Regulating lobbying: a global comparison

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Manchester University Press
Manchester and New York
distributed in the United States exclusively
by Palgrave Macmillan

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Published by Manchester University Press
Oxford Road, Manchester M13 9NR, UK
and Room 400, 175 Fifth Avenue, New York, NY 10010, USA
www.manchesteruniversitypress.co.uk

Distributed exclusively in the USA by
Palgrave Macmillan, 175 Fifth Avenue, New York,
NY 10010, USA

Distributed exclusively in Canada by
UBC Press, University of British Columbia, 2029 West Mall,
Vancouver, BC, Canada V6T 1Z2

British Library Cataloguing-in-Publication Data
A catalogue record for this book is available from the British Library

Library of Congress Cataloging-in-Publication Data applied for

ISBN 978 0 7190 7923 8 *hardback*

First published 2010

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Typeset by R. J. Footring Ltd, Derby
Printed in Great Britain
by ??????

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Outlining central questions and method of analysis

Introduction

Sparked by Arthur Bentley's seminal work *The Process of Government*, political scientists for over a century have examined the different pressures on government by highlighting the importance of 'group activities' (Bentley, 1908: 200–222). As Howlett and Ramesh (2003: 37–38) state, 'Bentley argued that different interests in society found their concrete manifestation in different groups consisting of different individuals with similar concerns'. Several scholars have since studied the role of interest groups and offered telling insights with regard to what takes place when public policy is formulated. Of course, what goes on within the 'black box' of the policy-making process has been open to much debate. Pluralist scholars, such as Dahl (1961), considered that all groups had equal access to the process, regardless of resource constraints, and could influence policy equally. Neo-pluralists, such as Lindblom (1977), argued that some interest groups had disproportionate influence, as pluralism became corrupted, something which they believed, nevertheless, was reversible. Neo-Marxists, such as Miliband (1969), who did not share the neo-pluralists' view that disproportionate influence was simply an anomaly, contended that business interests were guaranteed a privileged place in policy making, given the importance of the capitalist economic system. Following these traditions, our own previous work has also examined the role of interest groups, analysing how they function and how they try to influence policy development in different political systems in Europe, whether the European Union (EU) or the member states (Chari and Cavatorta, 2002; Murphy, 2004; Trommer and Chari, 2006).

All of these studies have shown that, without doubt, the work carried out by interest groups (or lobby groups – we use the two terms interchangeably throughout the book) is a central and legitimate part of the democratic process within all liberal democratic systems. Although the term has often had negative connotations, throughout the democratic world the work of lobbyists is essential when policy is formulated. Lobbyists are an accepted element within society, providing the necessary input and feedback into the

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political system, thereby helping to develop the policy outputs which drive political and economic aspects of our daily lives.

However, because of issues surrounding the openness of the policy-making process, some countries have sought to regulate the activities of lobbyists. As Bertók (2008: 18) argues, 'when public concern is about the integrity of government decision making, measures to ensure transparency and accountability become essential'. Many democracies have attempted to do this by means of freedom of information legislation, while others have sought to regulate lobbyists through the decision-making process. In both cases, the focus is on transparency and accountability. The basic rationale behind implementing regulations is that the public should have some insight into, as well as oversight of, the mechanisms that draw lobbyists into the policy-making environment, in order to better understand how they influence policy outputs.

With this in mind, while this book finds a niche within the broader scholarship on interest groups, it offers an innovative approach to the literature because it is less preoccupied with private interests' role and actions when specific policies are made; instead, it is more concerned with comparing how lobby groups are formally regulated throughout the world and the impact this has had, something which is a significant, if not surprising, omission in the literature. Although some scholars, including ourselves, have focused on lobbying regulation in Canada, the US, the EU and Germany (Baumgartner and Leech, 2001; Chari *et al.*, 2007; Dyck, 2004; Greenwood, 2007; Ronit and Schneider, 1998; Rush, 1998; Stark, 1992; Wolpe and Levine, 1996; Zeller, 1958), no major work in political science has offered an in-depth, detailed analysis of this phenomenon from a global comparative perspective, including analysis of developments in North America, Europe and Asia, as well as Australia, continents which have all established lobbying laws, as discussed below. Nor has any project attempted fresh research examining why other jurisdictions have not developed lobbying laws, despite the fact that their neighbours have pursued such initiatives.

