are more likely to be at the center of a scandal than systemic deficiencies because the former can be easily attributed and the latter hardly be understood. Perceived dimension of damage, assumed selfish motives and alleged prior knowledge that damage would result from such decision seem to be most impressive. Victims of scandalization blame general circumstances, audiences blame specific acts. For the victim circumstances were most unfortunate, for audiences the wrongdoer is evil. Audiences conclude from behavior to personality, assuming stereotypical motives and bad character (greedy, ruthless).

At this point, the nature of the scandal and the mechanisms of scandalization unite: Scandals are about the perceived breach of a commonly accepted rule and about damage done to a higher common good. Purpose of the scandal is affirmation of validity of a social norm by making an example of somebody based on symbolic truth. Actual truth is not decisive; the idea that things could essentially have been that way is sufficient for the performance of a symbolic act. Coinciding parallel subjective truths may or may not resemble or come close to reality, but will always be identical with symbolic truth.

The underlying mechanism is generally desirable in that social norms are valid not because they are actually followed by most of the people most of the time but because a majority of people believes so. It is undesirable in that the long abolished medieval pillory lives forth as media pillory. For the purpose of defense

communications it is important to remember that rules need to be reinforced through example from time to time, but that there is no need for identical examples within a short period of time. A certain deficiency may serve for a scandal, and depending on dimension maybe for a second scandal, but not likely for a third.

For this very reason, the basic rules of judicial procedure do apply to the contrary: In court one would expect that facts be collected and assessed before the verdict and with open outcome. In the court of public opinion, the verdict comes first. The audience is presented with a verdict of guilt together with a frame for interpretation to back up the verdict. It will then interpret facts so that facts fit the presupposed frame. If the basic facts turn out to be wrong, the frame is altered so to fit again (“if he did not do it himself, he should have prevented it from happening; and if he could not prevent it, he is incompetent”). This applies both to journalists and to audiences.

Interpretation is first. Once the suggested interpretation is accepted, information will be treated accordingly. Facts are selected and construed to fit the frame. Persuasive power depends on the match. The greater the match, the more persuasive it is until common belief becomes binding. Interpretation also shapes memory.

Interpretation is a media product: Media frames are made of clear, black and white messages, of strong appeals to emotions and to group identity, of stereotypes and enemy concepts, using labels and imagery, graphs and images. Frames are delivered through story telling disguised as news reporting: “A driver overran a child” can be framed so to evoke compassion either with the driver or the child. The briber may deserve our sympathy if the bribe was extorted, etc.

Under normal circumstances, a quality newspaper will report a fact that has news value, put it into context, and present the questions raised by the subject. In a distinct commentary it will then elaborate on possible conclusions and provide reasoned arguments for its own view. Frames are different. They do not include chains of arguments. First, a cause is assigned to a deficiency. Second is a moral assessment. Thirdly, responsibility is assigned. And fourth, a solution is suggested.

Frames have initiators, sponsors, and supporters (scandal leaders, followers, and observers). A frame is highly likely to be accepted if the frame sponsor is perceived as relevant, competent and of high social status; if large resources are available; and if the frame resonates culturally with the audience. If the frame is established, information will no longer be deemed relevant to the extent audiences need to know, but to the extent it fits into the frame.

The dimension of a scandal depends less on the size of the deficiency, but rather on media intensity. The more intense media reporting, the more likely a successful scandalization. Many reports in short succession create and mirror public outrage (and do sell newspapers). Audiences tend to assume that this is just the tip of the iceberg and are curious to learn more. Intensity is more powerful than media reach.

Publicistic Conflict

Not every perceived deficiency leads to a scandal, and not every scandal implies an actual deficiency. Scandals are the result of successful scandalization. Most known deficiencies never prompt a scandal, for interests are not strong enough to take the special trouble of scandalizing. Many attempts to scandalize a deficiency are non-starters, and many fail to resonate with the media and to build critical momentum. Only a handful of deficiencies turn into a full-blown public scandal. Even less transform into a “*publicistic conflict*,” a model first introduced and term coined by communication science doyen *Hans Mathias Kepplinger*.

