

Université Catholique de Louvain

Louvain School of Management



**BERNHEIM ESSAY PRIZE
LESPO 2212 – Social responsibility in economic life**

Essay topic: “Should multinationals have the right to be politically engaged?”

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Should Multinationals have the right to be politically engaged?

According to the UNCTAD a multinational corporation is “an enterprise comprising a parent enterprise and its affiliates. A parent enterprise is an enterprise that controls the assets of entities in countries other than its home country.”¹ With their unique structure, MNCs’ impact goes beyond their host country. Moreover, multinational corporations’ never-ending quest to influence governmental policies is no secret. Every year, MNCs invest substantial amounts of time and money in order to gain and maintain a competitive advantage through the political sphere. According to Baumgartner and Leech, 41% of all Washington trade lobbyists are employed by firms.² With Multinational Corporation’s thrift in today’s society, MNCs are finding themselves with more important financial resources and influential power than ever before. This essay focuses on the normative question of whether MNCs should have the right to be politically engaged based on the normative theory of deliberative democracy.

I consider an MNC as politically engaged when it takes part in corporate political activities. According to Baysinger, corporate political activity can be defined as a corporate endeavor to try and influence governmental policies in order to favor the firm.³ For example, direct lobbying, the funding of political activities and parties, the expression of views in social debates, the expression of political views in elections, the broadcasting of political ads (Citizens United) and the right to vote can all be considered as corporate political activities.⁴

In the context of this paper I limit the scope through three assumptions:

1. I consider that the MNC is only active in democratic States.
2. I consider that this state is non-weak, non-corrupt and competent. This is done in order to simplify reality by limiting the reasoning to MNCs that aren’t participating in the provision of public goods.
3. I assume that the unique purpose of an MNC is to generate profit. This implies that I am not dealing with MNCs, such as B corporations, which could have a positive social or environmental impact as their goal in addition to the pursuit of profit.⁵

The normative theory of deliberative democracy “requires that social activity that affects

¹ UNCTAD (n.a). *Transnational Corporations (TNC)*. [http://unctad.org/en/Pages/DIAE/Transnational-corporations-\(TNC\).aspx](http://unctad.org/en/Pages/DIAE/Transnational-corporations-(TNC).aspx) (retrieved on the 14th of December 2016)

² Baumgartner, F., & Leech, B. 2001. “Interest niches and policy bandwagons: Patterns of interest group involvement in national politics.” *Journal of Politics*, 63: 1191–1213.

³ Baysinger, B. 1984. Domain maintenance as an objective of business political activity: An expanded typology. *Academy of Management Review*, 9: 248–258.

⁴ Blanc, S. (2016). Bernheim Lectures : «The social responsibility of multinational corporations » [Powerpoint slides] : Retrieved from <https://moodleucl.uclouvain.be/mod/folder/view.php?id=594320>

⁵ B corporations are a new legal structure that allows corporations to have multiple goals. They are for-profit corporations that also have a purpose that goes beyond profit maximization by integrating social and environmental goals based on a set of values.

important issues of public concern must be regulated by the free, unforced, rational deliberation of citizens.”⁶ Ideally, according to this normative theory of democracy, all citizens should have the opportunity to come together to discuss and debate about important issues. However, in reality this seems impossible therefore we could broaden this definition to “deliberation of citizens *or their legitimate representatives*.” In this sense, for an MNC’s political engagement to be democratic, MNCs should either be a citizen or an adequate representative of a group of citizens in a social deliberation.

According to the artificial entity theory, a corporation is “an artificial being, invisible, intangible, and existing only in contemplation of law. Being the mere creature of the law, it possesses only those properties which the charter of its creation confers upon it, either expressly or as incidental to its very existence.”⁷ Indeed, when acknowledging a corporation as an artificial being, the artificial entity theory assumes that an MNC cannot be considered as a citizen and therefore shouldn’t have the right to be politically engaged. However there are many artificial beings that do take part in politics such as municipalities or political parties. Consequently, it is still possible for an artificial being to be politically engaged provided that it is an adequate representative of a group of citizens in a social deliberation.

In order for an MNC to be a legitimate participant in the political process, it would have to be considered as a legitimate representative of a group of citizens in social deliberation. Hussain and Moriarty put forward two conditions that can determine whether an organization qualifies as a “Politically Representative Organization.”⁸ The first one entails that citizens can join, stay within or leave an organization according to the similitude between a citizen’s and an organization’s social and political commitments.⁹ The second condition states that “the formal and informal practices of democratic decision-making in society must assign the organization a certain role to play in the overall political process.”¹⁰ MNCs don’t fill these criteria for the main reason that they already possess a role within society, which is to make profit within competitive markets. Pursuing profit while defending political opinions can result in a conflict of interest. Moreover, when people are making decisions regarding the choice to join, remain or leave an MNC they are doing so based on economic self-interest due to its role within the market.¹¹ Therefore, MNCs cannot be considered as a “Politically Representative Organization.”

⁶ Hussain, W. and Moriarty, J. (2016) Accountable to Whom? Rethinking the Role of Corporations in Political CSR. *Journal of Business Ethics* p.9

⁷ As stated by Chief Justice Marshall in *Dartmouth College v. Woodward* (1819)

⁸ This term refers to an organization that can legitimately represent a group of citizens in social deliberation. Hussain, W. and Moriarty, J. (2016) Accountable to Whom? Rethinking the Role of Corporations in Political CSR. *Journal of Business Ethics* p.9

⁹ Hussain, W. and Moriarty, J. (2016). Accountable to Whom? Rethinking the Role of Corporations in Political CSR. *Journal of Business Ethics* p.9

¹⁰ *Ibidem*

¹¹ *Ibidem*

Yet, the main objection one could make to the artificial entity theory is that a corporation could also be viewed through an “aggregate approach.”¹² According to this approach, “a corporation possesses the aggregate rights of their shareholder-owners.”¹³ In a democracy, every citizen (depending on the legislation) is given the right as a natural person to vote and so take part in governmental changes and policies. However, this fundamental right that is given to natural persons isn’t granted to legal persons, such as MNCs. If an MNC is considered as a real person with human-like rights some may argue that this is a reason why MNCs should have the right to express their opinion and influence decisions through corporate political activities.

Nevertheless, one of the fundamentals of democracy is the principle of political equality. Political equality means that each citizen is to have equal rights and freedom, and thus be able to vote, regardless of their social or financial inequalities, and no one is to have more than one vote. Giving the right to vote to legal entities would bring us to a “double vote” issue, where one person has a vote to represent a firm’s interests, and also a vote to represent its own personal interests. Therefore giving MNCs the right to be politically engaged would result in some people having two opportunities to make their voice heard compared to others who only have one and this is undemocratic.

In my opinion MNCs should not have the right to be politically engaged because their political engagement poses a democratic problem. Indeed, on the one hand when one views an MNC through the artificial entity theory, this democratic problem stems from the fact that an MNC can’t be considered as a citizen or as a legitimate representative of a group of citizens. On the other hand, if an MNC is considered through the aggregate approach, the right of an MNC to be politically engaged poses a political equality problem due to the fact that some persons would have two opportunities to express their political views. Therefore I believe that MNCs shouldn’t have the right to be politically engaged.

¹² Tucker, A., 2010, “Flawed Assumptions: A Corporate Law Analysis of Free Speech and Corporate Personhood in *Citizens United*”, *Case Western Law Review*, 61(2): 495–548.

¹³ *Ibidem*

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