

Department of Political Science

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BRIDGING THE GAP
LOBBYING AND DEMOCRACY
IN THE EUROPEAN UNION

SUMMARY

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The role of lobbies at European level is often observed with suspicion as far as the democratic development of the European Union (EU) is concerned. In the common debate, lobbyists are usually defined as “obscure” actors pushing their interests into the rooms of power of Brussels without complying with the fundamental principles which characterize any democracies – namely transparency, openness and legitimacy. Mass media contribute to shape a diffused negative perception in many nation-states: particularly in the South of Europe, “lobbying” is inevitably accompanied by an unfavourable connotation which seems to be inconsistent with democracy *a priori*.

The aim of the thesis is threefold: *a)* to investigate this widespread assumption in detail; *b)* to make a clear distinction between proper criticism to lobbyists and unjustified ones; *c)* to discover whether lobbying can be at the service of European democratization or, conversely, whether an insurmountable distance exists. The main argument is the following: the gap is more perceived than authentic. Many reasons can support a pessimistic view about the relationship between lobbying and democracy, but they do not seem to be sufficient to overcome the relevant arguments in favour of a positive role of lobbyists in the process of European democratization.

From Group to Lobby

The concept of lobbying is too often confused with other similar, but not alike, terms. “Interest group” and “pressure group” are usually considered equivalent notions; in addition, lobbying tends to be referred to as a synonym, or just a specification, of the previous expressions. This terminological uncertainty is incompatible with a full and

useful comprehension of the nature of lobbying or a scientific study of the role it plays with regards to the implementation of the democratic model of the Union.

Any group bears an interest. An interest group, more specifically, makes certain claims upon other groups in society on the basis of some “shared attitudes”. When it decides to do so by entering the field of politics, it becomes a pressure group, pushing for an authoritative allocation of values which are seen as binding for all members of a society (or a specific sector). Lobbying is similar to these concepts, but it is characterized by some decisive peculiarities:

- it refers to *public* decision making;
- it aims to exert influence on governors and thus obtain a precise *normative* outcome;
- it implies a *communication* link between citizens and governmental decision makers.

Communication, therefore, is the main keyword describing the role performed by lobbyists, who bring technical knowledge and sectoral perspectives to the attention of those in charge of making binding decisions. Lobbying can be defined thus as a form of direct advocacy of a viewpoint regarding matters of public policy.

Why Lobby the European Union?

Once defined what lobbying *stricto sensu* is, it is necessary to understand why the EU is continuously addressed by interest representatives trying to push their clients’ claims before European institutions. Addressing this crucial question requires an accurate classification of the European Union according to some precise criteria in order to discover its essence, scope and dynamics. Only in this way it is possible to set the borders within which lobbying operates inside the European institutional and political system.

There is no single and unchangeable model of democracy in the world; rather, many variants exist according to some defining features. In particular, the European Union can be defined as a democratic entity *sui generis*: it is a conglomerate of twenty-seven (twenty-eight starting July 2013) highly dissimilar Member States, with different traditions and forms of government.

The EU is not comparable to a nation-state: although a European territory is recognizable, no real European *demos* can be individuated. Full state sovereignty is lacking too. In this light, the EU can be better defined as a supranational organization rather than as a state or an international organization *tout court*. It is a union of asymmetrical states and their citizens, in which governmental power is shared among at least four heads (the Commission, the Parliament, the Council and the European Council). The EU, as well as the United States, can be defined as a compound democracy with a *fragmented* model of governance.

In such a system, many spaces are left open to lobbyists. Numerous “access points” exist for external actors in a multi-level governance architecture, which tends to be porous by definition. In addition, the traditional lack of popular engagement in Union’s affairs directly paves the way for interest representatives pushing claims in Brussels. Lobbying can efficaciously respond to the need of engaging citizens and interests in EU policy making by providing forms of organized representation before the main institutions in Brussels.

Both the multi-level character of European governance and the lack of popular participation can explain why lobbying is to be considered not an occasional, but a *systemic* element of European decision making. Of course, distortions do exist, and one of the prerogatives for the future of the EU is to cancel them out, or at least to progressively reduce them.

