

# UNBECOMING PUBLIC BENEFIT CORPORATIONS

Brett McDonnell\*

## I. THE BOOK'S MAIN POINTS

*Becoming a Public Benefit Corporation* by Michael B. Dorff<sup>1</sup> is a strong, useful book, clear and well-written. Addressed in good part to entrepreneurs and investors, its sub-title encapsulates much of its core message to them: “Express Your Values, Energize Stakeholders, Make the World a Better Place.”<sup>2</sup>

I see the book as making two core points. First, benefit corporations are a reasonable legal form for entrepreneurs and investors to adopt.<sup>3</sup> Second, this new legal form may help companies do a better job of behaving in a socially responsible way, though this point is less certain than the first, and benefit corporations do not do as much as they might to encourage better behavior.<sup>4</sup> In particular, benefit corporation statutes provide good tools for reinforcing responsible behavior in companies already inclined to behave well but not good tools for enforcing responsibility in less well-motivated companies.<sup>5</sup>

I think all these points are largely correct. And yet, I think they tell a story that is more dispiriting for the usefulness of benefit corporation statutes than Dorff believes.

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1. MICHAEL B. DORFF, *BECOMING A PUBLIC BENEFIT CORPORATION: EXPRESS YOUR VALUES, ENERGIZE STAKEHOLDERS, MAKE THE WORLD A BETTER PLACE* (Eric Nee & Johanna Mair eds., 2024).

2. *Id.*

3. *Id.* at 213-14. Chapter 6 makes the point at length for entrepreneurs, and Chapter 7 makes it for investors.

4. *Id.* at 214.

5. *Id.* at 5.

## II. ENTREPRENEURS AND INVESTORS

In Chapter 6, Dorff considers whether entrepreneurs should choose to form a benefit corporation. He first considers several costs of doing so:

- ∞ Managers of benefit corporations are required to give independent weight to their social mission, rather than treating it simply as a means to achieving profits;
- ∞ Balancing profit with mission entails more complex governance;
- ∞ There is some potential liability risk from the possibility of fiduciary duty suits (though Dorff rightly argues in the previous chapter that this is extremely unlikely);
- ∞ Benefit corporations must regularly report on how they are pursuing their missions (though here too Dorff rightly argues in the previous chapters that this obligation is weak, and many companies do little or nothing to comply);
- ∞ Benefit corporation statutes are new, bringing greater legal uncertainty; and
- ∞ Companies that don't start as benefit corporations must jump through some hoops to convert, though nowadays only a majority shareholder vote is required.<sup>6</sup>

Balanced against these potential costs are some benefits:

- ∞ The focus on a social mission may attract customers, employees, and investors;
- ∞ Boards of benefit corporations can more easily fend off corporate raiders without concern for the *Revlon* duty;
- ∞ Choosing to form a benefit corporation can express the ideals of their founders; and
- ∞ Benefit corporations have some different advantages compared to nonprofits, namely they allow equity investors, avoid compliance with complicated tax rules, and have stronger governance.<sup>7</sup>

For some entrepreneurs, that set of benefits should exceed the costs.

I think this is mostly an accurate and well-done list. But I question the first cost listed above and think a different cost should be considered in its place. The first cost applies just to entrepreneurs who are attracted to benefit corporation status only because they think it will increase their profits through attracting customers, employees, and investors. But do we really

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6. *Id.* at 129-38.

7. *Id.* at 138-46.

want such persons forming benefit corporations? Isn't the traditional corporate form perfectly adequate for them?

As I understand this new legal form, we should see it as aimed at true social entrepreneurs who want to earn some profit but also want to do good (and avoid creating harm) and are willing to sacrifice some financial returns to do so.<sup>8</sup> For them, a (and quite possibly the) key advantage of the new legal form is that it acts as a commitment device to attract customers, employees, and investors who want to work with or within such a company. A major cost, then, is that the lame accountability mechanisms of the statute<sup>9</sup> make becoming a benefit corporation a weak form of commitment. The liability risks and disclosure obligations are actually quite small costs, but that's a very mixed bag. By adopting the benefit corporation, a true social entrepreneur would like to say, "I really mean it when I say I'm committed to pursuing our mission, and if I'm lying, you can sue me," but that statement has little weight if such a lawsuit is doomed to fail. Which it probably is, as Dorff rightly says.<sup>10</sup>

