Research Report

Leiden Model United Nations 2016
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Forum: *General Assembly Second Committee*
Issue: *Transparency in International Corporate Lobbying*

Position: *Deputy Chair*

Introduction

If a government was taking bribes from corporations in order to improve legislation on their behalf, even though it might not benefit the citizens, would it be just if they knew? Although lobbyists are not allowed to give money to officials, gifts can be given, albeit in the form of donations to funds or an improved position in the diplomatic hierarchy. The public cannot access the truth because there is little regulation on the publishing of details regarding discussions between lobbyists and decision makers. The UN deems it necessary that the public can check on their elected officials and make sure their interests are being defended, but until there is uniform regulation regarding transparent lobbying, this is not possible. However, it is also the job of the governments to help improve companies in their jurisdiction. The dilemma posed is that between the interests of the citizens and the interests of the companies, towards both of which the governments have the duty to aid.

Definition of Key Terms

Lobbying
The informing of the government of citizens´ desires. Usually done by interest groups such as Unions, this process serves to improve legislation to serve the citizens' interests. However, corporations use lobbyists to influence governmental decisions and the law-making process to serve their interests. This form of lobbying is known as corporate lobbying.

Lobbyist
Paid persuaders whose job it is to influence the decisions of governments. Typically they operate behind closed doors.

Transparency
The right and means to examine the process of decision making, with the intention to hold public officials accountable and fight corruption.

General Overview

With the rise of the internet and social media it has become easier to access all kinds of formats of information. The Republic of Ireland passed a law in March 2015 that aims to

shine a light on links between lobbyists and decision makers by requiring civil and public servants to supply details in an online accessible database. By doing this, the public can take note of the legislative process and make sure that it is in their best interest. However, there are few countries that have adopted such laws. Creating transparency in lobbying in general is a complicated issue by itself. There is a duality to lobbying in general as it allows lobbyists from major corporations to twist the decision making process from fairness to serve the companies' and not the citizens' interests. On the other hand, it defends others' (minority) interests from corruption and injustice. An example of this duality can be found in the tobacco industry. Governments introduce legislation preventing smoking based on the interests of their citizens' health as doctors and interest groups lobby for them, while corporate lobbyists influence the laws regarding the restriction of tobacco companies based on the principle of freedom of choice.

Lobbying, however, is not a relatively new occurrence. Even in the 1950's the Nation Association for Advancement of Colored People (NAACP) filed suits in court against segregation laws leading to their being labelled 'unconstitutional' by the United States Supreme Court. This form of lobbying improved living conditions for people of colour in laws that could not otherwise have been achieved. While this may not be an example of corporate lobbying, it illustrates the influence interest groups can have on legislation. It is then safe to say that a ban on lobbying will have a negative impact on legislation, as the voice of citizens is no longer heard by government officials.

However, to prevent corruption, it is necessary for the lobbying process to be transparent. A 2013 survey of 600 Euro-parliamentarians showed that 89% agreed that 'ethical and transparent lobbying helps policy development.' Yet a 2015 report "Lobbying in Europe; Hidden Influencers, Privileged Access" found that the overall average score of transparency in the 19 assessed countries was only 31%. The report based this score on a series of interviews containing 65 indicator questions which were presented to policy-makers, lobbyists and experts on lobbying. This report found that while lobbying is an integral part of democracy closely related to values such as freedom of speech and the right to petition of government, not one of the studied 19 countries came close to the ideal standards to detect and deter undue influence. One of the key findings of the report was the fact that few examined countries have "clear, comprehensive and unambiguous definitions" for terms such as 'lobbyists,' 'lobbying,' or 'lobbying targets', with most nations' definitions being only "partially but inadequately defined" and even some nations having either "no or wholly inadequate definitions" such as the Netherlands or France.

