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# **Dedication**

This work is dedicated to the memory of my father.

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# Abstract

The present work tries to analyse some aspects of a so controversial activity in the United States, which is lobbying. It seeks to take into account different elements of this phenomenon and attempts to evaluate the extent to which it can be detrimental to the U.S citizens or on the contrary it can provide many benefits for those who would like to seek a better representation in the high political and legislative spheres. Besides, the researcher's goal has been to choose a definite temporal framework, two decades, to study its evolution throughout time.

Chapter one tries to present the different aspects of the lobbying activity in the United States in order to point out the specific characteristics of this profession in a so developed country and also to clarify some concepts that are proper to this corporation. In fact, many observers believe that U.S. lobbies enjoy a particular status and display particular features that can be put forward to better understand this profession.

Then, Chapter two seeks to provide elements about the beneficial side of lobbying in the United States. Indeed, this badly reputed activity is based on a constitutional right exploited by various sectors of the U.S. society to reach citizens' social emancipation. Subsequently,

Chapter three identifies the reasons that make people negatively apprehend interest groups. It tries to identify all the unfair aspects which are the consequence of the practice of this kind of advocacy.

Finally, Chapter four exposes some legislative initiatives made to regulate and moralise the activity. It also seeks to describe the difficulty of adopting a "clear cut" position towards this complex part of the U.S. political and social environment.

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## **List of Acronyms**

<b>AAL</b>	American League for Lobbying
<b>AARP</b>	American Association of Retired People
<b>ADA</b>	American for Democratic Actions
<b>AFL-CIO</b>	American Federation Labor and Congress of Industrial Organization
<b>AIPAC</b>	American Israel Public Action Committee
<b>ASTRA</b>	Alliance for Science and Technology Research
<b>CLPI</b>	Common Lobbying Interest groups.
<b>CSR</b>	Corporate Social Responsibility
<b>GUIRR</b>	Government University Research Roundtable
<b>HIOGA</b>	Honesty lobbying general act
<b>LDA</b>	Lobbying Disclosure Act
<b>NACCP</b>	National Association for the Advancement of Colored People
<b>NAFTA</b>	North American Free Trade Agreement
<b>PAC</b>	Political Action Committee
<b>PDUFA</b>	Prescription Drug User Fee Act
<b>PIRG</b>	Public Interest Regulation Group
<b>WTC:</b>	Woodstock Theological Center
<b>YMCA</b>	Young Mutual Common Association

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## **General Introduction**

The word lobbying has become a term that attracts curiosity and generates attention among large categories of people from all over the world. This increasing interest for this word is mainly due to its frequency of use by the different means of media. They usually mention it in discussions and debates that concern political issues in different regions of the world, mainly in the United States.

This term is particularly closely related to that country with its developed but “complex” political system. Although this activity is present in different areas of the world such as Europe and Asia, it seems quite clear that this phenomenon has another particular dimension when it is practiced in the North American country. This can explain why people usually assimilate it to one of the particularities of the political and democratic system of that country.

Lobbying in the United States refers to that secular tradition adopted by American citizens. It consists in trying to access political leaders especially members of legislative and executive spheres. The objective is to expose their claims and opinions in order to serve their individual and collective interests. They have as an objective convincing the decisional political class about the pertinent side of their initiative.

The creation and the development of this activity in the United States is mainly due to the fact that it has a constitutional legitimacy since it is explicitly mentioned in the American Constitution. In fact, it is stated that every American citizen has the right to petition policymakers to voice his concerns. This approach would help him to feel a certain involvement in the political and public affairs of the area where he lives. It also gives him the feeling that he actively participates in the management of important issues, whether at an economic, social or societal level.

However, every time that this word is evoked, some categories of people do not hesitate to express their scepticism and concerns about the biased situations that it can generate. They feel that professionals of lobbying are people who try to obtain private advantages at the expense of the vast majority. These lobbyists are sometimes accused

of establishing secret contacts and relationships with decision makers as a consequence of their ability of accessing Congressmen.

The objective of this research is, thus, to try to determine the real aspects of this unavoidable part of the American political and public scene. It also seeks to check whether it is faithful to the spirit of the Founding Fathers of the American nation or, to the contrary, it is a “perverse” activity that generates bias, reinforced by some agents who need to behave honestly in political negotiations.

Accordingly, this research focuses on investigating the impact of the different lobbying actions undertaken by specialists of the private advocacy. These professionals work on behalf of particular clients against important remunerations, that show to what extent this controversial field can be so important at many levels. Indeed, this work attempts to study the real consequences of the practice of an activity that has known important developments starting from the second half of the twentieth century.

Moreover, it is interesting for the researcher to concentrate, when dealing with the main themes of this research, on possible antagonistic consequences of the lobbies’ actions. This can help to obtain elements of analysis that can confirm to which extent it is a complex field which can present at the same time positive and negative aspects.