I have a similar reaction to Dorff's analysis of the costs and benefits of benefit corporation status from the point of view of investors, analyzed in Chapter 7.<sup>11</sup> That is, I think we should treat benefit corporations as aimed at a more narrow target than Dorff prefers. Dorff categorizes investors into useful groups. His core distinction is between profit-plus and profit-only investors.<sup>12</sup> The former seeks both a reasonable financial return but also cares about solving social problems, and is willing to sacrifice some money to do so. Profit-only investors, as the name suggests, care ultimately only about risk-adjusted financial return. Some of these are "purpose-for-profit" investors, that is, they believe that companies with a social mission may be more profitable than other businesses.<sup>13</sup> Another subset of profit-only investors are universal owners with highly diversified portfolios. Such investors may want companies in which they invest to reduce some externalities at the cost of their own profits, where doing so would increase profits enough at other portfolio companies.<sup>14</sup>

Each of these types of investors may be interested in investing in benefit corporations, but for different reasons, which may have different implications for how they hope companies behave and what that implies for

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8. See *infra*, notes 24 and 25 and accompanying text.

9. See DORFF, *supra* note 1, Chapter 5; discussion *infra* Part III.

10. DORFF, *supra* note 1, at 154-56.

11. See *id.* at 154-62.

12. *Id.* at 149.

13. See *id.* at 158-60.

14. See *id.* at 160-62.

how the law should work. Profit-plus investors are fine if the companies in which they invest have modest financial returns, so long as the companies do generate reasonable returns and genuinely pursue their stated social missions. They fear purpose washing, though, and so the weak enforcement mechanisms of benefit corporation statutes are a major concern.<sup>15</sup> It's the flip side of the concern of true social entrepreneurs described above. Such entrepreneurs want to make their commitment to pursuing a mission credible, even if it may hurt profitability, precisely because they want to attract profit-plus investors (along with similar employees and customers). The investors want to invest in companies with a strong commitment to a public purpose but fear that the companies don't really mean what they say and that their purpose statements are empty promises.

Purpose-for-profit investors, in contrast, would prefer legal mechanisms that do little to inhibit profit-seeking, even at the expense of social mission.<sup>16</sup> They believe that favoring social missions will often be good for profits. But that won't always be so, and when it is not profitable to pursue purpose, investors want managers to have the flexibility to choose profits over purpose. Universal owners are more like profit-plus investors in that they do want the companies in which they invest to reduce profits where doing so helps other companies more.<sup>17</sup> This is a clear-eyed and accurate take on the incentives of profit-plus and purpose-for-profit investors. I'm a bit less sure about universal owners—the argument Dorff makes has become common,<sup>18</sup> and it could be right, but I have some skepticism as to how often the logic really works out in application.<sup>19</sup>

Dorff is disturbed by the tension between the objectives of profit-plus and purpose-for-profit investors,<sup>20</sup> but finds some comfort in evidence he and co-authors have found<sup>21</sup> that benefit corporations have been relatively successful in attracting investment from ordinary venture capital funds.<sup>22</sup> But I draw a different conclusion from the tension between the two types of investors. Behaving in a relatively responsible way while still ultimately focusing on profits is both legally and practically quite doable within ordinary corporations and corporate law. The huge attention that has been

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15. *See id.* at 154-56.

16. *See id.* at 156-60.

17. *Id.* at 161.

18. *E.g.*, Madison Condon, *Externalities and the Common Owner*, 95 WASH. L. REV.1, 6-7 (2020).

19. Tom Gosling, *Universal Owners and Climate Change*, J. FIN. REGUL. (forthcoming).

20. *See DORFF, supra* note 1, at 156-60.

21. Michael B. Dorff, James Hicks & Steven Davidoff Solomon, *The Future or Fancy? An Empirical Study of Public Benefit Corporations*, 11 HARV. BUS. L. REV.113, 142-48 (2021).

22. DORFF, *supra* note 1, at 162-65.

paid to ESG (environmental, social, and governance)<sup>23</sup> for public companies in recent years shows both companies and investors in traditional public corporations focusing heavily on how those companies' behavior affects various stakeholders and the public good.

By contrast, true social entrepreneurs and profit-plus investors face a complicated challenge that does not fit well within traditional corporate law or the corporate governance machine.<sup>24</sup> They must decide how to balance profit with other goals given independent weight. Moreover, they face a coordination problem. The true social entrepreneurs genuinely do not prioritize financial returns, and profit-plus investors really want to invest in such companies, but the latter must be convinced that the former are genuine. It seems to me that the reason-for-being of benefit corporation statutes is to help these sorts of entrepreneurs and investors meet those challenges.<sup>25</sup> If the statutes impose rules that scare off other sorts of entrepreneurs and investors, we shouldn't be saddened.

