

HISTORICAL-LEGAL DEVELOPMENT OF CONCEPT OF LOBBYISM

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ABSTRACT

In this thesis, it describes the definition of lobbying by foreign scholars, issues aimed at revealing its essence, as well as the positive and negative features of this phenomenon.

Keywords: Lobbying, term, task, function, types, foreign experience, stages, normative-legal document, foreign countries.

ABSTRACT

The theoretical and methodological process does not remain unchanged. In recent decades, complex research approaches have been applied in it, which have made it possible to cover and interpret all the conditions of analysis. One of the concepts that made it possible to do this was the concept of new institutionalism. It is quite obvious that lobbyism can be considered in the context of this research approach also because it will become a legal institution. Its legitimacy lies in the fact that a separately taken legal norm is usually not able to regulate with the required completeness and comprehensiveness this or that public relation without interaction with other legal norms aimed directly or indirectly at regulating the same relation. The totality of legal norms, brought together into a certain systemic whole, and forms a legal institution.

Then, lobbyism has all the features of a systemic education. In addition, as professor of University of Melbourne *Sven E. Feldmann* noted, “Lobbying is modelled the strategic provision of information by an interest group to a multi-person legislature”[1].

The study of the interaction of society and the state, we can also refer to the quotas of professor of Maastricht University *Iskander De Bruycker*, he said that “In their pursuit of political influence, interest groups face the choice to contact policy elites directly or to generate pressure indirectly by appealing to the public at large” [2].

MATERIALS AND METHODS

Lobbying and interest groups are considered mainly in the doctrinal works of political scientists. For the first time in doctrinal sources, the terms lobbyism, interest groups appear in the work of *A. Bentley* (1870-1957) which is “The process of public administration. Study of public pressure”. *Lobbyism is presented by the author* as a mechanism for the influence of pressure groups on state bodies. Pressure groups have a special interest, for the implementation of which they influence those in power [3].

The Doctor of Philosophy of Antwerp Management School & University of Antwerp *Stefanie Weil*, continued her research on lobbying. And she cited in her book “Lobbying in Europe and the US is an integral part of national democracies, with multiple stakeholders playing a vital role in the law-making process” [4].

I also develop my *own definition* for this phenomenon, and it nearly similar to the thoughts of above scholars, lobbyism is a type of activity, which consists in the influence of individuals and representatives of non-governmental organizations on government bodies or local governments in order to achieve acceptance (or non-adoption) of certain decisions. And lobbying as a full-fledged institution appears when two necessary conditions already exist: 1) a wide variety of interests in society; 2) expanding access to power on the basis of political pluralism, which is primarily characteristic of democratic regimes; 3) legal basis of the activity.

Therefore, we are talking not only about the research approach, but also the institutional field, the space of intentions and actions of lobbying. So, if we consider lobbyism as a legal institution, first of all, we should clarify the term of “legal institution”. So, “the institution of law is one of the main structural elements of the legal system, its component, block and link” [5]. Moreover, our opinion is also like that the institution of law is an ordered set of legal norms regulating a certain type (group) of social relations. If the branch of law regulates the kind of social relations, then the institution is existing.

In accordance with these theoretical and methodological settings, the essence of the analysis of the lobbyism is discussed and traditional analysis of any problem, as a rule, begins with a clarification of the meaning of the main category of research. We will not change this approach, since it can be accepted as axiomatic.

In 1553, the word “lobby” was used to designate a walking horse in the monastery. A century later, the premises in the House of Commons of England began to be called the same. This word acquired a political connotation two centuries later, but already in America. According to some sayings, “defenders” of the interests of certain political parties or

financial groups came to the life of the New World, that is, in the last of the 18th century. And they acted on the behalf of certain groups and parties. Whether this is true or not has not been proven. But one of the versions says that the tradition of lobbying had its roots in the era of the presidency of Ulysses S. Grant (1869-1877 years).

