
Do I Think Corporations Should Be Able to Vote Now?

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A COMMENTARY ON John Hasnas (2016), “Should Corporations Have the Right to Vote? A Paradox in the Theory of Corporate Moral Agency”, *J Bus Ethics*, <https://doi.org/10.1007/s10551-016-3172-0>

ABSTRACT

Many proponents of corporate agency take corporations to be responsible for their conduct, but few take them to merit rights over and above the rights of their members. Hasnas (2016) argues that, given a widely-held view of liberal political theory, corporate agency entails that corporations should have the right to vote. In response, I show that there are problems in appealing to liberal political theory, and that the view of voting Hasnas actually endorses need not be accepted. Should it be, however, the implications go far beyond the right to vote.

I THINK THAT corporations like Exxon Mobile are capable of doing things that are morally wrong, and that they can be morally responsible for this behavior. A lot of people do. I even think this is the case if all of their employees (and managers) are just doing their jobs, where nothing in their behavior is blameworthy. That is, corporations can be morally responsible for things without that responsibility reducing to the responsibility of particular managers. I take this to be a core commitment of proponents of corporate agency such as Peter French, Philip Pettit, Christian List, Carol Rovane, David Copp, Ken-

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dy Hess, and others. Unfortunately, if John Hasnas (2016) is right, I and other proponents of corporate agency are, given only a very plausible assumption within political philosophy, committed to maintaining that corporations should have the right to vote.

Prima facie, that's not good. A democracy where corporations vote sounds so dystopian that it belongs in a David Foster Wallace novel. Luckily, matters are not so simple. Hasnas appeals to liberal political theory to establish his conclusion, but the widely-held views in liberal political theory enfranchise corporations because they are over-inclusive. I argue that Hasnas actually endorses a separate view – not necessarily one of liberal political theory – and proponents of corporate agency need not accept it. If they did, however, the implications are even worse than he imagines.

Grounding the Right to Vote

In order to see whether corporations should be able to vote, we need to have a view of when things merit the right to vote. Towards this end, Hasnas introduces the foundations of a view of political liberalism on which individuals deserve a say in the government that affects them, and where the franchise is a method by which individuals have their say. The more general view that this suggests is Robert Dahl's (1990) 'Principle of Affected Interests,' according to which having interests that are affected by a government earns one the right to participate in some way in that government.

Hasnas shows that this view has broad support; however, readers should note two things. First, it's no accident that Hasnas chooses to appeal to this kind of view. It's not just that it would be unwieldy to discuss several views of the right to vote, or that proponents of corporate agency are particularly committed to it; it's that this is a view that *might* enfranchise corporate agents. Many others will not, at least, not as obviously.

The second thing to note is that this view is quite radical. It's intuitive enough to take seriously, but teasing it out makes it clear that many unexpected entities apart from corporations will merit the right to vote. For example, animals will deserve the right to vote, since they have interests that are affected by the laws made by the government. This view might generate a duty to consider their interests or organize votes on their behalf. This is a problem if we do not think that animals

deserve the right to vote, and this is not a new problem for the theory. It has long been argued to be over-inclusive (see Levinson 1989: 551–553), and Hasnas (2016: fn10) himself recognizes this problem.

It is not a problem for a proponent of corporate agency if an admittedly overly-inclusive view of political liberty suggests extending the franchise to corporations. Given this, Hasnas is quick to move to a narrower view. The view that Hasnas takes on is that something should have the right to vote if it not only has interests that are *affected by* the law, but if it has conduct that is *subject to* the law. The idea is that government should be by the governed, or that what earns one the right to participate in the government is if your actions are shaped/influenced by the government. Hasnas (2016: 6) says,

Hence, in a liberal democracy, being subject to the law – bearing full responsibility for conforming one’s behavior to the law – brings with it the right to participate in the process by which the law is formed, which typically consists of the right to vote.

Immediately, we should worry that this view is still over-inclusive. Foreign agents or tourists are subject to our domestic laws, but it feels inappropriate to say that they deserve the right to vote. If this view is still over-inclusive, then this may again explain why it enfranchises corporations.

This narrower view is also not as obviously widely supported as the Principle of Affected Interests. It may be true, as Hasnas (2016: 1) says in the abstract, that “. . . under the conception of democracy supported by most liberal political theorists, all parties subject to the law are entitled to the right to vote,” but that is not because most liberal political theorists accept this narrower view. If the narrower view involves denying the idea that being affected by the government merits you the right to political inclusion, then it may run afoul of the motivations of most liberal political theorists, even if it is in the end more plausible.