The motivation behind undertaking such a research sprang out of the fact that even if lobbying is significantly badly connoted in the United States, prominent political thinkers and leaders still insist on the fact that it can play an important role democratically speaking. According to them, this is due to its ability to represent people from different horizons. Thus, the fact that this phenomenon has always been extremely negatively connoted motivated the researcher to find out possible social benefits for the American citizens.

With the emergence of the figure of the Republican president Ronald Reagan, in the early eighties, the United States has witnessed an economic liberal turn that encouraged a race towards unlimited gains. An aggressive economic liberalism has invaded different areas of life in the United States, causing the use of many immoral attitudes and practices. This great financial development also generated a great need

towards lobbying policy makers to obtain more advantageous situations. Then, in 1995, the United States witnessed the creation of the Lobbying Disclosure Act, a major legislative text, which had as an objective; the regulation of a whole activity in order to get it rid of unethical behaviours. Thus, the choice of the temporal framework chosen to conduct that research has been determined on the one hand by the two elements mentioned above, it means a liberal tendency of the American economy and its corresponding lobbying rise. On the other hand, we can notice a frank official attempt to moralise the profession. Both elements occurred during the last two decades,

In order to adopt an efficient methodological approach, the following questions have been asked in order to obtain insightful data that can contribute to a better analysis of the topic:

1-What are the main features that characterise the lobbying profession in the United States?

2-Does lobbying contribute to the democratic emancipation of the American citizens?

3-What have been the negative sides of this phenomenon during the last two decades?

4-Have official authorities ever tried to bring into order this activity?

To the above questions, the following hypotheses have been set:

1-U.S. lobbying can display special features that make it quite unique.

2-Different democratic successes have been achieved thanks to the determination of some scrupulous interest groups seeking to foster the idea of common interest.

3-The development reached by this activity has made some of its actors try to look for legislative loopholes to behave unfairly.

4-In order to preserve its democratic integrity and the profession's sustainability, a country like the United States has been trying to implement vigorous regulating texts and procedures.

The research has relied on different sources that can contribute to providing elements of analysis that must be essential to efficiently conduct this work. The researcher has consulted libraries of different universities and has had recourse to online sources that can make available primary and secondary sources.

The fact of trying to establish a balance, when assessing the consequences of both sides of lobbying, is a factor that motivated the researcher to undertake this scientific work. Detecting the complexity of this phenomenon is a way to prove that it is primordial avoiding any kind of Manichaeism in the way this controversial topic should be treated.



## **Chapter One: Specificities of American Lobbying**

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# **Chapter One**

## **Specificities of American Lobbying**

### **1.1 Introduction**

The field of lobbying in the United States is a complex one. It is a system that can easily rival with the world of politics due to the importance of its different actors, the degree of their professionalism, and their ability to influence the different decisional spheres. It has become an unavoidable element of the U.S. democratic and political life. It is a phenomenon which displays considerable different aspects and a variety of characteristics.

The objective of this chapter is to study the different specificities and characteristics of this activity, its different kinds and its major schools of thoughts. In fact, being extremely complex, understanding lobbying tends to be seen as being reserved only to a category of people who master the way they efficiently analyze and deal with it, whereas the majority seems to ignore its ins and outs.

From this perspective, this chapter tries to describe and put forward the main aspects characterizing lobbying, from its historical emergence to its development, as well as its present influence on the political stakes.

This chapter also draws the profile of lobbyists, describes their contribution in decision-making at different levels, and stresses their influence on policy makers in the USA. Indeed, and far from being an ordinary case, lobbies are whether, directly or indirectly, very present in the U.S. political arena.

## **1.2 The Emergence of a Phenomenon**

The lobbying phenomenon has emerged in the U.S. political scene in the second part of the nineteenth century. It has witnessed many developments that have made it special in comparison to how it is practiced in the other developed countries all over the world.

### **1.2.1 Etymology of the Word**

Theories concerning the origin of the word lobby differ, but all show the extent to which trying to meet policy makers has always been crucial in attaining lobbyists' objectives and satisfying special interests. Chronologically speaking, it is said that the lobby of the British parliament was the first one which attracted those professionals seeking to influence the members of the legislative House before the passage of a law.

Another version explains that the origin of the word can be the consequence of the former U.S president Ulysses S. Grant's fervent passion for smoking Cigars in the middle of the Willard Hotel's lobby. His presence represented a source of interest for pressure groups that were named lobbyists as a reference to their usual frequentation of the hotel's vestibule, seeking to efficiently manage political issues.

### **1.2.2 Different Definitions**

Having as an objective the influence of the government's decisions can be one of the different definitions that we can give of the profession of lobbying. This constitutionally protected right, which consists in petitioning the executive and the legislative branch to fight unfair cases, is the basis of the special interests groups' intervention to defend a point of view and subsequently use different methods and techniques to persuade legislators about the legitimacy of the cause they defend. Having set their well studied political agenda, they would strive to reach their goals by exploiting a variety of means that are at their disposal.