Before outlining the main questions that guide the book, we first consider what is meant by the terms 'lobby groups' and 'lobbying', as well as the concept of regulation of such groups. We then offer a theoretical discussion of why regulating lobbyists is important, while also presenting a balanced view of why some scholars have considered it to have drawbacks. Following this, in order to set up our main research questions, we examine the international trends with regard to regulating lobbyists, as this allows us to contextualise the development of such regulations: which jurisdictions have adopted lobbying legislation, and when? After outlining the main questions addressed in the book, we then turn to a discussion of the methods of analysis used in the study. We close the chapter by highlighting the structure of the book.

What is a lobby group and what is lobbying? And what is meant by 'regulation of lobbyists'?

Providing a working definition of lobby groups and lobbying is helpful at this early stage. Yet, the literature demonstrates that the classification of such groups, and explaining what exactly lobbying is, have proved immensely difficult. Developing cogent definitions of both 'lobby group' and 'lobbying' is not as easy as it might first appear.

To define an 'interest group' or 'lobby group', different classification schemes have been used in the literature. For example, in a study on the EU, Watson and Shackelton (2003: 89) provided a useful typology to classify different types of lobby actors, distinguishing between bodies that promote private interests (i.e. that pursue specific economic goals) and those that promote public interests (i.e. that pursue non-economic aims). Chari and Kritzinger (2006) extended this by considering three types of groups: economic groups (including individual corporations and business organisations), professional groups (such as trade unions and farmers) and public groups (including groups that are concerned about issues such as human rights, the environment, animal rights and health and safety). Chari and Kritzinger (2006: 30) define an interest/lobby organisation, whether motivated by economic, professional or public concerns, 'as any group, or set of actors, that has common interests and seeks to influence the policy-making process in such a way that their interests are reflected in public policy outcomes'. Some everyday examples include: corporations trying to ensure that the finance ministry has a policy of minimising corporation tax; a farming organisation that lobbies the agriculture ministry in order to ensure maximum subsidies for the goods farmers produce; and an environmental group that wants to make sure the ministry of the environment has strong legislation in place to control carbon emissions.

With regard to the activity of lobbying itself, two eminent scholars in the field have pointed out that 'the word lobbying has seldom been used the same way twice by those studying the topic' (Baumgartner and Leech, 1998: 33). These authors define lobbying parsimoniously and clearly as 'an effort to influence the policy process' (Baumgartner and Leech, 1998: 34). In the US, the National Conference of State Legislatures (2008) specifies that 'all states share a basic definition of lobbying as an attempt to influence government action'. For Nownes (2006: 5), 'lobbying is an effort designed to affect what the government does'. Hunter *et al.* (1991: 490) argue that 'a common definition of a lobbyist is "someone who attempts to affect legislative action"'.

In essence lobbying can take two forms: in-house and the hiring of professional lobbyists. In-house lobbying refers to the practice whereby the lobbyist is an employee of the organisation engaged in the lobbying. Paid lobbying takes the form of professional lobbyists who perform that function for a fee. Taking ideas from the above contributions to the literature, in

either case we can regard lobbying as the act of individuals or groups, each with varying and specific interests, attempting to influence decisions taken at the political level. Such lobby groups may include, but are not necessarily limited to, those with economic interests (such as corporations), professional interests (such as trade unions or professional societies) and civil society interests (such as environmental groups). Such groups may directly, or indirectly through consultants they have hired (professional lobbyists), seek to have public policy outputs reflect their preferences. The attempts to influence political decisions may take place by many means, including direct communications with government officials, presentations to state officials, draft reports to public officials wherein specific details of policy itself are suggested, and even simple telephone conversations with government personnel, to name but some mechanisms.