The centrality of lobbies in Brussels has been acknowledged by EU institutions in several occasions, both directly and indirectly. In many Communications and Policy Papers, the Commission and the EP declared their openness to the promoters

of “special interests” because of their crucial role in stimulating EU policies’ legitimacy and providing technical expertise.

The Peculiarity of European Democracy

Once introduced the main concepts and delineated the space for interest representation, the relationship between lobbying and democracy cannot be investigated without a profound understanding of European democracy. Many of the critical questions linked to lobbying can find an answer through an analysis which takes into account the specificities of the EU and its steps towards a higher degree of openness and transparency. Some decisive problems still remain, but they cannot be considered grave enough to invalidate the idea expressed above: interest representation is rooted within the European institutional structure and it can be beneficial to it.

Some “dimensions” of democracy can be individuated to describe the functioning of the European polity and the impact that lobbying can exert on it.

- From the *input* side, a system is democratic if it is open and non-discriminatory. Competition, pluralistic elections and transparency are all concepts linked to this notion. Lobbying is one of the indirect means of access to Brussels for a variety of interests: in this light, it can contribute to keep the system open and permeable to a vast number of stakes.
- The *throughput* dimension requires governance to be representative of what people desire. Consensualism and polyarchy tend to reinforce a polity’s representativeness. Lobbyists can help EU institution make policies able to represent citizens’ wishes in a better way, as they can make their voice heard in the rooms of power.
- From an *output* point of view, a democratic environment is defined by the existence of legitimate decision making. Limited government, accountability and

responsiveness contribute to enhance legitimacy. Interest representation can improve the degree of consensualism of European governance and promote sympathy for specific policies and/or integration at large.

- On the *feedback* side, people are expected to participate actively in governmental power by resorting to the means of citizenship. Tolerance and identity, for instance, are values related to this dimension, especially in a composite environment such as the EU. Lobbies can be an instrument for conveying people's feelings to Brussels and, indirectly, stimulate the sense of citizenship within the framework of an ongoing enlargement.

From this analysis some conclusions follow. First, European democracy is not “ill” *per se*, as the advocates of a European democratic deficit would rapidly assert. Second, there are both positive and negative records in this field, mostly depending on the theoretical approach to the problem of democracy and the nature of the Union. Third, lobbying has a varying impact on each nation of democracy, and none of them can be considered independent from the influx of interest representation.

A Portrait of European Lobbying

The two necessary elements of our analysis (lobbying and European democracy) have been defined and are now available for further examination. In order to properly assess the impact of interest representation on the EU democratic model, two more steps are required: first of all, the emergence of lobbying in the Union, from its origins to the current configuration, should be reconstructed; second, the interests at stake and the nature of European lobbyists need to be defined.

Looking at the history of interest representation in Europe, it is possible to observe a constant expansion in the number of lobbyists and an extension of the spectrum of interests they represent. As Europeanization of public life went on, a real “explosion” of interest advocacy at European level occurred, coupled with a

significant widening of the interests promoted. Since the beginnings of continental integration to the entrance into force of the Treaty of Lisbon, the room for lobbying steadily increased, resulting in a huge variety of interests represented in Brussels and in an unclearly defined number of lobbyists and groups which try to influence EU decision makers on a daily basis. This trend seems to be reinforced by the entrance into force of the Treaty of Lisbon: the expansion of the Union's competences is likely to produce even higher rewards for interest representatives directly addressing EU institutions and officials.

With regard to the identification of lobbyists, it is extremely complex to define who they are. It is possible to define them in terms of both group and non-group entities, but no clearer boundary can be set. Equally, any attempts to categorize the highly diversified interests promoted in Brussels encounters insurmountable obstacles, as almost any conceivable stake is somehow organized through formal collective entities. As a result, a vast and multi-faceted picture emerges which testifies the complexity of the phenomenon and, at the same time, its absolute centrality in European decision making.

Lobbying *Versus* Democracy

Once all the elements of the analysis have been introduced, the fundamental question raised in this work can be directly addressed: does a gap between lobbying and democracy actually exist? Might there be a fruitful interaction between them, or are they condemned to remain antagonist concepts, as a wide part of public opinion would assert?