Moreover, there exist several definitions which clarify this activity, which has become unavoidable in the American political landscape, mainly during these last two decades. Accordingly, the Woodstock Theological Center, a non-profit research institute at Georgetown University, defines lobbying as:

**The deliberate attempt to influence political decisions through various forms of advocacy Directed at policymakers on behalf of another person, organization or group.**

**(As cited in Ambinder, 2009, p.79)**

Therefore, there is a matter of influence which is exercised for the purpose of obtaining favourable political decisions. In the same view, the Lobbying Disclosure Act of 1995, one of the most important legislative texts of the last twenty years, supposed to fairly regulate the profession, considers a lobbyist as follows:

**An individual who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than twenty percent of the time engaged in the services provided by such individual to that client over a period of three month period.**

**(As cited in Avner, 2013, p. 56)**

Attempts to provide an accurate definition of this activity differ but all tend to put forward a deliberate tendency towards a frank involvement in the process of policy making. This active participation reflects the lobbyists' will to engage in a dialogue with legislators as clarified by the famous U.S president, John Fitzgerald Kennedy:

**Lobbyists are in many cases expert technicians capable of examining complex and difficult subjects in clear, understandable fashion. They engage in personal discussion with members of Congress in which they explain in detail the reasons for the positions they advocate (...) Because our congressional representation is based upon geographical boundaries, the lobbyists who speak for the various economic, commercial and other functional interests of the country serve a useful purpose and have assumed an important role in the legislative process.**

**( J. F. Kennedy, 1956)**

Accordingly, the lobbying field has been investing the different political areas. Since the beginning, some categories of people in the United States started to deal more seriously with that phenomenon, trying to understand it in order to efficiently manage it.

Apparently, this activity has known a growing tendency throughout the last two centuries. Its spectacular development is mainly the consequence of its ability to influence the different U.S political and legislative spheres.

### **1.3 The Profession's Historical Development**

The Federalist Papers- chronicles created by Alexander Hamilton, James Madison and John Jay, and destined for colonial populations in order to gain their support for the American Revolution against the British- can be considered as a historical proof of an early use of lobbying. Colonial times witnessed the early forms of lobbying, when even Benjamin Franklin acted as a lobbyist for his own state, Pennsylvania, and for other states in order to negotiate concrete advantages during the creation of the new North American republic (Barone, 2008).

Subsequently, during the period of the drafting of the American Constitution, special attention was given to the role that Factions- groups of individuals sharing the same interests and objectives – can play among the young American democracy. In fact, Madison’s writings put forward the necessity of creating an environment of freedom that should be conceived for those groups and which can be beneficial for people and their emancipation. He, in fact, compared factions that need liberty with the fire which needs air (Madison, 1787).

Moreover, creating a framework where factions can compete freely, would lead to a neutralization of these same groups, something that could reduce a possible overwhelming influence. The idea of the Founding Fathers consisted in creating a government which can behave as an intermediary between the different competing factions, and, therefore, assure fair functioning conditions.

Madison also relied on the fact that such mode of operation would allow the triumph of the majority over any minority that would seek to impose a bad legislation. He explained in his famous Federalist N°10 that the human nature and factions are closely related. Organising and creating a system of balance between competing groups would strengthen the existence of the young Republican government, the sacred principle of the separation of powers, and mainly Federalism which has been considered as the angular stone throughout the history of the United-States. These characteristics of the American political and cultural landscape witnessed further periods of development, where lobbying has been active at the different levels of governments. Special interests groups have been aware of the importance of accessing policymakers at the different legislative spheres, looking for competitive advantages that can make their pleas approved.



### **1.3.1 The Pluralist View**

The early signs of Pluralism appeared during the democratically vivid period that witnessed the young American nation. James Madison inspired the Pluralist Theory which believes in the principle of competition between different kinds of interests. According to this theory groups should struggle to obtain a competitive advantage over other associations in order to be able to significantly influence the process of decision making. According to the Pluralists, lobbies would perform two politically vital functions, i.e. representation and control. People should be represented by this union of persons who usually tend to control the governmental process.

They would even play a crucial role, democratically speaking, since they present opportunities to people to organize themselves into groups. This representational initiative would be compared to the so called” Invisible Hand” in economics, where disparate people could organise themselves when their interests are on stake (Arthur & Sheffrin, 2003). Counterbalancing the influence of rival factions could also be beneficial for the entire society to avoid any kind of unhealthy political and representative system.

### **1.3.2 The Bill of Rights**

American people could enjoy several advantages, constitutionally protected by the Bill of Rights. This constitutional basis allows them to freely express their different opinions, to use the press as a valuable tool of advancing causes and mainly to get in touch with policymakers, to explain the importance of the elements they would like to include in the preparation of a law. These prerogatives are considered by lobbyists as their own charter, since it can help them to practice their profession in a total liberty.

### **1.3.3 Interest Groups' Development during the Second Half of the Twentieth century**

Washington has become the hub of lobbyists, representing a constellation of corporations and industries. This phenomenon boomed during the second half of the twentieth century. Those special interest groups could represent a variety of popular bases that differ in size, means and procedures. Establishing headquarters in Washington has become a priority for many groups who want to exploit all the legal means to efficiently compete with antagonistic groups, searching to secure advantageous situations. Moreover, the Second World War can be considered as a turning point in the development of this profession. Indeed, many of the existing lobbies were created after that symbolic date.