Indeed, scaring off profit-focused entrepreneurs tempted to use the new statutory form would guard against a concerning possibility. If benefit corporation status becomes popular and lures many investors, profit-focused entrepreneurs will be tempted to pose as social entrepreneurs by adopting the new form. But then many, indeed most, of those profit-focused businesses are likely to disappoint both profit-plus investors and also (and maybe more damagingly) employees and customers who want to be tied to more virtuous (or at least less demonic) companies. The weak statutory enforcement mechanisms will leave those disappointed with little recourse. The reputational branding of benefit corporations could then take a severe hit that strikes to the core of what the statutes are trying to accomplish.

In a presentation on benefit corporations, Dorff has acknowledged this risk. His response is that eventually, the statutes will need to respond with stronger enforcement mechanisms, but for now, we should concentrate on increasing the number of benefit corporations so that the statutes become a major, viable option for new businesses. Imposing tougher restrictions too soon risks thwarting the creation of enough companies to make the form really viable.

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23. Elizabeth Pollman, *The Making and Meaning of ESG*, 14 HARV. BUS. L. REV. 403, 403 (2024).

24. Dorothy S. Lund & Elizabeth Pollman, *The Corporate Governance Machine*, 121 COLUM. L. REV. 2563, 2616-17 (2021).

25. Brett H. McDonnell, *Committing to Doing Good and Doing Well: Fiduciary Duty in Benefit Corporations*, 20 FORDHAM J. CORP. & FIN. L. 19, 26 (2014) [hereinafter *Committing to Doing Good*]; Brett H. McDonnell, *The Corrosion Critique of Benefit Corporations*, 10 B.U. L. REV. 1421, 1451-52, 1468-69 (2021) [hereinafter *Corrosion Critique*].

There is definitely merit to this response, but I am not convinced. Putting stronger enforcement mechanisms in place now would respond to the need for effective commitments that are critical for true social entrepreneurs and profit-plus investors. It might well make benefit corporation status more attractive to them, even if stronger enforcement creates more liability risk and higher compliance costs – if other sorts of entrepreneurs and investors are discouraged, good. We do need to increase the number of adoptions of benefit corporation status beyond the current level if the statutes are to have any real impact, but we should not expect to see a huge fraction of new businesses use the form, nor should we expect ordinary venture capitalists and other investors to put a lot of money into the field.

### III. IMPROVING ENFORCEMENT TOOLS

Either now (in my view) or later (in Dorff's view), we will need to figure out ways to more strongly enforce the commitment of benefit corporations to their stated social missions and to avoid generating major harm. New or improved enforcement tools will need to be developed through the statutes, or through private measures, or both.

Dorff nicely and (once again) clearly presents the reasons why current statutory and private mechanisms are inadequate.<sup>26</sup> The statutes impose a fiduciary duty to consider effects on society and various stakeholders and a new benefit enforcement proceeding to enforce those duties when violated. But only shareholders, not other protected stakeholders, may bring suits, damages will generally not be available, and it will be very, very hard for plaintiffs to show a legal violation of the duty standard.<sup>27</sup> Benefit reports may help both managers and investors understand what kind of a job companies are doing in pursuing their missions, but the wide latitude given to companies in shaping those reports and weak enforcement of the results suggest they are largely ineffectual.<sup>28</sup> Dorff also discusses several private mechanisms that companies could use to more strictly commit themselves to

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26. Though he does think that they provide opportunities for well-intentioned business to more systematically reflect on how to balance profit and mission. See DORFF, *supra* note 1, at 112-13.

27. DORFF, *supra* note 1, at 102-09. Originally, I was of mixed minds whether the benefit corporation statutes struck a good balance in being tough enough to deter purpose washing while not so tough as to deter everyone from becoming a benefit corporation. See *Committing to Doing Good*, *supra* note 25, at 57-70. But I have become more pessimistic. See Brett H. McDonnell, *From Duty and Disclosure to Power and Participation in Social Enterprise*, 70 ALA. L. REV. 77, 9-98 (2018).

28. DORFF, *supra* note 1, at 109-12.

pursuing their social missions. These include third-party certification,<sup>29</sup> nonprofit governance,<sup>30</sup> mandatory tradeoffs,<sup>31</sup> benefit directors and officers,<sup>32</sup> and charter provisions.<sup>33</sup> These have more promise than the statutory mechanisms but do not seem to be doing enough yet in their current incarnations.