So we will advise to divide development of the stages of lobbyism into three main categories:

- 1) early stage of development of the lobbyism (the 50s–80s of the xix century);
- 2) the second stage of development of the lobbyism (the end of the xix century);
- 3) the final stage of development of the lobbyism (the 20s–30s of the xx century);

But the point is not to determine the exact date of the emergence of lobbying, and this is impossible, because interest groups have existed throughout the history of mankind, since the time when power systems began to take shape. The point is to observing the development process of this phenomenon, since it is one of the main organizing the political and legal life of society, especially since it is objective in nature and the sooner we admit it to ourselves, the easier it is to formalize it into a civilized framework.

Early stage of development of the lobbyism (the 50s–80s of the XIX century). In the evenings, the eighteenth president of America and his team, after the busy day, had the habit of relieving stress in one of the hotels, more precisely, in its vestibule, which was called the “lobby”. There, ministers, as well as senators, met with different people, listened to their requests and promised to fulfill them.

According to another version, the development of this informal mechanism actually began at the beginning of the congress itself. One of the first incarnations was at the beginning of the 19th century, the so-called “boarding groups”, united more often on a regional basis of legislators who lived under “one roof and ate at a common table”. The boarding character of the groups left an imprint on their political behavior: they were distinguished by a high degree of cohesion in voting in Congress and for this reason; they were “good bait” of access for interested organizations to the legislative process.

The second stage of development of the lobbyism (the end of the XIX century). “...the influence of interest groups on government in the United Kingdom, lobbying has a rich history in this country. K. McGrath points out that in the British press the words “lobbyist” and

“lobbyism” were periodically mentioned during the 19th – 20th centuries, and for a long time no attempts were made to scientifically systematize these phenomena. When G. Wotton first studied the activities of interest groups in Great Britain in 1750-1970. Based on the content analysis of parliamentary documents, it was found that the first official mention of lobbying refers only to 1913. The parliamentary record pointed to a certain C. Kent, who had the position of “parliamentary lobbyist”, although it is obvious that the real practice of lobbying existed before that” [6].

The history of the Congress of the USA knew many such associations, but such groups developed especially rapidly in the 80s–90s of the XIX century. Each emerging group usually had a name, but, as a rule, they are called “caucuses” in the United States, especially, since this word is also present in the names of many groups (black congressional representative’s caucus, steel caucus, etc.). Opportunities for lobbying have expanded significantly with the emergence of so-called committees in the structure of the congress thanks for caucuses.

The first committees appeared at the beginning of the last century. Even then, they were quite attractive subdivisions of the Congress for group interests, but they did not immediately take the role that they play today in the legislative process, respectively, they did not immediately become a powerful system of access points to power. In the process of their development, by the end of the XIX century, the committees acquired considerable independence and a decisive word in the making of laws, turned into “small legislatures”, as the then-future US President W. Wilson called them. From this time, *the final stage of development of the lobbyism* had gone. Because of this transformation, the powers of the chairs of the committees, who have become leading figures in the legislative process, have dramatically increased. Since from now on the fate of the draft law under consideration to a decisive extent began to depend on the actions of the committee, the role of each of its ordinary members in this fate objectively increased and was largely determined by how democratic or authoritarian its head led the committee. The influence of “small legislatures” on the legislative activity of the Congress was so effective that the period in the history of the Congress from the beginning of the 1920s to approximately the end of the 70s is called “the governing of committees” by American experts. The transformation of committees into “small legislatures” *was of fundamental importance for the development of lobbying*, because from this moment it really begins to reach the level of an informal political and legal institution. In 1885, W. Wilson wrote: “There can be no doubt that the lobbyist’s influence is



mostly, if not entirely, in the opportunities provided to him by the system of committees”.

Legislative regulation of lobbying in Canada began later than in the United States. In 1989, the Lobbyists Registration Act entered into force in Canada. In its original version, it defined a lobbyist as “a person who, for a fee, on his own behalf or on behalf and in the interests of any individual or organization, interacts with officials in an attempt to influence government decision-making”. In 2003, a clarification was introduced (came into force in 2005), which replaced “interaction in an attempt to influence” with “interaction regarding government decisions” [7].