### **1.4 Lobbying as an American Specificity**

When we evoke the word lobbying, we immediately think of it as an outstanding feature of the American political and social life. This country is known to be the place where this profession has emerged and witnessed gigantic steps of development. Culturally speaking, it is rooted in the American customs and mores. Indeed, being represented in Washington has generally been a dear goal for ordinary Americans, seeking a better and efficient representation to defend their special interests.

The degree of success known by this valuable political tool is unique and it is difficult to find its equivalent elsewhere in the world. U.S. pressure groups have been attempting to constantly propose a representation to the different categories of American citizens. In spite of some initial fears concerning their weight inside the political landscape, people have started to trust this practice and to consider it as a vital element for their democratic aspirations.

### **1.4.1 Idiosyncratic Structural Factors**

Such a successful trajectory can be explained by a series of special characteristics this country has always displayed at a social, political and economic level. In fact, some factors can better explain the uniqueness of this phenomenon in the United States, a country known for the complexity and the high development of a variety of sectors, something that has led to a corollary complex development of interest groups.

### **1.4.2 Cultural Factors**

Some characteristics, of the cultural framework of the United States, have inevitably led to the creation of corresponding interest groups, supposed to reflect the respect and the defence of such cultural values. The representation, the society has generally had about the importance that guns have had throughout the American history mainly during the War for Independence, provoked the creation of a strong lobby whose objective is to foster the right to own guns. Actually, the famous “National Rifle Association” lobby, the “NRA”, spontaneously puts forward the Second Amendment of the American Constitution and its protection of the right to bear arms as it is stated below:

**A well regulated militia being necessary to the Security of a free state, the right of the people to keep and bear arms shall not be infringed.**

Strategically, the leaders of that lobby mainly insist on mentioning the second half of the Amendment (Peroti, 2004). They use it as an argument whenever there is a controversy about the dangerous propagation of arms in America.

### **1.4.3 Political Factors**

The proliferation of the activity of lobbying would not have been possible without the existence of an encouraging political environment that has facilitated such an expansion. People are encouraged to lobby the government in order to see their petitions satisfied. They are aware of the possibilities offered by the American political system to promote different kinds of advocacy.

One of the outstanding features of political life in the United States, can be the Two- Party System. It implies a competition between two major political parties, i.e. the Republicans and the Democrats. Consequently, trying to back a potential winner becomes less complex because interest groups would concentrate only on two, instead of a variety of, candidates.

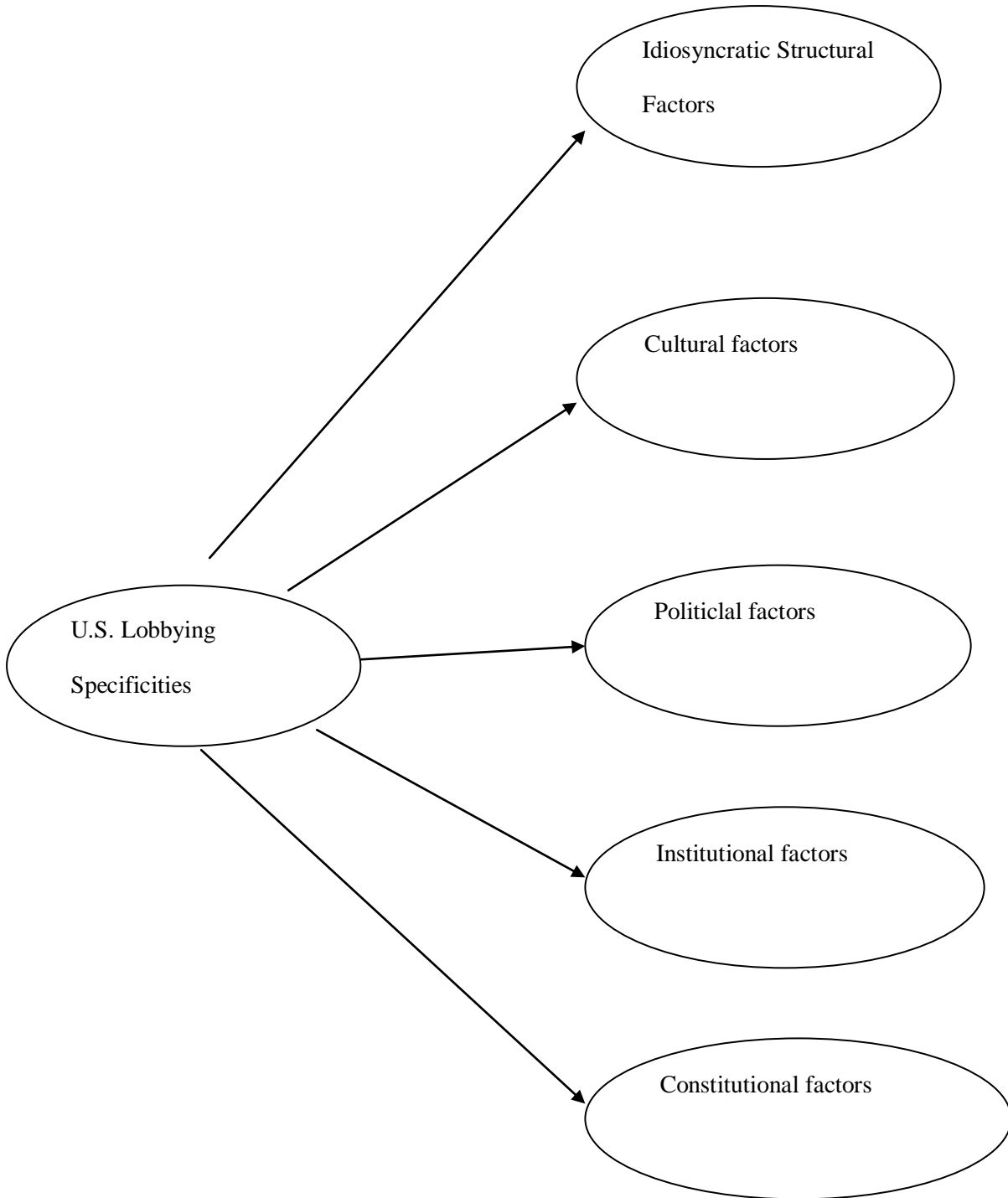
Moreover, accessing policymakers has been easier than in other regions of the world. In fact, centralism is less overwhelming and Federalism can help people to work to influence political decisions at different levels of the government, whether at a national or a state one.