I think that Hasnas has the resources to answer the charge of over-inclusion; unfortunately, his means of doing so involves accepting a still narrower conception of what grounds the right to vote. Hasnas at first suggests that being subject to the law merits one the right to vote simpliciter. He says that “. . . a fundamental tenet of liberal democracy is the requirement that all those who will be subject to the law have an equal say in its creation. For political liberals, this is the

source of the right to vote” (Hasnas 2016: 6). However, he later seems to have a particular view in mind about *why* being subject to the law generates this right.

According to Hasnas, being subject to the law is relevant to the right to vote because those subject to the law are parties to the social contract. He says, “In a liberal democracy, the terms of the social contract hold that in return for one’s agreement to be bound by the law, one receives an equal say – a vote – in the process by which it is created” (Hasnas 2016: 10). This answers the worry about foreign agents/tourists. Although tourists in a state are subject to its laws, they are not plausibly parties to the social contract of that state. So, tourists are not entitled to an equal say in how the laws are created, but domestic corporate agents would be.

The view we are left with may avoid the charge of over-inclusion, but a commitment to social contract theory is problematic for a few reasons. First, it is misleading to conflate social contract theory with liberal political theory. It may be that social contract theory is accepted by some liberal political theorists, but a commitment to the latter does not entail a commitment to the former.

It is also problematic to suggest that social contract theory is the only or best way to connect the right to vote with being subject to the law. Consider another way: Something that distinguishes subjects of the law from objects of the law is that subjects are the kinds of things that can be interfered with, whereas mere objects are affected but not constrained. Many political philosophers take us to have a negative political liberty of non-interference. That is, others cannot interfere with our actions without proper justification. On this view, what would justify the government’s interference with our actions is (in part) that we have methods of exercising control over it, including the right to vote. Hasnas (2016: 11) even seems to separately endorse this reasoning when he says, “The right to vote is a weak reed to rely upon for protection against domination by the state.”

Here, what grounds the right to vote has more to do with protecting liberties such as non-interference or non-domination. As such, it may be even more attractive to liberal political theorists, given their focus on individual liberties. It may also be attractive to proponents of corporate agency, because they can deny that corporations have these liberties. People have these liberties, we might think, because they can

be harmed by being interfering with. Hess (2013) argues that many of our rights stem from our vulnerability to certain harms, and she further argues that corporations lack this vulnerability to harm. If corporations are not harmed when they are interfered with, then they will not merit the protection from interference that the right to vote partially provides.

I am not merely picking some view of the right to vote and showing how corporations do not satisfy the requirements of *that* view. I agree for the sake of argument that what matters for the right to vote is being subject to the law. One way of explaining this idea involves appealing to social contract theory, as Hasnas does. But another involves appealing to certain liberties that corporations may not warrant. Regardless, neither view must be endorsed by a liberal political theorist. So, we cannot use the broad tradition of liberal political theory as Hasnas does to draw a line from corporate agency to corporate enfranchisement.

Conclusion

I want to end by acknowledging that Hasnas' argument is compelling. Many within business ethics do think that social contract theory may ground the corporation's obligations to society. And although List and Pettit (2011: 180–182) argue that we can accept social contract theory without affording corporations equal rights, Hasnas (2016: 9) convincingly rebuts their arguments. We are far from forced to accept the corporate right to vote by accepting corporate agency, but there is at least a package of plausible political views that would entail this.

Hopefully, this provides proponents of corporate agency the wiggle-room needed to avoid being committed to the corporation's right to vote. Unfortunately, given the package of views that I find intuitive, I find myself grudgingly inclined to consider it. Even worse, I fear the implications go beyond what Hasnas suggests. If corporations should have the right to vote, why should they not also have the right to run for office? If afforded the right to vote, corporations would surely vote by proxy, where an individual could vote on their behalf. Similarly, if elected, McDonalds could appoint an individual (or division) to run a mayoral office. McDonalds would face the same temptations to run their office for their own benefit, but this is no different than the temptation to individuals. This is why we have safe-guards against

corruption. Whereas corporations currently work in the shadows to author legislation regarding their industries, at least an elected corporation could be voted out of office.

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