

## Theoretical justifications for the necessity of the US lobbying regulations reception

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The state of lobbyism anywhere except the US, Canada and the countries of the EU is opaque for there still haven't been enacted any direct laws and statutory instruments regulating this field there [4]. The following analysis is aimed at examining the US lobbying, as well as inquiring into theoretical justifications for the necessity of the US lobbying regulations reception in the countries that are yet to adopt lobbying legislation.

Lobbying, according to Baumgartner and Leech, is “an effort to influence the policy process”, or, in other words, decisions taken at the political level [3]. The US lobbying can be traced back to 1791, when the right to lobby became enshrined in the US constitution since one of the inalienable guarantees instituted in its first amendment is the right to petition (hence lobby) Congress [7]. And in 1792, William Hull was hired by fellow Virginian veterans to lobby for compensation increase they felt the nation owed them for winning the US liberty [2]. Lobbying in the US has developed enormously in scale and sophistication since then, both on federal and states' levels, but nowadays further amendments are nevertheless considered for there still exist legal loopholes [8]. For instance, the Honest Leadership and Open Government Act (hereinafter HLOGA) adopted in 2007 bans lobbyists from making gifts and providing travels to “a Member, officer, or employee of Congress” [6]. The Federal Election Campaign Act of 1971 (hereinafter FECA), in turn, contains restrictions on fund-raising, or the amounts of monetary or other contributions lawfully able to be made by lobbyists [1]. Obviously, the scope of interactions some stipulations of FECA (those concerning fund-raising) and HLOGA (those focused on banning lobbyists from making gifts) regulate overlap to a certain extent so that lobbyists can “find a way around”, as Jack Abramoff, a lobbyist convicted of a bribing attempt, commented on 60 Minutes. He gave the following example: “You can't take a congressman to lunch for \$25 and buy him <... > a steak or something like that ... But you can take him to a fund-raising lunch and not only buy him that steak, but give him \$25,000 extra <... >” [5].

Thus, the necessity of lobbying regulations reception in the countries that are yet to implement them in their legal systems may well seem to be unsubstantiated since multitudinous legal loopholes in such countries as the US despite its lobbying regulations having a long-drawn-out history imply that lobbyists can and will always “find a way around”. However, strange as it may seem, lobbyists managing to bypass the law tangibly prove that lobbying laws are incontrovertibly needed for without them lobbyists are unburdened by any restraints hence their undesirable actions.

Furthermore, this is preposterous to assume that lobbying does not exist when unregulated - it has existed since time immemorial notwithstanding the absence of laws concerning it (and even the term itself). Whenever power over some members of society was wielded, there would be those who were discontent hence attempted to persuade those in power to exercise their right of enacting laws and regulations in a particular way. Ancient “lobbyists” of Greece and Rome sought to influence senators and plebeians when convoked to forums. The selfsame lobbying role used to be held by courtiers, who bygone kings and princes reigned with [2].

The necessity of lobbying legislation reception may as well seem unfounded from the prospective of deliberative democratic theory as a subgroup of participatory democracy, yet can be explained from its prospective. The concept of deliberative democratic theory consists in the idea that the legitimacy of policy-makers lies in policy decisions being publicly available, hence in enhancing public freedoms and rights to interfere. In this regard, deliberative democracy must be against imposing more regulations. Yet lobbying is an exception, with its regulations being a kind of “a necessary evil”. First, it is a means of constraining influencers’ actions and enabling public to gauge “who is influencing what” because of actors being included into a register of lobbyists. This is what contradistinguishes lobbying from bribing, which it is so frequently merged with. Nonetheless, lobbying regulation is not a sole means of outlawing corruption, nor is this the primary aim of such regulation. The essence of it lies in bringing policy makes under close scrutiny. Without such transparency, it may be immensely difficult for the electorate to judge whether a representative has taken their interest into consideration or the outcomes are dominantly influenced by unregulated hence unseen lobbyists’ actions [2].

Overall, conscious and willing reception of lobbying legislation, especially that of the US, rather than forming it from scratch or leaving the sphere unregulated, can prove immensely beneficial. The US lobbying regulations have experienced sequential increase in the degree of their elaborateness throughout their long history. Thus, many of them are time-honoured and worth applying notwithstanding differences in jurisdictions.

### References

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