It should be noted here that the political and legal practice of a number of leading countries was somewhat different from the American’s lobbyism development. So, for example, in England this phenomenon was long considered reprehensible (lobbying meant buying votes for money) and the word lobbyism took root only in the 20th century. It is also interesting to note that, in Germany, the appearance in the media of the term “lobbyism” and its derivatives is a harbinger of a political scandal. Lobbying activities in France are illegal; in India equated to one of the forms of corruption; in Italy they consider it inappropriate to pass laws on lobbying.

As already noted, the media have recently been talking about lobbying more and more often. But the point is that nothing but conversation happens. Most of the publications are mainly descriptive of what is happening, or there is a retelling of the experience of foreign countries in the field of regulating lobbying activities. Of course, one can agree that these moments are inalienable, but it is time to move on to a theoretical and methodological analysis of this phenomenon, especially since the Uzbek practice of lobbying will face new, unseen forms of its manifestation. However, though lobbyism is not legalized in Uzbekistan, but there is a right of citizens to participate in organizations (it will be social, or non-governmental). Indeed, according to the article 34 of the Constitution of the Republic of Uzbekistan, there is written that “Citizens of the Republic of Uzbekistan have the right to unite in trade unions, political parties and other public associations, to participate in mass movements” [8]. It means that if government adopted the law about legalizing lobbying activities in the country, there would already be rights of citizens to unite to the lobbying activities.

It should also be noted that the provisions on the right of citizens to participate in the affairs of the state are also provided for by international acts. In particular, Article 21 of the “Universal

Declaration of Human Rights” in 1948 [9], and in 1996 “International Covenant on Civil and Political Rights” [10] (Article 25) contain provisions that everyone (without any discrimination and unreasonable restrictions) has the right to take part in the conduct of public affairs, both directly and through representatives.

After that, government should also do some changes in legislation; firstly, we will initiate to amend the law “On public associations” in the Republic of Uzbekistan [11]. There must be the concept of “lobbyism” and “lobbying activities” together with types of lobbyism.

Guided by the principle “everything ingenious is simple”, let us try to imagine the phenomenon of “lobbying” and its components.

First of all, it is the interest of the subjects of lobbying. Interests have existed throughout the history of humankind. Society is mixed; it is a collection of different interests. When interests of a certain group of people coincide, a group interest arises. When the interests of different groups collide, lobbying appears. This is the specificity of interests as one of the components of lobbying.

When the specific interest group is appeared, firstly, in the fact that it is a specific interest that distinguishes this group from all other subjects of lobbying activity. Complex relationships of cooperation and rivalry, productive interaction and severe competition are established between them; secondly, this interest can fit into existing norms, rules or laws, and sometimes it can even contradict them. As a result, certain group claims are constantly being formed, intergroup contradictions and conflicts erupt, which in many cases can only be satisfied or extinguished by the state; third, these groups should be able to present their aspirations to government agencies.

Therefore, *interest* is one of the most important components of lobbying. Lobbying arises when there is a need to correlate group interests.

With the emergence of interest in the individual, there is a need to satisfy it. This, in turn, prompts him to take *action*.

An interest group acting as a lobbying structure is a rather complex entity. Consider the experience of practice in the field of lobbying in the political and legal system of the United States, since it was here that this phenomenon was legalized for the first time.

In professional terms, this institution is, first, a structure formed in a certain way: a huge number of organized interest groups. On the national level hundreds of large corporations, and also about 6,000 business unions and professional associations, hundreds of public

and various specialized organizations are active. Nowadays, all of them have special, only lobbying units, called departments for legislation or relations with the government. And in this departments, number from several dozens to several hundred people work in them. Regardless of where the headquarters of the organization is located, its department is most often located in Washington, and the leader is considered the main lobbyist of the organization.