### **1.4.4 Institutional Factors**

Institutionally speaking, the North American country also presents some special features that can distinguish it from the other countries in the world. (Chari, 2011) explains the extent to which the nature of the US institutions incites lobbyists of the country to develop strategies to make their actions more efficient. Thereby, one of the most prominent US institutions, which is the government- and its corresponding strength and continuing rhythm of policies- forces people to form groups which share same priorities and lobby the most important personalities representing each sector.

### 1.4.5 The Constitutional Right

The Founding Fathers of the young American democracy valued the importance of an efficient government, the one which could better represent the maximum of political and ideological tendencies. This priority was constitutionally materialised by allowing people to petition and to freely express their claims, by creating an adequate environment supposed to create a fair competition between the different segments of the society. The first Amendment, the one which constitutionally makes official the right to get in touch with policy makers in order to defend their rights, stated that: "**Congress shall make no law abridging the freedom to petition the government for a redress of grievances.**" In addition, this amendment allows a more effective involvement in the legislative process. It also frees the different kinds of obstacles that can hinder people's will to participate in a more effective production of rules. Lobbying, thus, can exploit this constitutional right, being legally protected.



**Diagram 1.1: U.S. Lobbying Specificities**

**\* Characteristics that make U.S. lobbying quite unique in comparison to the way it is practiced in other parts of the world.**

### **1.4.6 Pressure Groups in the US and Elsewhere in the World**

In general, techniques and methods used by lobbying firms are identical throughout the world. However, the majority of them has been originally created in the United States and is mainly frequently used beyond the Atlantic. The example of polls is a significant one. They are frequently used in Europe but are deeply exploited in the United States. In this country, where lobbying is manifestly omnipresent, special advocates use them to show to policymakers people's tendencies towards a particular issue and suggest an adaptation to these views.

However, the practice of this profession can differ whether it is practiced in the United States or Elsewhere. These differences could be explained by the US constitutional right to petition the government, something unique in the occidental world. This would foster the activity of U.S. interest groups known for their high degree of dynamism.

Moreover, efforts to lobby policy makers in Europe, for example, are concentrated on the executive branch, whereas in the United States the process of policy making is more diffuse. Lobbying efforts in the USA need to be oriented towards different sources of decisions such as the executive and the legislative branch, whether at a national or state level.

Political specificities can also determine the differences between the U.S. lobbying style and the one practiced in other parts of the world. U.S. lobbying firms consider themselves and behave as authentic interlocutors, when treating with political parties. They are aware of their outstanding financial and representative force, being more active politically speaking, mainly during electoral campaigns (Fergusson, 2011).

On the other hand, European lobbies are less active, and consider that it would be useful to integrate political parties and establish a kind of partnership instead of frontally confronting them, considering those political institutions as a better source of representation (Bacon, 2006). Other differences could be related to the number of US lobbyists, which represents the double of European lobbyists. In addition, the financial means controlled by the former are largely superior to the financial capacities of the European lobbies (“EU and US Approaches to Lobbying,” n.d.).

## **1.5 A prolific Period**

The last two decades have witnessed a clear metamorphosis of the activity of lobbying. It shows the extent to which it is representing a field of an important interest for professionals of political and social advocacy.

There are two criteria which corroborate this spectacular growth: the soaring number of lobbyists and the huge financial expenditures reserved for advocating people’s interests.



