

MITZI: So much has happened and in the last 18 months. What are your thoughts and how do you keep the faith?

MERVYN: Faith in what? I take two pills every morning; one is passion and one is dedication. I am passionate about what I do and I'm dedicated to it because I'm one of those who believes if we don't get it right now the way companies, both public and private, operate in the sense of operating in what the United Nations has now called the three dimensions of sustainable development, namely the economy, society, and the environment, if we don't get the business model right, both in public and in private companies, so that it has a positive impact on those three, then we're not going to achieve sustainable development and I'm afraid we won't have a sustainable world by the end of the century.

MITZI : Of course, you continue to champion integrated reporting. You must be delighted with the progress that you're making.

MERVYN: Yes. I've always said that it's the thinking that's more important than the report itself. Again, reality has dictated that it's no longer an option to carry on business as usual and, by that, I mean in the Milton Friedman garb that, as you know, his thesis was the sole purpose of the company - he called it the corporation - the sole purpose of the company is to make profit without deception. Now, tacit in that was "if at any cost," so people focused on the creation of monetary gain and the maximisation of shareholder wealth and it was being subsidised by society and the environment.

MERVYN: I always give the example, because it's an industry that I was chairman of the largest textile company in the southern hemisphere, so I understand the textile industry. A dye house is about 30 times the size of this building we're sitting in. It's huge and the plant machinery is huge. When you've worked with a cotton fabric, such as my shirt, and you're going to dye it grey, the colour my shirt, it's very toxic, the chemicals. After it's gone through the process and there's a lot of water and steam, it goes into a tank with a big valve on it. As a good corporate citizen, you should treat those toxins before you open the valve to put it to the waste which goes into the river. To treat it, you need qualified chemists to treat it because it's a chemical process. If you didn't do that and you just let it go into the tank and opened the valve and those toxins went into the waste, the waste into the river, it would kill fish in the river, it will kill plant life along the river, it will result in the local authority that depends on that river for its water having to spend more money removing the toxins from the water before putting it into the water infrastructure of the people in that town. So you can see, on those steps, although the monetary bottom line of that dye house would've increased because the expenditure would be reduced, it was being subsidised by society and the environment and that's what I say was the free part of Milton Friedman's free economy, when you add the increase in the bottom line being subsidised by society and the environment.

COMMITTING 'LAWFUL WRONGS'

MERVYN: It's fascinating to me that society, who created the company, this artificial person with limited liability, dealt with this not by looking at how the company was carrying on

completely lawfully but was committing wrongs against society and the environment. It's an oxymoron that I've coined the phrase "the company, through the 20th century, committed lawful wrongs," and those wrongs were against society and the environment. What did society do? They started regulating the outcomes or the impacts of the company's business model. No one thought of saying, "But what about the source?" When you're not feeling well, Mitzi, and you got aches and pains and you go to the doctor, the doctor looks at your aches and pains and analyses those symptoms and the cause, let's say you've got a virus in your kidney, he treats the kidney; he doesn't treat the symptoms. Society was treating the symptoms of how business was being carried on. A lot of companies operating today are actually destroying value. They might be increasing the bottom line, but the business model is such that it's actually destroying value. So integrative thinking drives the collective mind of a board to deal with it at source, the virus in the kidney, not waiting for the symptoms.

EARLY LIFE AND CAREER

MITZI: Looking back over the years, Mervyn, I know it wasn't always an easy start for you. You grew up in South Africa that presented problems for you and your family. Can you tell me a bit about that and how that's influenced the trajectory of your career and your life?