Therefore, the major of lobbying activities as a whole is carried out by the departments, that is, by the corporations' own forces.

Secondly, a powerful part of the material structure of lobbying as a legal political institution is made up lobbyists, in the role of which are influential legal lobbyist firms and public relations agencies or their individual employees who are ready to professionally serve any client for a money.

Thirdly, lobbyism as an institution is reliably provided with qualified personnel. Among the lobbyists there are people of various professions, but the most successful professionals in their field are those who, before engaging in lobbying activities, acquired relevant experience in the public service.

Therefore, among the lobbyists there are many former White House advisers, ministers, members of Congress, even more heads of sectoral ministerial departments and departments, but especially many employees from the Congress apparatus. Naturally, these people are well aware of the formal and informal mechanics of decision-making in Congress and government, they have retained and maintain old acquaintances and connections with current legislators, who can determine the most suitable access points in each case, select and use the most effective methods to achieve goals.

Finally, it characterizes lobbyism as an institution and the fact that it has its own professional association – the American League of Lobbyists, created in 1979. It publishes a monthly bulletin and work on functional committees that include committees for training, lobbying program planning, public relations, professional ethics, and meetings with congressional and government leaders. The most important task of the league is to approve the lobbyist profession as an independent one with its own content, to make it generally recognized, to whitewash and raise its prestige in public opinion, to promote its role and importance in the process of developing and making decisions by state authorities. To this end, the league implements a variety of government programs and promotional activities. It also provides professional development and advocacy services to its members.

The League has developed a definition of the profession of a lobbyist, which seeks to establish as generally accepted. It sounds like this: “Lobbyists are, first of all, experts in matters of public administration, its structure, programs, policy and legislative process. Lobbyists provide information, defend political positions and defend economic, social and special sides” [12]. In addition, being the main link with the creators of political decisions, they are organically included in the planning and implementation of appropriate strategies for achieving political goals. While this definition is somewhat pretentious, it ideally reflects the main features of lobbying.

In some form, lobbying has apparently always existed, or at least since the emergence of organized society, politics and the state. As an American practical manual on lobbying wittily put it, for centuries lobbyists have worked under various names, occasionally masking their true goals with official-sounding titles, and in the 13th century vizier was no less a lobbyist than the president of a modern business association.

In a market economy operating in a democratic society, group interests have the right to be represented in government bodies and will strive in every possible way for such representation. In the United States, this right is also legally secured by the first amendment to the constitution, which gives citizens the opportunity to petition the government to redress their complaints (in the interpretation of lobbyists, “the most compelling petition is a bill well drafted by a lobbyist”).

This does not mean that lobbying as a phenomenon is positively perceived by all scientists. For example, Maryland state professor M. Olson characterizes lobbying as a negative phenomenon. His goals are vicious, criminal, since “the lobbyists want to take everything they can from others in their favor. Lobbyists are guided by narrowly focused interests and have no incentive to care about the prosperity of society” [13]. My opinion also partially supports his views, as in the conditions of Uzbekistan; lobbyists might impede reforms, delay and complicate the transition period of development.

RESULTS AND DISCUSSION

If we move on to the lobbyists and their activities of other foreign countries except from the US, there can be appropriate examples from countries like Japan.

The vigorous activity of many diverse groups of influence is a reality in modern Japan. These include business organizations, trade and industry associations, agrarian organizations, labor unions, social



movements and organizations, professional associations such as the Japan Medical Association, the Teachers Union, and others.

The influence of pressure groups in Japan, as in other countries, is most often carried out through the ruling and opposition parties. The stronger the party, the more seats it has in Parliament, the more significant its own influence and the pressure group behind it.