Sector	Total
Misc Business	\$5,945,234,510
Health	\$5,879,731,936
Finance/Insur/RealEst	\$5,865,126,360
Communic/Electronics	\$4,832,207,362
Energy/Nat Resource	\$4,368,222,845
Other	\$3,131,225,706
Transportation	\$3,003,698,534
Ideology/Single-Issue	\$1,930,899,938
Agribusiness	\$1,774,329,907
Defense	\$1,691,496,786
Construction	\$644,016,021
Labor	\$585,179,752
Lawyers & Lobbyists	\$411,782,133

**Table1.1: Ranked sectors**

- **The different economic sectors have devoted important financial means to practice the lobbying activity.**

### 1.5.1 A Growing Profession

The beginning of the 2000 years, for example, confirmed this soaring tendency. This numerical growth is actually evident. In four years, from 2000 to 2004, the number of lobbyists increased from sixteen thousand (16.000) to nearly thirty five thousand (35.000) (Gelak, 2008). To mention an example, the powerful Health Care lobby, hires nearly six (6) lobbyists for every Congressmen (McGreal, 2009).

Public advocacy has, in fact, become a very active profession, able to attract thousands of attorneys belonging to different fields and corporations. This reflects the growing importance that this field displays among the American society as it is explained below:

**There are . . . expanding numbers of interest groups generally involved in lobbying, including public interest organizations, leaving few . . . without a Washington lobbyist.**

**(Godwin, 2012, p. 157)**

It is interesting to observe that business lobbying organizations, for example the U.S. Chamber of Commerce lobby, are among the most powerful entities (Hamburger & Hart, 2009). It can explain, thus, the ability and the determination of such interest groups to occupy the field of advocacy in order to gain the maximum of advantages at a legislative and executive level.

Moreover, this constant activity could also be explained by the growing role of the government in various sectors such as economy, society and politics. It can be considered as a reaction to a state intervention in issues that concern American people. Those later logically tend to form groups that preserve their interests against a possible overwhelming governmental control. The government, and its search for involvement in a variety of fields, could also have recourse to these groups which are supposed to master a great deal of knowledge in different sectors and which can be an invaluable source of vital information for policy making.

Years	Number of Lobbyists
1998	10406
1999	12933
2000	12536
2001	11831
2002	12113
2003	12913
2004	13107
2005	14071
2006	14495
2007	14836
2008	14193
2009	13784

**Table 1.2: Number of lobbyists**

- **The Number of Lobbyists Growing Annually in the United States**

## **1.5.2 Financial Expenditures**

Interest groups have been investing more money during these last two decades, displaying the conception they have about this profession and the need to allocate important financial means to be able to master the field and possibly outdistance potential rivals (Kaiser& Crites, 2007). In 2009, for example, lobbying groups reported having spent three point forty seven (3.47) billion dollars on direct lobbying (Drutman, 2009). Other numbers show that the same lobbying groups have spent on political advocacy more than four point two (4.2) billion dollars in every electoral event from 1999 to 2006(Igan, Mishra & Tressel, 2009).

Furthermore, these expenditures do not only concern lobbying at a national level, but at a state level too. In fact, the Centre for Public Integrity noted in a 2006 report that expenditures for state lobbying at this level of government exceeded 1 billion dollars, which reflected a soaring tendency towards spending money to better defend people's rights and aspirations (State Lobbying).

Years	Billion of Dollars
1998	1,45
1999	1,45
2000	1,57
2001	1,64
2002	1,83
2003	2,06
2004	2,2
2005	2,44
2006	2,64
2007	2,88
2008	3,3
2009	3,5

**Table 1.3: spending per year**

- **Amounts annually spent by U.S. lobbying groups**

### 1.5.3 Outstanding Lobbying Sectors

The world of social, political and economic advocacy displays some disparities among the different lobbying groups. There are some groups that are neatly more financially endowed than others. This fact can result in a particular superiority over their counterparts.

Different sectors of the economy have succeeded to raise important financial and organizational means. This has helped them to reach advantageous positions in comparison to the different interest groups.

#### 1.5.3.1 The Business Round Table

It is the name given to a conglomeration of the powerful business groups that represent a huge importance in the American financial and economic landscape. This association defines itself as the following:

**“An association of chief executive officers of leading U.S. companies with nearly \$6 trillion in annual revenues and more than 12 million employees. Member companies comprise nearly a third of the total value of the U.S. stock markets and more than 60 percent of all corporate income taxes paid to the federal government. Annually, they pay \$167 billion in dividends to shareholders and the economy”.**

**(As cited in Allard, 2008, p.17)**

Such an outstanding association is unique elsewhere in the world. Its objective is to exploit its overwhelming financial power to vigorously defend and voice the interest of its shareholders and workers. The trillion-dollar voice of big businesses (Bennet, 2007) shows a determination to frequently make use of the First Amendment and its basic right to petition the government. Thus, lobbying firms in the United States are known for their multidimensional forces. They occupy different sectors of the US society and economy.