MERVYN: My father was born in Zululand, which is the north of Natal, one of the provinces of South Africa, and his best friend was a Zulu man. Then the Nationalist Party came to power with the apartheid policies so, for example, he couldn't go to a restaurant with his Zulu friend and he couldn't have his Zulu friend to his house. He said, "I'm not living in this country," and he emigrated to then Rhodesia, now Zimbabwe. When I was ending my school years, my father lost his job in Rhodesia, as it then was, and, with his tail between his legs, came back to South Africa looking for a job, which he found and then I went to university in South Africa. That set me on a path that I turned my face against what was happening in our country. I ended up on the finance committee for Helen Suzman, who was the sole voice in Parliament talking against apartheid, and supporting what was then the Progressive Party; today it's the Democratic Alliance in South Africa. It wasn't easy because it was a strange thing, but people outside the thought every white person in South Africa was pro-apartheid and, of course, that wasn't the case at all. There were many white people who went to jail for life. Brom Fisher, a barrister practicing in the Johannesburg bar with me, he was sentenced to life imprisonment for his conduct on the grounds that he was guilty of treason and he was as much guilty of treason as the man in the moon. The apartheid government created a statutory treason. If you opposed the policies, you were committing treason against the state.

ALTERCATION WITH PW BOTHA

MITZI: You became the country's youngest Supreme Court judge and then resigned after an altercation with PW Botha. That must've been a difficult decision given everything you'd done to achieve that.

MERVYN: Yes, it was but it was the right thing to do in my judgment. There was a fellow judge, his name was Anton Mostert. He died, unfortunately, of cancer at quite a young age; he was in his 60s. He had held a commission of inquiry into an English language newspaper

that sprung up. The English language newspapers were always anti-apartheid; the Afrikaans language newspapers were pro-apartheid. Suddenly, there was an English language newspaper that sprung up, called The Citizen, that was pro-apartheid and there were allegations being made that this was actually the mouthpiece of the government of the day. A commission of inquiry was set up and this brother judge of mine was sitting as the commissioner - White, Afrikaans speaking, Nationalist Party supporter judge. He came to see me in my chambers one day and said, "I've come to consult with you because I know you're not a Nationalist Party supporter. I've been appointed by the State President on this commission and evidence is being led before me that there is a budget that has been created in the State President's office and the money has been taken from taxpayers and being used to buy the printing machinery and everything to start The Citizen newspaper." So I said, "Then the allegations seem to have been proven," and he says, "My difficulty is my terms of my appointment are that it must be held in camera, nobody should know what's going on, and I was to report only to the state president, no one else, the conclusions I come to." I said, "Anton, you are a judge and you've got inherent powers. If you were sitting in a court and you heard this, what would you do?" He said, "I would refer it to the Attorney General," prosecution services in the UK language, "to investigate him for prosecution." I said, "That's what you have to do and you've got to do it publicly. You can't do in camera." He said, "I could never do this. Anyway, let me think about it," and he went away. A couple of days later, he came and he said, "I've been thinking about it; you're right. I can't sleep, I don't know what to do." So I accompanied him to discuss this with the state president. The state president tried to persuade is not to do it, because I had advised him to call a press conference. Anyhow, that press conference was called. He, of course, faced the press; I was sitting in the audience, but he broke this thing open and it was a huge storm. The night before, the brother of the Minister of Finance led South Africa, so did the Minister in the State President's Office fled South Africa because they were in charge of this budget. They fled to a villa on Lake Geneva. In buying the plant machinery, they had over-invoiced and kept money offshore. It was a huge... Can you imagine that story in South Africa at that time? it was huge. So he resigned and I resigned.

MITZI: In terms of that decision, how easy was it in the sense of it was the right thing to do, but with the sleepless nights, was it something you had to really reflect on hard or what was that like for you?

MERVYN: Mitzi, I've always, in my life, believed that things are black or white; I don't like grey areas. To me, it was black or white and I wasn't going to live in a grey area. To me, to have stayed on the bench was starting to give me... My flesh was feeling like chicken flesh at the time. So, for me, it was a decision, it was black or white and it was easy. You have this dithering, when making a decision, when it's grey. To me, the answer was clear.

WORKING WITH PRESIDENT MANDELA

MITZI Of course, you worked closely with Nelson Mandela. Can you just tell me a little bit about what that was like?