As a rule, the following features of Japanese-type pressure groups are distinguished:

- in contrast to the lobbying system existing in the West, pressure groups in Japan in most cases are formed according to a geographical or professional principle, not according to the free will of their participants, who can act in various spheres; this is seen as “backwardness”, “underdevelopment” of lobbying organizations of the Japanese type;

- due to the fact that parties in Japan often do not have their own stable sources of funding, pressure groups play an important role in the system of financing political activities in Japan;

- the deputies of the Japanese Parliament, like the parliamentarians of Western countries, play the role of lobbyists at the level of the highest legislative body, at the same time, the activities of pressure groups are focused on the government apparatus.

Analysis of the interaction of participants in lobbying activities allows us to highlight the following devices:

- issuance of licenses and permits to conduct a particular type of activity;
- adoption or rejection of a profitable bill and vice versa;
- administrative regulation of the activities of enterprises;
- provision of grants and subsidies.

Different pressure groups have their own specific types of activity. For groups associated with agriculture, the prevalence of legislative factors that ensure the process of production, marketing, pricing is characteristic; their dependence on the issuance of grants and subsidies is strong. Groups associated with education have traditionally been subsidized and have little dependence on administrative regulation and licensing. The latter is explained by the autonomy of education and its ideological independence from the government. Trade unions are interested, first of all, in the legal support of their own activities and the activities of the enterprises they represent, are little dependent on the issuance of licenses, subsidies and administrative regulation. Organizations defending the interests of local self-government bodies emphasize the

legislative support of taxation and budget allocation, the system of issuing licenses and administrative regulation, but are almost independent of subsidies. For social protection and welfare authorities, all four indicators are important. Public and political associations, on the other hand, are almost independent on all the points mentioned. Entrepreneurial organizations, as a rule, do not depend on receiving subsidies, but they pay great attention to the development of a legal framework for doing business, defining the framework of administrative leadership by government departments, as well as the area of licensing [14].

When it comes to the European Union's lobbying activities, there is lobbyism in the European Union is an activity whose purpose is to persuade the EU authorities (primarily the European Commission and the European Parliament) to make certain decisions. Unlike the United States, where the activities of lobbyists have been regulated in detail for a long time, in the European Union legislation on lobbying has not yet been formed, although some legal acts in this area have been adopted. In fact, lobbyism has existed in the EU since the era of the EEC, that is, since the 1950s, when the first lobbying structures were created. Lobbying in the EU is also objectively limited by the fact that the majority of officials in the EU bodies are appointed (as opposed to the USA, where they are usually elected). Therefore, a lobbyist cannot, as in the United States, provide assistance to an official by financing his election campaign. The exact number of lobbyist organizations in the EU is unknown, since registration of lobbyists in the EU is voluntary and optional. However, we are talking about several thousand lobbying groups. The activities of European lobbyists are facilitated by the fact that the national legislation of most EU member states does not provide for special regulation of lobbying activities. In the rest of the EU states, acts regulating lobbyism (they appeared mainly in the 2000s – 2010s), as a rule, are either advisory in nature, or do not affect all lobbyists [15].

Nevertheless, in our country, in Soviet times, lobbying was replaced by corruption and “telephone law” and, therefore, became a negative phenomenon. Therefore, the definition of the concept of “lobbyism” today reflects only the most approximately essential. So, lobbyism is understood as a system of organized registration, expression and representation of certain interests. In such a concept, lobbyism is presented in an abstract way, without revealing its place as an institution in the system of interrelation between the state and society and the legal “field”, the framework of legal support and activities.

CONCLUSION

In conclusion, it follows from the above and we believe that lobbying is an objective phenomenon, an inevitable part of modern society. Thanks to civilized lobbying, all interested groups (except for criminal ones) can bring their opinions on the issues under consideration to the attention of state bodies, defend their positions, and seek decisions by legal methods. For some groups that are far from the “corridors of power”, have little influence or are unable to finance powerful companies to influence government bodies, this is practically the only chance. The plurality of organizations participating in lobbying, reflecting the socio-economic and political structure of society, democratizes, and this phenomenon makes it widespread. The struggle between competing options for a particular problem makes it possible to choose the best one or to reach an acceptable compromise, although this is not always possible.

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