The most diffused discussions about lobbying seem to suggest that this activity leads democratic systems far away from their scopes and generally accepted methods. Numerous reasons exist why suspicion surrounds any discourses about the relationship between interest representation and democracy development.

First, many critics state that lobbying is an obstacle to openness: the most powerful lobbies seem to enjoy a pre-eminent position and attempt to close the system against possible competitors. However, the high number of access points to European decision making, the significant number of lobbyists operating in Brussels and the possibility for mutual checking and balancing among groups appear as strong system-linked correction mechanisms, able to counterbalance the negative impacts just mentioned.

Second, lobbying is often accused of provoking misrepresentation in favour of “richer” interests supported by large financial availability. This is often true, but it should be clear that money does not immediately equal influence, and strict rules have been introduced to limit the risk of corruption and undue influence. In addition, it is often said that “Brussels only talks to Brussels”, with damaging effects in terms of representativeness of others’ issues. Indeed, since 1992, the Commission has engaged in a process of rethinking of its relationship with interest representatives: as a consequence, it has begun to attach higher significance to groups’ capacity to present themselves as effective representatives of European interests.

Third, the numerous critiques to lobbying often rely on the output dimension of democracy. Lobbyists are accused of undermining the legitimacy of European policies in light of the undue advantage that some groups seem to enjoy before EU officials. Any abuse of this kind should be immediately corrected, according to the relevant requirements of impartiality set forth in the Treaties, which include *ad hoc* procedures for checking compliance with such provisions. However, it must be highlighted that imbalances among groups are not inconsistent with democracy *a priori*: if they derive from differences in the degree of preparation of lobbyists, they seem to be justified. The only way to make the playing field more level is pushing for lobbies’ *professionalization*: in this way, occasional interest representatives would be pushed outside the system and the effects of “good” (professional) lobbying could spring out and appear in a clearer way. More generally, it is possible to assert that the real line of fracture between successful (and beneficial) lobbying

and unsuccessful (and damaging) interest representation seems to be defined by the degree of preparation and professionalization of lobbyists themselves, not by the kind of interest they support.

Fourth, lobbying, if perceived as an unjust form of influence on European decision makers, can thwart the sense of citizenship, especially in a difficult period such as the economic crisis we are currently mired in. However, it should also be recalled that lobbies, in the course of their evolution, have been able to promote national issues and, at the same time, stimulate the sense of inclusion in the EU architecture. System-linked correction mechanisms are also provided by the Treaties, which have progressively introduced new opportunities for citizens' inclusion in European governance: the instance of the European Citizens' Initiative, as we shall see, is particularly telling in this sense.

The four points raised above show that, although adverse impacts are a concrete and unquestionable reality, many correction tools (which exist in the decision-making system of the EU itself and in the mutual relationships which link European officials and interest groups) are likely to reduce their weight and counterbalance the negative perception of lobbying.

The pervasive criticism which surrounds the impact of lobbying on European democracy thus appears only partly justified. Interest representation at EU level has certainly some "black spots" which certainly need to be addressed; however, once such a purification takes place, the activities of interest-promotion groups might be seen as a part of the *solution* to the problems of European democracy, rather than as a part of the problem.

Lobbying *Supporting* Democracy

Many arguments can be proposed to demonstrate that lobbying renders a high-quality service to European democracy.

First, interest representation is a means for expertise to reach decision makers. Professional lobbyists, in particular, contribute to the fulfilment of the input and output notions of democracy by delivering technical knowledge and “competent information” to European governing bodies. Without their involvement, it would be inconceivable for policy makers to be aware of all the details involved in a decision. They need to be given the necessary instruments to take into account all relevant viewpoints and avoid any disagreements and accusations of partiality.

Second, lobbying guarantees the inclusion of organized interest in governmental choices. The lack of participation in EU affairs can be partly filled by representative groups able to make stakeholders feel included in European decision making. The results in term of input and feedback democracy can be significant, with potentially high benefits for Europe at large.