MERVYN: Saying I worked close with him is perhaps an exaggeration. I was an article clerk learning my articles to become a lawyer; he was already a qualified lawyer. He had started

the first black practice with his partner, Tembo, Mandela and Tembo, in a very derelict building in a street called Fox Street, which was to the side entrance to the magistrates court in Johannesburg, the magistrates court being our lower court the same as here in the UK. I used to go in the side and, of course, there was a parking ground right next to his building, the building that he was in. Going into court, and court those days, at the bar - and my family have articles, we were entitled to appear in certain cases - and the bar was divided so for White lawyers and Black lawyers at the bar. I was in this matter where Mr. Mandela was on the Black side I was on the White side and I just thought this was ridiculous, so I went and sat on the side with him. The magistrate was very annoyed; he had adjourned the court and he called us into court and he said, "This is not the right way. You know it isn't and you keep calling him 'your learned friend.'"

So that little incident, he and I started talking and then, of course, there was the Rivonia trial where he was accused of treason and he went to jail for life.

OPERATION HUNGER

MERVYN: While he was in jail, I chaired an organisation called Operation Hunger with his two daughters. That was formed because the hardships of apartheid was really in the rural areas, not in the urban areas, because apartheid, the policy was put them into hamlets according to their tribes, so the [inaudible 00:03:27] homeland, the Zulu homeland etc. Some of these homelands were non-arable ground, so there was real hardship. I, at the time, was the chairman of the biggest distribution company in South Africa, fast moving consumer goods, so I was the biggest buyer of food products. I got all of these food producers to develop a nutritional package, which cost \$.34 a day, and we fed 2 1/2 million children for 20 years while Nelson Mandela was in jail. When he came out of jail, he had a lunch for 12 people; I was one of the 12. He went around the table saying [inaudible 00:04:13] each person. He said, "The judge," he always called me the judge, "The judge," he said, "I invited because, if it wasn't for Operation Hunger, there would be millions of useless people in South Africa today." Because, if you don't feed a child under three, it's called kwashiorkor, and their brains atrophy and, of course, they become useless members of society.

THE KING REPORT

MERVYN: Mr Mandela used to often phone me to talk to me about issues and, whenever he wanted me to do something which involved a lot of work without remuneration, he would start with, "How's my favourite judge?" and then it would follow. It was he who, when I was asked to write a report on how to direct and how to manage for the majority of my fellow citizens who had not been in the mainstream of the economy, He said, "Do it. You're right man. Put your hand on your heart and let them all put their hand on their hearts. Do in the interest of South Africa Inc. Nobody charges," and that's exactly what I did.

INTEGRITY AND ETHICAL BEHAVIOUR IN BUSINESS

MERVYN: The private sector, from a point of view of ethics, is actually ahead of the political or the public sector. Very interestingly, asset owners and asset managers are paying a premium for the equity of companies that are operating on a basis of quality governance, so

they're an island of quality governance in a sea of corruption. Because what these asset owners have learned, that these are extraordinary people, that if they can actually operate on a foundation of ethical and effective leadership in this corrupt environment, then this is quality management which you can entrust your beneficiary's money in the equity of that company and that company is probability gonna survive and thrive long-term because this is a board that's applying its mind to the issues I've been talking about earlier in this interview.

THE SELF RIVER

MERVYN: I have developed, around the world, the image of a river and the river is the self; it's your self. What you need to do is, as a politician and as a director, you've got to cross that self-river. You have to leave behind self-interests; you have to leave behind self-concern. You've got to cross that self-river into the area of intellectual honesty, that honest application of mind knowing that you're a member Homo sapiens and, therefore, you're prone to human frailty, but you've got present needs, you've got past experiences, but you've got to put all that aside and you've got to make a decision, as a politician, in the best interest of the citizens of that country; not self-interest for yourself and your family or your friends. The same thing, the director has to cross into that area of intellectual honesty and make that business judgment go in the best interest of that incapacitated, inanimate person, the company, that's dependent on the director heart, mind, and soul because it has no body to be kicked, no soul to be damned, and it has no conscience. The conscience company is the conscience of the directors; the reputation of the company is how the directors behave because the company has no conscience. I say that everybody looking at this organisation, so let's take a borough here in London, should achieve the following four outcomes - ethical culture and effective leadership, value creation in a sustainable manner, adequate and effective controls and oversight, and trust and confidence in the organisation with legitimacy of operation. If you achieve that, you must have been practicing good governance and if you achieve that, you will be adding value to society whether you're a government or a public company or a small company or a municipality or a nonprofit organisation.