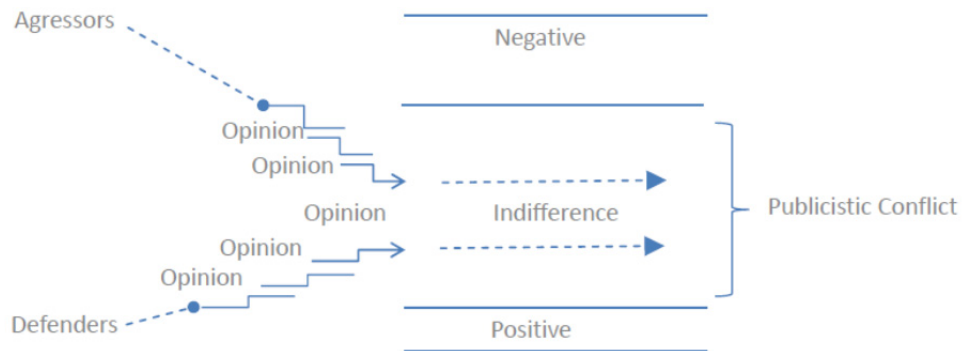
A scandal claims a fixed set of proven facts that cannot be doubted, a single unambiguous interpretation, and implies a single possible sentence. Without leaving room for doubt, loud it cries: Guilty. The scandal does not submit accusations for ascertaining truth, it submits a ready-made verdict for execution. A publicistic conflict entails two or more possible interpretations. Facts are unclear, ambiguous, and can be doubted. Two or more interpretations are possible. Others could be responsible, or maybe the circumstances. The publicistic conflict asks, carefully and thoughtfully: Guilty or not guilty? but does not arrive at an answer, leaves it at that and for history to judge.

The publicistic conflict is essentially a public debate among opinion leaders, intellectuals, experts, and journalists about an adequate interpretation of a situation, presented through the media in the form of editorials, op-eds, guest commentaries, interviews, report and commentary, disseminated in print, television and radio, online media, or the blogosphere. It is labeled a conflict instead because of the still present element of indignation and public outrage. Discussion in particular revolves around causes (the five Ws and one H) – facts, causal connections, and effects; responsibility/accountability; and fault. Facts are ambiguous, unproven, partly incorrect, and incomplete. Causal connections remain in the dark. Effects are good and bad, are not as bad as some say, and uncertain. Responsibility is unclear – maybe it is all due to the circumstances and nobody can be held accountable.

Scandalization of an actual or perceived deficiency

<i>Scandal</i>	<i>Publicistic Conflict</i>
fixed set of facts	fact finding still in progress
clear and unambiguous	situation unclear, ambiguous
proven beyond reasonable doubt	facts can be doubted
complete	incomplete or possibly incomplete
one possible interpretation	more than one possible interpretation
one possible consequence	more than one possible consequence
consequence follows with necessity	suggests more than one outcome (contrary or contradictory)
audience is prompted to execute verdict	audience must judge by itself
dissenters cannot see or understand or are evil	is free to concur or dissent
fast and broad consensus among relevant majority...	no consensus among relevant majority...
...re causes, doer, responsibility	... re who, what, when, where, why, and how - and re responsibility and accountability
<u>Clear verdict</u>	<u>Indifference</u>
<i>When to execute the overdue verdict?</i>	<i>Which verdict to give?</i>

How does an emerging scandal transform into a publicistic conflict? Both do not happen, both are made. While scandalization ends in the negative sphere, the publicistic conflict ends in indifference:



If an indifference of opinion is reached, scandalization has failed. Result is a publicistic conflict, which is highly likely to trigger a “hung jury” without demanded consequences.

Necessary conditions for successful transformation are:

- (1) existence of dissenting audiences (“this *had* to be said or done now”)
- (2) early and strong expression of dissent by audience against rallying journalists (letters to the editor, online protest)
- (3) evident public statement by alleged victims that they do not feel aggrieved in any way
- (4) supporting journalists/media; opinion leaders, experts
- (5) transposition of the theme to a higher “what it is really about”

While all five are success-critical, the second and the last appear to be most important. Dissent must come early to slow down a process that very much depends on speed and to prevent scandal momentum from building critical mass. Transposition does neither entail confession or denial, it neglects allegations and alters the subject of the debate, claiming that the new subject was in fact still the same issue at hand, only seen in big picture. The old issue is scaled down (sometimes to the “nitty-gritty, all-too-human”), the new issue is elevated by connecting it to some higher rule or some even higher common good: Accused of libel, invoking freedom of speech; or being accused of resistance against the police, claiming civil disobedience to effect desirable societal change.

Transposition of the theme and moving the issue to another subject may even work when the arguments are flawed (*e.g.*, accused of giving false testimony, invoking freedom of speech). The reason is the nature of public outrage: Audiences believe, at that time, that they are right and feel that good morals are on their side. Audiences insist to take a moral highroad, but do not necessarily insist on taking a particular one; the higher the respective common rule or common good, the smoother they travel.

Defense

(1) To maximize chances of succeeding, a **best-practices defense must address every element of the public scandal, and must address every element of public scandalization, tailored for the theme** (money, sex, mismanagement etc.).

(2) If momentum is too strong to avoid a public scandal, defense should try to transform it into a publicistic conflict.

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