Third, EU institutions can be supported to achieve a sufficient degree of legitimacy. By promoting sympathy for the Union’s policies and guaranteeing that a number of different viewpoints are included in their formulation, lobbies can enhance trust in European deliberations and help them be accepted by citizens in almost thirty dissimilar states. As a matter of fact, the Commission has been proposing, especially since 2002, a culture of reinforced cooperation with interest representatives, thus showing its awareness of their capability of stimulating perception of a democratic and legitimate Europe. Public consultations are a good instance of this trend.

Fourth, interest representation enhances the deliberative outcomes of bargaining in Brussels. In a compound democracy, the logic of deliberation – based on the goodness of the argumentations proposed – is a central element of the governance system and it is often coupled with the idea of consensual decision making. Lobbies, by making different points of view able to be heard, enlarge the possibilities for inclusive and non-conflicting policy making: as a result, a *win-win* dynamic can emerge among the vast variety of actors on the European scene, instead of a *winner-loser* situation which would not help EU democracy become prosperous.

Lobbying and democracy, therefore, can positively interact and provide EU decision making and interests with mutual gains, in a positive-sum game which finds its roots in the very institutional structure of the European multi-level system of governance. In this light, the traditional negative attitude towards lobbying should be revised. This conclusion is even more evident if we take into account the numerous attempts made by the Union to open up its policy-making architecture, include interest representatives in a transparent policy-making framework and promote ethical behaviour by both lobbyists *and* EU officials.

Lobbying can be at the service of European democracy, provided that its positive impacts are opportunely strengthened and its unfavourable effects are limited by self-correction mechanisms and *ad hoc* interventions by the EU institutions. The conditions for this beneficial interaction are stringent. Of course, their fulfilment is a daunting task which, in many cases, is likely to fail; however, it is not an impossible one. The commonly perceived gap between interest promotion and democracy can be bridged: the fundamental instruments are already available and, if they are properly used by the actors of European decision making, a flourishing future can await Europe. Undoubtedly, the path is not complete: the harmonization of these two realities is a demanding mission which still requires a lot of efforts, but resorting to lobbying as an instrument of European democratization can be a feasible option to pursue.

The Problem of Transparency

The problem of transparency is one of the most discussed issues concerning interest representation in the light of which lobbyists are often criticized. Transparency is crucial for both interest representatives who wish to be welcomed in Brussels and institutions which aim to present themselves as legitimate and trustworthy.

Although many deficiencies still characterize the discussed *liaison* between lobbyists and institutions, important steps have already been made in direction of more transparency and openness. As a matter of fact, many norms regulate the conduct of both interest representatives and European officials and institutions.

The European Parliament, in its Rules of Procedure, has set forth important provisions concerning this topic. *Inter alia*, it is worth mentioning the obligation, for any Member, to declare any financial interests he/she pursues and adhere to a strict Code of Conduct promoting the principle of *publicity* for the Members of the Parliament.

The Commission, on its side, enacted a variety of measures in order to stimulate openness and accountability of policy making and fight its apparent opaqueness. The launch of the European Transparency Initiative is a key instance of such a concern. By depicting transparency as one of the core objectives of the Union, a series of Papers issued between 2006 and 2008 established instruments and procedures aiming at the regulation of the conduct of policy-making actors in Europe, especially in the light of the growing importance of lobbyists in Brussels.

The European Transparency Register, created in 2011 by an Interinstitutional Agreement by the Council and the Parliament, is the final step in this long route towards transparency and an attempt to provide a unified framework for lobbyists to interact with the two main legislative institutions of the EU. Despite its structural weaknesses, it is another crucial sign of the importance that the European Union attaches to an open decision-making system and it testifies the efforts made to harmonize the relationship between lobbying and democracy.

These observations confirm what has been stated until now: lobbies are a *central* element of European decision making and thus need to be included in the most transparent way possible. Their contribution in terms of legitimacy can be significant, so the institutions need to improve their efforts to increase the openness of the system and eliminate any form of opacity. Otherwise, the role of interest representatives is likely to remain ambiguous and raise suspicion in those who

consider lobbies as obscure actors pushing their interest by the strength of money. This largely erroneous perception must be actively fought if the Union wishes to enjoy the beneficial contribution of lobbying described above. Given this necessity, only a further expansion of a coherent transparency strategy can help the EU achieve this goal.