When turning to the concept of regulation, a leading scholar in the field points out that 'regulation is a notoriously inexact word, but its core meaning is mechanical and immediately invokes the act of steering' (Moran, 2007: 13). For the purposes of our book, the concept of 'regulation of lobbyists' refers to the idea that political systems have established 'rules' which lobby groups must follow when trying to influence government officials and the nature of public policy outputs. The idea of 'must follow' is a significant one for the purposes of the study: it is not simply a matter of voluntarily complying with suggestions made by the political system, as presently seen in the case of the European Commission (see Chapter 2). Rather, the regulations represent a set of codified, formal rules which are passed by parliament and written in law (which is enforced), and so must be respected. The latter point suggests that the risk lobbyists run in not complying with the rules is penalisation, whether that is a fine or, potentially, a jail sentence. Examples of rules that lobbyists may have to follow include: registering with the state before contact can be made with any public official; clearly indicating which ministry/public actors the lobbyist intends to influence; providing the state with individual or employer spending disclosures; having a publicly available list with lobbyists' details for citizens to scrutinise; and ensuring that former legislators cannot immediately jump into the world of lobbying once they have left public office (referred to as a 'cooling off' period). The theoretical justification for such rules is based on ensuring transparency and accountability in the political system. Or, taking from Francis (1993: 12), such regulations, or state constraints on the activity of interest organisations, 'help promote the public interest', a discussion to which we now turn.

Theoretical reasons for regulating lobbying, or not

In this section we consider the two sides of the debate regarding the theoretical reasons to regulate, or not. On the one hand, proponents

of lobbying regulation discuss the importance of deliberative democracy, transparency and accountability. On the other hand, opponents stress that regulations pose dangers, such as serving as a barrier to entry. We consider both arguments in turn.

Theoretical justifications for regulating lobbyists: the importance of deliberative democracy, transparency and accountability

Deliberative democratic theory, as a subgroup of participatory democracy, argues that representative democracy can be bettered through discussion and reflection (Chambers, 2003: 308; Pateman, 1976). This results in a more legitimate polity for all citizens. As Stasavage (2004: 668) contends, 'advocates of deliberative democracy emphasize that the deliberations that occur in public increase the quality and the legitimacy of decisions taken'. The main ideas behind deliberative democracy are that the reasons for, and details behind, policy decisions should be publicly available, while decision makers ought to be publicly accountable (Gutmann and Thompson, 2004: 135; O'Flynn, 2006: 101). Young (2002: 17–32) suggests that deliberative democracy promotes inclusion, equality in the policy process and publicity. Naurin (2007: 209) argues that 'transparency is believed to strengthen public confidence in political institutions and increase the possibilities of citizens holding decision makers accountable'.

What is the relation between ideas raised in deliberative democratic theory and the need for lobbying regulation? As Stasavage (2004: 668) succinctly argues, 'the more that citizens know about the actions of government officials, the easier they will find it to judge whether officials are acting in the public interest'. In this regard, it is important to confront the absence of transparency in decision making by establishing rules that allow the public to gauge 'who is influencing what' when policy is formulated. Although deliberative democratic theory argues against the concept of 'more regulation', lobbying regulation constitutes an exception, perhaps a necessary evil, until other solutions can be found. Stavasage (2003: 389) argues that 'the most direct way to eliminate problems of moral hazard is to make an agent's behaviour more observable'. This is something which McCubbins *et al*. (1987) note can be achieved through 'sunshine laws' which allow public access to information. Through increasing transparency and accountability, lobbying regulation is seen to shed light on an aspect of the black box of policy making referred to above, and improve the overall nature of the political decisions reached by a polity (Dryzek, 2000; Elster, 1998; Keohane and Nye, 2003).

With this in mind, it is necessary at this point to define two key terms which underpin deliberative democratic theory: transparency and accountability. Taking from Broz (2002: 861), 'transparency' refers to the ease with which the public can monitor not only the government with respect to its activity, but also which private interests are attempting to influence the

state when public policy is formulated. This encapsulates the motives of all policy-making actors and the clarity of policy objectives (Geraats, 2002: 540). As Héritier (1999) and Scharpf (2006) show, transparency not only increases policy actors' responses to public demands, but also helps prevent misconduct. Or, as Finkelstein (2000: 1) contends, 'transparent policies are better than those that are opaque'. Although there may be no direct material benefits *per se*, Geraats (2002: 562) shows that there are benefits associated with transparency, such as bettering the democratic quality of life, something which makes citizens become less apathetic towards the world of politics. Naurin (2007: 209) highlights another benefit: the increased legitimacy of public institutions in the eyes of the public.