### **1.5.3.2 The National Rifle Association**

It is considered as one of the most powerful lobbies in America. It is a lobby that relies on a large popular and financial base. Indeed, it represents dozens of millions of Americans and disposes of an annual budget which can reach several million dollars. In the media spheres, they are represented by showbiz stars like Chuck Norris and mainly the emblematic Hollywood figure Charlton Heston. It puts forward the Second Amendment of the US Constitution, legalizing the right to bear arms, in order to justify a powerful presence in the field of social and political advocacy.

Moreover, actively present electorally speaking thanks to its financial resources; it succeeds to exert a substantial influence on candidates. This lobby uses different electoral techniques such as setting up telephone call centres, distributing leaflets and mobilizing activists to spread political messages. They also usually make use of a technique which consists in rating candidates and members of Congress who would possibly become receptive to this powerful lobby.

The force of this group can be principally drawn from its efficient grassroots campaigns which rely on almost 4 million members, able to be ideologically very influential (Kessler, 2013). Al Gore, the 2000 presidential Democrat Candidate, for instance, lost his home State Tennessee, because he ‘dared’ to defy this lobby by supporting pro-gun control laws (Murphy, 2003).

### **1.5.3.3 The Military Industrial Base**

This lobby has witnessed a consequent growth during these two decades. It is mainly due to US interventionist foreign policy in different parts of the world. Lately, America is spending important sums of money to purchase arms and to reinforce its military Arsenal (Tiron, 2009). This tendency can also be the consequence of the famous “Iron Triangle”, which includes the war hawks-those who are pleading for a constant US military mobilization, the Pentagon and mainly the industrial arm firms (Hayden, 2002). This complex constellation of actors strives to maintain the dynamic and strategic side of this field, and the lobby representing this industry is particularly active. It represents industrial giants such as Lockheed Martin, which has succeeded to receive seven percent (7%) of the funds given by the Pentagon, Boeing and General Dynamics (“10 of the biggest,” n.d.).

### **1.5.3.4 The Oil Industry**

This industry represents a real importance in a country like the United States. Logically, the lobbying firms that represent it are active and show a great dynamism as far as expenditures and lobbying efforts are concerned. The Bush Junior administration, for example, was known for the tight links it maintained with the oil industry. The former US president was a former chairman of a company working in the field and received nearly one point five (1.5) million Dollars from the industry to finance his 2000 presidential campaign (“Oil Industry,” n.d.). His vice-president, Dick Cheney, was the chief executive of Halliburton, a powerful hydrocarbons company (Murphy, 2003). His secretary of state, Condoleezza Rice was a vice president of Chevron (Goodman, 2008). Accordingly, this field spent for example several millions in 2009, which is another proof of the involvement of economic advocacy groups in such a strategic field (“Energy and Natural Resources,” 2009)



### **1.5.3.5 The Tech Industry Lobby**

The tech industry is considered as one of the successful sectors of the modern American economy. Important U.S. multinationals like Microsoft, Apple, and Google generate high economic profits at the export and represent an important source of employment. The U.S. authorities are conscious of their economic, vital role and try to create the best conditions that can foster their development.

The most important companies of the sectors are spending substantial financial resources in lobbying. They are one of the top spenders over the last fifteen (15) years (“Top Spenders,” n.d.). The objective consists in creating a business environment where those companies should pay fewer taxes and have at their disposal legislative Congressional conditions, which could allow them to guarantee a prosperous future for their activity.

Though, historically speaking, this kind of industry was less interested in a clear involvement in Washington political spheres (Berman, 2009), numbers show that they started to get gradually more involved in business advocacy starting from 1998 (“Top Industries,” n.d.). This date coincided with the Microsoft Anti-Trust suit in 1998. Those companies felt a certain threat for their activity and started to better consider having recourse to lobbying to secure their interests.

Moreover, the US policy makers do not hesitate to create the best legislative conditions for the development of those companies. These latter operate in the field of scientific and technological innovation, themes which receive much interest from the US public. Thus, throughout the last two decades, many legislative texts have been issued in favour of companies of the field. For example, in 1997, they united their efforts in order to create less controlling export legislations. In 2005, Internet companies also succeeded to impose an Internet Tax Moratorium, supposed to preserve and mainly promote the activity of Internet. It was a major advance throughout the 2000’s (Drutman, 2009). Digital works have also started to enjoy a legal protection, as a result of an aggressive lobbying.

### **1.5.3.6 Financial Companies Advocacy**

Financial companies are known to reach a high level of financial expenditures in lobbying decision makers in order to preserve an environment of business freedom, so essential for their existence and development. We can mention the existence of contributions, like those made by the famous bank Goldman and Sachs, which reached two point six (2.6) million dollars (“10 of the biggest,” n.d.). They are regularly used to finance political parties and electoral campaigns.

Accordingly, their lobbying efforts have been rewarded throughout the last twenty years. Indeed, the Gramm-Leach-Bliley Act of 1999 was a major historical victory of financial institutions lobbying. This act allowed companies of the field, like banks and other financial institutions, to be able to exploit business opportunities in different segments like securities, insurance and real estate. This act -which revolutionised the profession-, came to annul the 1933 Glass-Steagall Act which forbade any kind of interaction between the three sectors mentioned above.