What more can be done? Dorff's main contribution is a discussion of how to more tightly constrain the requirement to balance profits and mission.<sup>34</sup> He sets out three goals for designing balancing strategies: They should be transparent, credible, and measurable.<sup>35</sup> Transparency helps investors and other stakeholders better judge companies they are interested in.<sup>36</sup> Transparency is of little help to them, though, if what a company says is not credible.<sup>37</sup> Measurability is perhaps the most critical, and hardest to achieve, of the three goals.<sup>38</sup> Concrete, measurable statements about how a company is trading off profits with mission would be of great value to investors and to managers themselves, but measurements that are meaningful, inclusive enough to not be deeply misleading, and achievable at reasonable costs are a tough thing to design.

It is thus quite helpful that Dorff proceeds to suggest a few ways of measuring the profit/mission tradeoff. One is by setting minimum thresholds for each.<sup>39</sup> An example he gives is setting a threshold for net earnings and thresholds for three measures of employee welfare, including a wage premium over the market level, time off to volunteer, and a specified number

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29. *Id.* at 113-116. This includes a very helpful description of B Lab's certification standard and process. *See also* Michael B. Dorff, *Assessing the Assessment: B Lab's Effort to Measure Companies' Benevolence*, 40 SEATTLE L. REV. 515, 523-26 (2017).

30. DORFF, *supra* note 1, at 116-20.

31. *Id.* at 120-22.

32. *Id.* at 122-24.

33. *Id.* at 124-25. In this discussion, Dorff briefly addresses the open legal question whether companies may contract around shareholder primacy through a charter provision without adopting benefit corporation status. *See id.* He seems skeptical, at least in states that lack a constituency statute. I think the answer is such charter provisions would be enforceable, at least in Delaware. *See Corrosion Critique, supra* note 25, at 1437-38. The strongest argument for this position is that nonprofit corporations in Delaware do not have a separate statute, they simply use the basic Delaware General Corporation Law, and obviously they are treated as opting out of the normal shareholder wealth maximization norm in Delaware. *See* David G. Yosifon, *Opting Out of Shareholder Primacy: Is the Public Benefit Corporation Trivial?*, 41 DEL. J. CORP. 461, 480-86 (2017).

34. DORFF, *supra* note 1, at 174-90.

35. *Id.* at 174-81.

36. *Id.* at 175-77.

37. *Id.* at 176-77.

38. *Id.* at 177-79.

39. *Id.* at 181-82.

of CEO-employee meetings per month.<sup>40</sup> Falling below the threshold on one side would then suggest cutting back some on the other.<sup>41</sup> Another approach would be to set a fixed trade-off ratio.<sup>42</sup> A simple example would be the percentage of low-income housing in an apartment building.<sup>43</sup> A third, more abstractly defined approach involves maximizing profits subject to a social good production constraint.<sup>44</sup>

These are useful suggestions. But measurability is both highly desirable and highly problematic, a well-known problem in the economics of incentive design. Tying compensation to a precise measure of performance can give high-powered incentives to work to achieve a high level on that measure. But if the measure captures only some elements of what one cares about but not others, such compensation will create an incentive to focus only on those elements that are reflected in the measure.<sup>45</sup> Here, Dorff is not suggesting tying executive compensation to the measures he suggests.<sup>46</sup> But insofar as companies commit to following measures of the type he suggests and feel they face some pressure to follow through,<sup>47</sup> then the same incentive to concentrate on actions that are reflected in the measures should be present. How well are the kinds of precise measures Dorff suggests likely to reflect what we really want benefit corporations to be doing? How much of what we care about will be left out? Those are obviously critical questions in evaluating his proposal. The answers will naturally vary depending on the company and the measures used, but the measures he does discuss, though plausible, seem pretty simple and crude, suggesting cause for concern.

Dorff's suggestions are intended as private mechanisms rather than as changes to the statutes.<sup>48</sup> Which measures might work will vary a lot from company to company. Do Dorff's three criteria for balancing strategies suggest any reforms in the statutes? His focus on transparency suggests considering ways to add more structure and guidance within the required benefit reports, though given the wide range of variation in social missions,

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40. *Id.* at 182.

41. *Id.* at 182-84.

42. *Id.* at 185.

43. *Id.* at 185-86.

44. *Id.* at 186-89.