By 'accountability', we mean answering to and taking responsibility for actions (Moncrieffe, 1998: 389; Scott, 2000: 40). At the political level, actors who are accountable for their actions include politicians, who must seek re-election on a regular basis. Increasingly, other actors, such as civil servants and regulators, are also under the spotlight. Gutmann and Thompson (1996: 95) argue that exposing the details of decision making helps 'purify' politics, a concept which was espoused in the 1800s by theorists such as Bentham (James *et al*., 1999). Risse (2000: 32) suggests that not only political but also economic elites are increasingly having to justify their actions to citizens. Much of the world was witness to this idea when many banks and financial regulators came under the microscope during the economic and banking crisis of 2008 and 2009.

Lobbying regulations are thus justified in order to render government officials more accountable and to promote the transparency of lobbyists' actions (Thomas and Hrebenar, 1996: 12–16). Lobbying regulation invariably takes the form of the establishment of a register of lobbyists, run by a registrar's office or similar institution in the jurisdiction within which the lobbying itself takes place. Largerlof and Frisell (2004: 16) contend that lobbyist registration in and of itself helps promote transparency. Moreover, 'by imposing an obligation on lobbyists to disclose the identity of those on whose behalf action is being taken, a government is making laws that take account of the public interest' (Garziano, 2001: 99). In the words of Thomas (2004: 287), such rules 'constrain the actions of lobbyists and public officials alike, even if they do not ultimately affect which groups are powerful and which ones are not'.

This is not to say that the goal of regulating lobbying is to outlaw bribery – most liberal democracies have well defined mechanisms for this already, including laws that deal with corruption. Rather, the role of regulation is to make the public aware of the interests behind proposals and the links between lobbyists and policy makers. This helps bring policy making under closer scrutiny (Gray and Lowery, 1998: 90) and increases knowledge of how the political system and the actors within it work. Without such scrutiny, 'it may be difficult for electors to judge whether a

representative has taken their interest in consideration when bargaining over policy, or alternatively, whether unseen actions by lobby groups are dominating outcomes' (Stasavage, 2004: 672).

Theoretical justifications for not regulating lobbyists: barriers to entry, need for confidentiality and costs

From a theoretical perspective, why do some political systems choose not to regulate lobbying? We consider three factors: barriers to entry, the 'dangers' of shedding light on the policy process and costs.

With regard to the first point, the literature suggests that political systems choose to not pursue lobbying rules because such regulations may be viewed as barriers to entry to participation in the policy process, particularly as far as citizens are concerned. This idea is seen in arguments by rational-choice scholars such as Ainsworth (1993) and Brinig *et al*. (1993). This was also a conclusion shared by the Committee on Standards in Public Life in the UK in the mid-1990s (Nolan Committee, 1995) when it stated that 'regulation could create the perception that the only legitimate route through which outside interests might engage with parliament would be via the offices of registered commercial lobbyists' (Dinan, 2006: 56). The Nolan Committee subsequently called for the maintenance of the status quo, where relations between politicians and lobbyists were to be based upon informal rules and a type of self-regulated 'good conduct'. Jordan (1998: 524) observes that 'successive parliamentary inquiries [in the UK] have examined this issue, but their recommendations (if any) have had limited impact'. Gray and Lowery (1998: 78) also conclude that reluctance to institutionalise lobbying regulation relates to the concern that such 'regulation may have a direct bearing on levels of lobbying activity if the stringency of regulations and their enforcement influence the numbers of registrations'.

Secondly, Naurin (2007) suggests that resistance to formal lobbying rules is actually based on the potential dangers that may be associated with increased transparency, an argument which directly challenges the deliberative democratic theory scholars (see above). The idea here is that, in order to formulate 'good policy', confidential negotiations are sometimes necessary (Fisher *et al*., 1999: 36). Transparency in this regard is really more part of the disease than of any cure: it impedes effective problem solving and 'sunshine laws' can in fact harm the efficiency of the negotiation (Groseclose and McCarty, 2001: 100). One example of a country with an opaque policy process is Japan, where, as Hrebenar *et al*. (1998: 554) state, 'almost all important lobbying aimed at influencing takes place behind closed doors', and they cite Johnson (1982: 91–92), who states that 'the invisible political process is much more important for actual decision-making'.

A third reason for not regulating lobbyists relates to costs to the state: regulating lobbying by its very nature necessitates the setting up of a register, hiring staff to monitor it and later enforcing the rules if there are

breaches, which all cost significant amounts of money. Formulating and implementing the rules mean that loss of state funds that may otherwise be used for other purposes, which becomes especially important during economic recession. We revisit and re-evaluate this argument in more detail in Chapter 5.