It may seem that there has been no action against this issue and that is partially true. The EU was the first to adopt measures regarding disclosure of payments to governments by companies in 2013, with Norway and Canada following soon after (respectively December 2013 and December 2014). Only recently (June 2016) has the United States of America's Securities and Exchange Commission (SEC) decided to require gas, oil and mining companies to publish payments to governments all over the globe. Transparency International has also been campaigning for more transparent regulations for many years, most importantly the public Country-by-Country Report (CBCR). Transparency International has promoted this regulation in the EU because the EU is the largest open market in the world and will set an example in the world.

On the other hand, transparency sceptics claim that the CBCR will negatively impact companies' competitiveness due to disclosure of trade secrets and confidential business

stratagems. These sceptics have also claimed that compulsory disclosure could damage the EU as an investment destination. Transparency International retaliated by stating that these claims have no factual basis and rely more on ideology.

Major Parties Involved

European Union
As the worlds' largest open market, the EU sets an economic example for the rest of the world. By promoting transparency and campaigning for it in the UN, the EU could increase the levels of transparency throughout other nations, as they have done in the past. Their attempt to adopt measures regarding the disclosure of payments to governments laid the groundwork for similar regulations in Norway, Canada and the U.S.

Transparency International
As one of the worlds' experts on transparency, Transparency International can help the UN create sustainable and positive legislation that solves the issue. They have been campaigning for transparent reporting for several years, showing their concern for this issue. They have also created a Corruption Perception Index, which correlates strongly with other factors that allow for corruption including low transparency.

Timeline of Events

2005	Hans Peter Martin and Paul van Buitenen (Europa Transparent) merge with Ashley mote to form the Platform for Transparency (PfT)
June 2013	The EU adopts measures regarding disclosure of payments to governments.
December 2013	Norway adopts Prescription for Country-by-Country Reporting, based on the EU regulations
December 2014	Canada adopts Extractive Sector Transparency Measures Act (ESTMA)
March 11th 2015	The Republic of Ireland passes new regulation of lobbying law, requiring transparent lobbying.
June 2016	U.S. SEC decides to require disclosure of payments to governments from oil, gas and mining companies.

Previous Attempts to solve the issue

There have been few attempts to solve this issue in the past from international

organisations. Most of the scarce actions made have come unilaterally, for instance the Irish regulation of lobbying, that requires senior civil and public servants to supply details regarding links between lobbyists and decision makers be made open to the public on an online accessible database. Another unilateral approach is that of Canada or Norway. These nations implemented regulations on the publishing of payments to governments. These regulations were based on one of the few multilateral solutions, coming from the EU. It may seems as though only Western nations have been attacking this issue, however there has been a move made in India, with their reviewed Indian Companies Act (2013) in which the responsibilities of a company are listed.

Possible Solutions

Publish Data
By ensuring information on lobbying activities is published and easily accessible online to the public, corporations willing to maintain proper public relations will be incited to lobby more in interest of the public rather than the interest of the company.

Create ethical firewall
Several public officials enter the lobbyists business after their political career. By creating a cool-down time for public officials between their time in the public sector and as a lobbyist, one can prevent a conflict of interest which further reduces the influence of these new lobbyists on their former colleagues or the chance of their using confidential information.

Promote diverse Participation
By including several groups from the public, ranging from individuals to interest groups, with a range of perspectives, decision-making will be transformed into a fair, democratic activity while defending public interests as well as that of corporations.

Ensure laws are enforceable
By creating a body that enforces laws regarding transparency in lobbying with meaningful sanctions, corporations will be incited to comply to the legislation. This can also be done by providing premiums for corporations and/or other beneficiaries in the process for their proper conduct for example if they publish details regarding their lobbying activities within a certain time period.

Useful documents

www.issuu.com/transparencyinternational/docs/2015_lobbyingineurope_en?e=2496456/12316229 - 2015 Report : Lobbying in Europe; Hidden Influences, Privileged Access

https://www.theguardian.com/commentisfree/2012/feb/08/what-is-astroturfing - Article on Astroturfing and its place in this issue