45. Bengt Holmstrom & Paul Milgrom, *Multitask Principal-Agent Analyses: Incentive Contracts, Asset Ownership, and Job Design*, 7 J. L. ECON. & ORG. 24, 26 (1991).

46. Though tying a component of compensation to measures of social performance is a growing and debated trend. Brett H. McDonnell, *Stakeholder Engagement*, 51 FLA. ST. U. L. REV. 305, 356-58 (2024); Lucian A. Bebchuk & Roberto Tallarita, *The Perils and Questionable Promise of ESG-Based Compensation*, 48 J. CORP. L. 37, 40 (2022).

47. If they don't feel such pressure, what good are the measures doing?

48. DORFF, *supra* note 1, at 112-13.

how one might usefully do that remains an open, hard question. Further examination of existing voluntary disclosure systems is obviously called for. Dorff's discussion of B Lab's Impact Assessment is one useful example.<sup>49</sup> He has a mixed reaction, finding that B Lab's measures are helpful up to a point, but have significant problems.<sup>50</sup>

In my own work, I explore a different kind of approach to making corporations more credibly committed to pursuing their mission and avoiding social harms. Rather than trying to more carefully define, formalize, and constrain the competing factors decision-makers must consider and balance, a formidable and probably hopeless task, we could focus instead on who those decision-makers are and who they are accountable to. Right now, they are officers and directors, ultimately accountable to the shareholders. But if we truly want to make companies more concerned about the interests of groups like employees, customers, and local communities, then we should try to get those groups involved in the decision-making.<sup>51</sup> Representatives of these various groups can then discuss and negotiate among themselves how to make necessary tradeoffs among themselves. Stakeholder involvement would also bring other benefits, such as providing valuable information different stakeholders have learned and increasing loyalty to companies from stakeholders who value being included in a more deliberative role.<sup>52</sup> To be sure, there would also be significant costs, notably including higher decision-making costs as different stakeholders conflict in their preferences.<sup>53</sup> Stakeholder involvement would need to be carefully structured so as to limit such costs while achieving as much of the potential benefits as possible.

Stakeholders could be involved in various ways, at various levels of a corporation. The nature of their involvement could, and probably should, differ for different stakeholder groups, with employees staking the strongest claim to significant involvement.<sup>54</sup> Stakeholders could elect directors to the

49. *Id.* at 112-16.

50. *Id.*

51. McDonnell, *supra* note 46; Brett H. McDonnell, *Employee Primacy, or Economics Meets Civic Republicanism at Work*, 13 STAN. J. L. BUS. & ECON. 334, 335-36 (2008); Brett H. McDonnell, *From Duty and Disclosure to Power and Participation in Social Enterprise*, 70 ALA. L. REV. 77, 78-79 (2018); Brett McDonnell, *Stakeholder Governance as Governance by Stakeholders*, 47 SEATTLE U. L. REV. 511, 511-12 (2024).

52. McDonnell, *Employee Primacy or Economics Meets Civic Republicanism at Work*, *supra* note 51, at 355-57; GRANT M. HAYDEN & MATTHEW T. BODIE, RECONSTRUCTING THE CORPORATION: FROM SHAREHOLDER PRIMACY TO SHARED GOVERNANCE 156-58 (John Berger ed., Cambridge Univ. Press 2020).

53. HENRY HANSMANN, THE OWNERSHIP OF ENTERPRISE 35-36 (Harv. Univ. Press ed. 1996).

54. McDonnell, *From Duty and Disclosure to Power and Participation in Social Enterprise*, *supra* note 51, at 100-11; HAYDEN & BODIE, *supra* note 52, at 167-71.

board. They could participate in councils that help set policy in specific areas, e.g. workplace safety, or workforce DEI (diversity, equity, and inclusion), or adaptation to climate change. Some stakeholders could be given standing to sue to enforce the fiduciary duty of benefit corporation directors and officers to consider stakeholder interest. Obviously, there are huge design questions here, which I and others have considered elsewhere.<sup>55</sup> This is not the place for those questions. I simply want to suggest a different, and to me more promising, direction one could consider for protecting stakeholder interests within a corporation, a direction contemplated neither in benefit corporation statutes nor in Dorff's examination of those statutes.