Democracies that regulate lobbying: international trends and contextualising the phenomenon

We started this chapter with a discussion of why lobbying is important in the political system and what is meant by the terms 'lobbying', 'lobby' groups and 'regulation of lobbyists'. We then considered the theoretical underpinnings for justifying lobbying regulation and contemplated theoretical concerns against such legislation.

The question we turn to in this section is rather simple: which political systems in the democratic world regulate lobbyists? To this end, Table 1.1 (pp. 10–11) summarises the situation in major states, as well as the EU, and considers the rules in place governing lobbyists as of 2008. A first observation from Table 1.1 is that advanced industrial democracies which have lobbying regulations are relatively rare: there are no lobbying rules in most jurisdictions.

Notwithstanding the rarity of regulating lobbyists, there are nine political systems throughout the democratic world with lobbying rules in place: Australia, Canada, the EU, Germany, Hungary, Lithuania, Poland, Taiwan and the US. Of these, the systems that established such regulations in the 1900s, thus constituting systems with rules for a longer time than the others, are the US (since 1946), Germany (since 1951), Canada (since 1989) and the European Parliament (since 1996; neither the European Commission nor the Council has formal lobbying rules in place, although the Commission has had a voluntary scheme in place since June 2008 – see Chapter 2). The US also sees regulations in all of its 50 states, while Canada has regulation in five of its 10 provinces. The other jurisdictions, namely Hungary, Lithuania, Poland and Taiwan have all enacted lobbying laws relatively recently, in the 2000s. The case of Australia witnesses a state that flirted with lobbying regulation in the 1980s, abandoned it some years later, only to revisit the issue in 2008.

When considering developments in the 27 member states of the EU (the EU-27), one sees that only four have national laws: Germany, Lithuania, Poland and Hungary. Interestingly, three of these four are countries associated with the former USSR and also represent 'new entrants' that joined the EU in 2004. In other words, more established EU states (other than Germany) have not enacted lobbying regulations, although it is noteworthy that some parts of Italy have done so at the regional level. Nor have other member states which are negotiating entry into the EU (such as Croatia, Turkey, Bosnia

and Herzegovina and Serbia) and nor have those which operate within the European Economic Area (such as Norway and Switzerland).

Table 1.1 also tells us that economic heavy-weights with sizeable populations, such as Japan and India, do not have lobbying laws. In fact, apart from Taiwan, there are no other democracies in Asia with lobbying rules; nor has any African or South American state implemented formal regulations to date.[1]

The main questions that guide the book

Despite the works noted above that have offered some analysis of the development of lobbying legislation, there is a fourfold void in the literature. First, from a more descriptive perspective, no study has attempted a broad overview of the historical development and the exact details of the regulations in each of the systems throughout the world that have established lobbying legislation: the US, Germany, Canada, the EU, Lithuania, Poland, Hungary, Taiwan and Australia. Secondly, from a more analytical perspective, no study has offered a comparative analysis that classifies the types of laws in the political systems where lobbying rules are in place. This will allow for better theoretical understanding of the different regulatory environments one finds in this area. Thirdly, few studies have analysed the views of key agents involved in the process, including politicians, lobbyists and regulators, and how these compare and contrast across the different regulatory environments of the four political systems with the longest established record of lobbying legislation: the US, Germany, Canada and the European Parliament (EP). And finally, little analysis has been performed on institutions (such as the European Commission) and other jurisdictions within Canada and the US that have not enacted lobbying legislation. Examination of political and bureaucratic actors' views, as well as those of interest groups, will allow political scientists better to gauge why lobbying legislation was not pursued in these jurisdictions even though their neighbours have adopted it, and whether or not it is worth implementing.