The European Citizens' Initiative

The European Citizens' Initiative (ECI) is a newly introduced instrument aimed at reinforcing the possibility for a deeper contribution by citizens to European policy making. It has been designed as a means for the enhancement of participation in EU affairs: as a matter of fact, serious attention was paid to the numerous concerns about the lack of a European public space and the almost fully representative nature of the Union.

Regulation 211/2011, which formally brought the ECI to life, tried to ensure the existence of an *ad hoc* space for citizens in the field of legislative proposal, without however altering the role of the Commission as the primary source of the decision-making chain in Europe. The introduction of the ECI has an impact on the relationship between lobbying and democracy and it can contribute to bridging the gap between them.

Citizens' initiatives produce two main positive effects:

- they stimulate the inclusion of *new* groups in the decision-making system at EU level;
- they encourage dialogue between European institutions and organized civil society.

A significant role can be played by interest-promotion groups, as they are the only bodies able to provide the necessary financial support and help obtain the required signatures across different Member States. As a matter of fact, the

procedural requirements set forth in Regulation 211 imply high costs and organizational needs which can only be borne by structured groups, whose nature resembles the definition of lobbies provided above. By backing ECIs, organizations can enhance participation; in addition, a higher number and variety of associations can be included in European decision making, as the groups supporting this kind of initiatives tend not to correspond to the established entities already operating at EU level. As a result, thanks to this new instrument, organized civil society can enjoy better and wider chances for dialogue with institutions in Brussels, with potentially relevant benefits for European democracy.

In this light, it is possible to conclude that the case of the citizens' initiative confirms some of the conclusions delineated earlier: the activities of interest representatives at European Union level can be beneficial to the compound notion of democracy pertaining to Europe. Some errors can certainly be corrected and many limits can obviously find a solution; however, the way seems to be paved for a really prolific interaction between lobbies and democracy in the EU.

The Main Conclusions of the Research

A gap between lobbying and democracy is often perceived, but it does not seem to be fully mirrored in reality. It exists more in the minds of scholars who *a priori* refuse to admit the existence of a fruitful room for cooperation between interest representatives and European governing bodies and officials. Such a gap can be bridged, if lobbying is properly defined and the model of democracy of the European Union is examined in all its peculiarities. If it is not just assimilated to all other democracies in the world, Europe can emerge as an entity with its own features, on which lobbyists can exert a positive impact while they still try to push the interests of their clients. Not only can the alleged conflict between interest representation and democracy be solved, but lobbying can also be a *positive* driver to European

democracy: this is a feasible option which should not be ignored, but further examined and put into practice. The doubts rooted in national traditions should be dissipated, or at least contextualized and reframed, in the light of the arguments proposed.

Of course, it would be pointless to state that lobbying and democracy are *perfectly* compatible realities. As said, problems exist: for instance, it would be difficult to disregard that money still play a significant role. However, it is necessary to properly weigh these limits and try to solve troubles linked to them: it would be unfair just to assume that they will never be overcome. The institutions of the EU are seriously working on this: both the Commission and the EP, for instance, have been proposing counter-measures to fight the adverse impacts of “bad” lobbying on the Union’s model of democracy by requiring the adoption of codes of conduct and proposing stricter requirements for a transparent and open behaviour of EU officials and governing bodies.

Some critics argue that the steps taken until now are not enough and that powerful lobbyists actively contribute to the persistence of distortions in EU decision making. It is true that the problems which have historically thwarted a fruitful interaction between EU institutions and lobbyists are not likely to disappear in a moment; however, the Union already possesses the instruments for making the two parties actively cooperate, and it should pursue such a crucial objective in the forthcoming years.

In conclusion, the gap can be bridged, and it is in fact being bridged. More time is required however, and EU institution must devote their best efforts to the full implementation of the principle of transparency in order to build a perfectly working framework for cooperation with lobbies. If this occurs, it will be possible to consider lobbyists in a completely new perspective and finally abandon the diffused perception according to which their activities are detrimental to EU democracy. Consequently, the compound model of governance of the Union can gain important

benefits from interest representation: it is just a matter of awareness and willingness to fully integrate it into the European decision-making structure.

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