#### IV. MY TAKEAWAYS

Ultimately, my take on benefit corporations is less positive than Dorff's, although I think it is an extremely well-done book, and I disagree with very few of the specific points he makes. *Becoming a Public Benefit Corporation* is mainly aimed at entrepreneurs and investors. It describes what benefit corporations are and attempts to convince its target audience that they should adopt or invest in this new form of business entity.<sup>56</sup> It emphasizes some benefits that benefit corporations do genuinely provide. They create plenty of legal space for businesses to pursue both profits for their investors while also advancing social missions and avoiding imposing harms on society. They create several mechanisms for businesses genuinely committed to their social missions to reflect upon how they are doing and how they could do better. Dorff (rightly) argues that the costs of becoming a benefit corporation are low, so they should not dissuade adoption of the form.<sup>57</sup>

If anything, Dorff does too good a job of selling the benefit corporation. His targets include entrepreneurs and investors who are not interested in genuine social enterprises that pursue social missions for their own sake. Those persons are fine with older forms of entities, and including them within the benefit corporation community has serious risks. It can lead us to make the form too easy and un-demanding, in order to encourage wider adoption. But for the hard-core entrepreneurs and investors interested in genuine social enterprise, serious rigor should be a feature, not a bug. A key need that the law should be trying to fill is helping entrepreneurs and their companies to create a genuine commitment to balancing mission and profit. That will help

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55. McDonnell, *From Duty and Disclosure to Power and Participation in Social Enterprise*, supra note 51, at 112-18; J. Haskell Murray, *Adopting Stakeholder Advisory Boards*, 54 AM. BUS. L. J. 61, 61 (2017); Alicia E. Plerhoples, *Social Enterprise as Commitment: A Roadmap*, 48 WASH. U. J. L. & POL'Y 89, 91-93, 97-98, 101, 104, 106 (2015).

56. See DORFF, supra note 1, 31-76.

57. *Id.* at 213-14.

attract investors, employees, and customers who want to be a part of such a company. Commitment, though, requires more than cheap talk.<sup>58</sup>

My concern with the form is that right now, adopting it is just that, cheap talk. The fiduciary duties and disclosure are too feeble to create any real commitment. Dorff sees this point too (indeed, it's one of his main themes),<sup>59</sup> and he sees it as a real problem that in the long run both the statutes and individual companies will need to address. But for now, he feels less urgency in solving the problem, as his first priority is to convince companies to adopt the form, and he wants to lower perceived obstacles. But I think those "obstacles" (tougher duty requirements, more and better disclosure) should deter only those who we shouldn't want involved anyway. Those for whom the benefit corporation is intended should welcome more rigor.

That said, Dorff does have a clear-eyed description of the limits of the benefit corporation as a tool for enforcing commitment to social missions. He also has some valuable suggestions for how companies might impose more rigor on the process of balancing profit and mission.<sup>60</sup> Those suggestions are worth exploring, though I have my doubts about how often they will do a lot of good<sup>61</sup> (but I could easily be wrong—I often am). Still, I think that Dorff, along with those who created benefit corporation statutes (myself included) and those who are adopting the form, overlooks the corporate governance tools that we really need to explore if we take seriously the idea of businesses genuinely committed to social missions as well as making money. We need to change who's in the rooms where decisions happen.<sup>62</sup> As I have argued elsewhere, stakeholder governance needs to be governance by stakeholders, not just for them.<sup>63</sup> With the benefit corporation, we blew the chance to address the core questions of power that we must ultimately face if we are to truly change how corporate America works.

58. See Lund & Pollman, *supra* note 24; see *Committing to Doing Good*, *supra* note 25; see accompanying text.

59. See *Committing to Doing Good*, *supra* note 25; see *From Duty and Disclosure to Power and Participation in Social Enterprise*, *supra* note 27; see DORFF, *supra* note 1; see *Assessing the Assessment: B Lab's Effort to Measure Companies' Benevolence*, *supra* note 29; see accompanying text.

60. See DORFF, *supra* note 1, at 182-84, 185-86; see accompanying text.

61. See Holmstrom & Milgrom *supra* notes 45; see *Stakeholder Engagement*, *supra* note 46; see Bebchuk & Tallarita, *supra* note 46; and accompanying text.

62. See McDonnell, *supra* note 46; see *Employee Primacy, or Economics Meets Civic Republicanism at Work*, *supra* note 51; see *From Duty and Disclosure to Power and Participation in Social Enterprise*, *supra* note 51; see *Stakeholder Governance as Governance by Stakeholders*, *supra* note 51; see HAYDEN & BODIE, *supra* note 52; see HANSMANN, *supra* note 53; see Haskell Murray, *supra* note 55; see Plerhoples, *supra* note 55; see accompanying text.

63. McDonnell, *Stakeholder Governance as Governance by Stakeholders*, *supra* note 51.