As such, six central questions guide the analysis of the book:

1 What is the brief history of the regulations in each system which established lobbying rules during the 1900s – the US, Canada, the European Union and Germany (Chapter 2)?
2 What is the nature of the regulations in political systems that more recently established them, in the 2000s – Lithuania, Poland, Hungary, Taiwan and Australia (Chapter 3)?
3 From a comparative perspective, how can the different types of systems established throughout the world be theoretically classified (Chapter 4)?
4 By focusing on those systems which have had regulations longest, namely the US, Canada, the EP and Germany, what insights can be gained with

Table 1.1 Contextualising lobbying regulations: regulations in place in democratic states and the European Union

Country	*Rules governing lobbyists as of 2008*
Australia	As of 1 July 2008 there have been national rules in place and a register. Originally formulated and implemented in the 1980s, lobbying rules were then abandoned in 1996. See Chapter 3 for more details on Australian regulations
Austria	No statutory rules
Belgium	No statutory rules
Bosnia and Herzegovina	No statutory rules
Bulgaria	No statutory rules
Canada	*Federal level*. Rules and register since the Lobbyists Registration Act of 1989. This legislation was amended in 1995, 2003 and 2008. *Provincial level*. Since the 1990s, lobbying regulations in Ontario, Quebec, British Columbia, Nova Scotia and Newfoundland. Alberta was scheduled to introduce legislation in 2009. See Chapter 2 for more details on Canadian regulations
Chile	No statutory rules, although a bill on regulating lobbying is presently being debated
Croatia	No statutory rules
Cyprus	No statutory rules
Czech Republic	No statutory rules, although a voluntary code of ethics, including guidance on how elected officials should maintain relations and communications with interest groups, was introduced in 2005
Denmark	No statutory rules
Estonia	No statutory rules
Finland	No statutory rules
France	No statutory rules, although, at the time of writing, a motion for a resolution on lobbying was being debated. Article 26(1) of the general directives of the Bureau of the National Assembly also states that those with special cards issued personally by the president or by the quaestors may have access to the Salon de la Paix (a chamber which regularly hosts debates with Members and invited guests on topical issues)
Germany	Regulation and registration were introduced through rules of procedure of the Bundestag in 1951; later amended in 1975 and 1980. See Chapter 2 for more details
Greece	No statutory rules
Hungary	Regulation of lobbying activity since 2006. See Chapter 3 for more details
Iceland	No statutory rules

India	No statutory rules
Ireland	No statutory rules
Israel	No statutory rules
Italy	No statutory rules at national level. Nevertheless, regional schemes have been introduced in the Consiglio regionale della Toscana in 2002 and Regione Molise in 2004
Japan	No statutory rules
Latvia	No statutory rules
Lithuania	Regulation since 2001. See Chapter 3 for more details
Luxembourg	No statutory rules
Malta	No statutory rules
Mexico	No statutory rules
Netherlands	No statutory rules
New Zealand	No statutory rules
Norway	No statutory rules
Poland	Regulations since 2005. See Chapter 3 for more details
Portugal	No statutory rules
Romania	No statutory rules
Serbia	No statutory rules
Slovakia	No statutory rules
Slovenia	No statutory rules
South Korea	No statutory rules
Spain	No statutory rules
Sweden	No statutory rules
Switzerland	No statutory rules
Taiwan	Lobbying Act passed in August 2007, came into force in August 2008. See Chapter 3 for more details
Turkey	No statutory rules
UK	No statutory rules in either the House of Commons or the House of Lords
US	*Federal level*. Lobbying Act 1946, amended in 1995 and 2007 *State level*. All states have lobbying regulations. See Chapter 2 for more details
European Union (EU)	
European Parliament	Regulated by rule 9(2) of the Rules of Procedure, 1996. See Chapter 2 for more details
European Commission	Before 2008, 'self-regulation' was the model adopted by the Commission. However, in June 2008 the Commission opened a register of interest representations, although interest groups are not formally required to register. See Chapter 2 for more details
Council of Ministers	No statutory rules

Sources: Chari *et al*. (2007); Malone (2004); McGrath (2008, 2009).

regard to how effective these regulations have been? Here we seek better to understand:

* how regulations may or may not foster transparency and accountability in the democratic process;
* the potential loopholes in the system;
* the potential financial costs and how the rules have affected lobbying (Chapter 5).

5 Why is there no lobbying legislation in the European Commission or some jurisdictions in Canada and what are the different actors' views regarding pursuing lobbying regulations (Chapter 6)?

6 What are the various pros and cons of regulating lobbyists and, based on the experience of jurisdictions with regulations, what lessons can be learned by other states without regulations, including democracies in Asia, South America and Africa (Chapter 7)?

Method of analysis and approach

We believe that all good work in social science is based on firm evidence. That is not to say that we are hard-core positivists who rely only on 'data-sets'. In fact, we have seen the limitations on the use of data-sets: a researcher's interpretation of such (limited) data may result in a complete misrepresentation of what is being studied. Nevertheless, if a social scientific study is not based on cogent evidence, it may only result in a debilitating interpretivist exercise based entirely on the opinions of the authors. Presenting good evidence to back up claims allows other social science researchers to verify or falsify scientific findings, as discussed by authors such as Popper (1963). In a nutshell, any study should be replicable in order to allow our scientific knowledge to be built on.

With these ideas in mind, the main research questions presented above will be answered by using three broad methods of analysis, combining both quantitative and qualitative techniques. The first is a textual analysis that generates numerical scores. The second is a compilation of responses to surveys, to allow for analysis of trends. And the third is a more qualitative analysis, of findings from a series of elite interviews. We consider each in turn.

First, this study examines the exact regulations on lobbying activity in the nine political systems by way of detailed textual analysis of legislation. In order to gain a complete view of the existing regulations, two strategies were taken. First, an exhaustive search was performed in order to find the specific relevant legislation for each political system. When turning to the three (federal) systems with the longest history of regulation – the US, Canada and Germany – we used various sources, including contacts with other researchers as well as government officials, to collect *all* relevant pieces of legislation. This, in itself, was a mammoth task not previously

done in any study: while there is only one piece of legislation in Germany and the EU, the US sees 51 pieces of legislation at the federal and state levels, while Canada has federal legislation plus that of six provinces. Textual analysis of the specific legislation was also performed for those states which have more recently established regulations, namely Lithuania, Hungary, Poland, Taiwan and Australia.

Once we had a firm idea of the exact regulations in each of the political systems, we determined how regulations in all the political systems compared. This allows us to see similarities and differences between the jurisdictions. This was accomplished by applying the quantitative method of analysis developed by the Center for Public Integrity (CPI, discussed in detail in Chapter 4). In essence, the CPI methodology consists of assigning values to 48 questions measuring certain aspects of lobbying legislation, resulting in a score between 1 and 100: the closer the score of the legislation is to 100, the more 'developed' the regulation is considered to be (or 'tighter' in terms of regulating lobbyist behaviour). By carefully studying each piece of lobbying legislation, points were assigned by the authors on each of the 48 questions. Questions covered rules on individual registration, rules on individual spending disclosure, methods for registration, availability of information to the public and state enforcement capabilities. This method of analysis allows for a more cogent understanding of the nature of the regulation, allowing us to theoretically classify different regulatory environments.

With regard to the second main method of analysis, we determined the effectiveness of such regulations in the four jurisdictions with the longest-standing lobby regulation in place by developing a questionnaire targeted at interest groups (those who lobby) and political and administrative actors (those who are lobbied). It was decided to concentrate on these four jurisdictions – the US, Canada, the EP and Germany – precisely because they have had lobbying laws for the longest time and it was felt that more reliable data on the effectiveness of such regulations could be attained from these jurisdictions, given that lobbying regulation was not a 'new' phenomenon *per se*. The actors who were approached were representative of a large sample of the main types of lobby groups (economic, professional, single-interest, etc.), regulators and political officials in all four jurisdictions. Three main types of question were asked and later answered by over 140 respondents across Canada, the US, the EU and Germany in a survey which we administered in 2005. The first type of question gauged the knowledge of the actors on the regulation, the second sought their views on the effectiveness and transparency of the legislation, and the third questioned how they believed that the regulation could be improved in relation to cost, transparency and accountability. A separate questionnaire was also given to actors in institutions and jurisdictions in those systems where there was no lobbying laws in place in 2005, but whose 'neighbouring jurisdictions' had lobbying legislation. In the case of the EP, these

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were the European Commission and the Council; in Canada, provinces such as Prince Edward Island, New Brunswick, Manitoba, Saskatchewan and Alberta;[2] and in the case of the US, the state of Pennsylvania.[3] This questionnaire was given in order to understand why these jurisdictions did not pursue lobbying legislation and whether or not there may be advantages to adopting a regulatory system.

Thirdly, once the questionnaire responses had been coded and analysed, we followed up with open-ended elite interviews in 2006 with some of the respondents in each of the four political systems, with a view to probe some of their answers more deeply, in an informal setting, to better understand other issues such as loopholes in the system, the burden the system imposed on lobbyists and politicians and its enforceability. Over 25 on-site semi-structured elite interviews were conducted with various lobby groups, regulators and politicians from these political systems; we received frank and clarifying views. In our interviews, we were concerned with two key issues: the pros and cons of the regulatory system, and an assessment of which aspects of the rules in place might be of value to countries without lobbying legislation. Interviews were also carried out with politicians, lobbyists and state officials working in unregulated jurisdictions.

Structure of book

Answering the first of our six main questions, Chapter 2 offers the reader an overview of the history and context of each of the four political systems with the longest history of lobbying regulations – the US, Canada, the EU and Germany – and then examines the lobbying legislation in place. In the case of the US and Canada, attention is also paid to developments with regard to state/provincial regulations. After briefly considering the nature of government and the nature of lobbying in each system, we focus on the names of the acts and when they came into existence, what the legislation covers and note any changes over time. Thereafter, Chapter 3 examines developments in those states which have more recently established such rules – Lithuania, Poland, Hungary, Taiwan and Australia.

The goals of Chapter 4 are twofold, helping us answer the third of our six questions. First, we use a quantitative index, based on the model offered by the CPI to measure how strong or weak the regulations are in each system. The second objective is to develop a theoretical classification of the different types of lobbying regulatory environment. We argue that there are three regulatory environments: low, medium and strong regulation. The evidence demonstrates that Germany, Poland and the EU all represent low-regulation systems; all the Canadian jurisdictions plus several US ones, as well as Lithuania, Hungary, Taiwan and Australia, represent medium-regulation systems; and 50 per cent of the American states, plus the most recent federal initiative, are representative of high-regulation systems. We

close the chapter by considering what factors may help explain why different countries have implemented different regulatory environments.

Chapter 5 is devoted to measuring the opinion of political actors, interest groups and regulators in the US, Canada, the EP and Germany as measured through questionnaires and elite interviews conducted throughout the study, in order to see how effective the regulations have been as per our fourth main question. We also see whether there are any trends that can be found between the different types of system and the opinions of the actors were surveyed. Some main arguments we make are that actors in highly regulated systems claim to know more about legislation, are more likely to argue that accountability is ensured and feel that there are fewer loopholes in the system that those respondents from low-regulation systems. Nevertheless, we argue that even in relatively highly regulated systems, the rules can be undermined under the 'if there is a will there is always a way' principle. We close the chapter by examining the impact of different regulatory environments on the practice of lobbying.

Chapter 6 turns to our fifth main question and we offer an analysis of why some provinces/states in Canada and the US as well as the European Commission have not (or had not at the time of the survey, in 2005) pursued lobbying legislation. The aim here is to show what attitudes prevail towards the idea of regulating lobbying in unregulated jurisdictions. While most jurisdictions across the world have no lobbying regulations in place, and have no experience of such regulation, in the jurisdictions sampled here there was widespread knowledge of what lobbying legislation is about, precisely because these jurisdictions/institutions are encompassed within larger polities where lobbying is mostly regulated. Our objective is thus to discover what the attitudes are towards lobbying regulations, given the understanding of the topic in these locations. Are such regulations regarded as beneficial to democracy? Or are they seen merely as bureaucratic red tape?

The final chapter summarises the findings of the research, and assesses the lessons that can be taken from this study of relevance to democratic states that do not have lobbying legislation in place.

In sum, this book seeks to gain an understanding of where the regulation of lobbying stands in comparative terms, and what can be learned from political systems throughout the globe currently active in this field. This book, in doing both, breaks new ground in this area, and seeks to provide significant insights in to the regulation of lobbyists. As this is an area that will become of greater concern to governments in the coming decades, the answers to these questions will provide a foundation for better understanding lobbying regulations across the world and, potentially, will serve as a guide for policy makers in those political systems contemplating implementing such regulations.

Notes

1 In 1998, Georgia passed the Law on Lobbying Activities. However, Georgia has been ranked by the Freedom House as being only a 'partly free', not a fully democratic state, and will therefore not be considered in detail for this study. Even though lobbying legislation does exist in the country, most interest groups have not registered and many officials are unfamiliar with the process of registration. See SME Support Project (2006).
2 Lobbying legislation was introduced in Alberta in 2008. This was due to become fully operational in early 2009.
3 Lobbying legislation was introduced in Pennsylvania in 2007.