Moreover, some regulatory efforts were made by Washington to control the profession, mainly after the 2002 Enron Scandal, where CEOs of the American energy giant, had hidden vital financial information about its future bankruptcy, deceiving thousands of shareholders. However, the heavy lobbying actions regularly undertaken by the Majors of the field, succeeded to overcome any will of repressive regulation. In fact, the sector was considered as the major responsible of the 2008 financial crisis. This latter was a result of hazardous and risky practices developed by U.S. banks and financial institutions which generated the “Real Estate Bubble” and its corollary the “Sub-Primes crisis”. However, those companies strangely enjoyed a kind of impunity which protected them from possible and inevitable sanctions. Worse, their lobbying efforts helped them to secure advantageous financial aids through substantial Bailouts, like the one of 2008 which saved many financial companies from bankruptcy. This can show the extent to which any kind of reforming initiatives in the field can be a difficult task.

### **1.5.3.7 The Different Pharmaceutical Pressure Groups**

The different governmental efforts, throughout many decades, to reform the Medicare system, have generally stumbled against the superpower of lobbies supporting the pharmaceutical companies, which rely on consequent financial capacities and very active lobbying firms. Consequently, many governmental attempts witnessed crushing defeats that questioned the ability of politicians to impose public interest reforms.

Millions of dollars have been spent annually in order to influence the governmental policy, with the objective of optimally exploiting their lobbying financial investments. Pfitzer, for example, spent twenty five (25) million dollars in 2009 to defeat the Obama health care reform (lilly, 2009). It is worth mentioning, here, that this field is very strategic since it involves millions of Americans. These latter are struggling to have an efficient and mainly reasonable insurance coverage. It also involves numerous and powerful pharmaceutical and health care companies making colossal efforts to maintain their advantageous position.

One of the first major victories came in 1992, where lobbying efforts were rewarded by enacting the Prescription Drug User Fee Act (PDUFA). This act allowed companies to waste less time in obtaining an approval for a newly invented drug to be commercialized in the market, by financially contributing to the Food and Drug Administration.

The late 1990's also represented a period, where this sector accumulated many lobbying victories by imposing their views, gaining many legislative victories. Indeed, an important program like the Bioshield project, succeeded to pass in the congress. This project allowed companies of the field to obtain funds which reached almost five point six (5.6) billion dollars to fund research against biological, chemical, radiological and nuclear agents (CBRN) (Gottron, 2012). Such legislative victories have given a prestigious status to that powerful corporation.

### **1.5.3.8 The American Association of Retired People**

Retired persons and elderly in the United States are efficiently represented by the powerful lobby (AARP). It is a Non -Governmental Organisation which includes more than thirty eight (38) million members aged fifty (50) years and over. Its objective is the defence of elderly rights as it is stated in its Mission Statement:

**(...) dedicated to enhancing quality of life for all as we age, leading positive social change, and delivering value to members through information, advocacy, and service.**

**(As cited in Beckell, 2009, p. 21)**

This powerful lobby targets many services such as age discrimination, social security, retirement and Medicare Reform. It does not hesitate, for example, to support in 2009 the Obama health care reform. This support was not welcomed by many of the lobbies occupying the field.

### **1.5.3.9 New Technologies Private Interest Groups**

Telecommunication is another field which has been making huge lobbying efforts and undertaking continuous legislative battles during the last two decades. Consequently, the Congress passed the Telecommunication Act of 1996 which opened a new era for professionals of the field. These latter were mainly represented by the Bells companies of the region, which strived during many years to concretely amend the Communication act of 1934, in order to be able to operate as manufacturing and information services providers.

The Telecommunication Act, which is considered as a major legislative triumph, was the culmination of different other Congressional successes like what happened in 1992, where the corporation could pass the law in the Senate, or in 1995 when both the House and Senate passed bills paving the way toward the passage of this Act, considered as a real legislative reference. After such victories, the companies have carried on their lobbying efforts. They are particularly aware of the importance of such an activity in a field which witnesses technological revolutionary developments.

Firms and associations	Billions of Dollars
US Chamber of Commerce	\$1,041,425,680
American Medical Assn	\$299,442,500
General Electric	\$298,020,000
National Assn of Realtors	\$258,402,003
American Hospital Assn	\$254,470,343
Pharmaceutical Rsrch & Mfrs of America	\$250,466,420
AARP	\$232,432,064
Blue Cross/Blue Shield	\$226,390,332
Northrop Grumman	\$210,075,253
Exxon Mobil	\$195,812,742
Boeing Co	\$187,202,310
Verizon Communications	\$186,650,043
Lockheed Martin	\$185,042,714
Business Roundtable	\$183,790,000
Edison Electric Institute	\$182,886,789
AT&T Inc	\$166,265,644

**Table 1.4: TOP spenders**

- **\* The different firms and associations of the U.S. economy have been investing important sums of money throughout the last two decades.**

## **1.6 Categorisation of Interest Groups**

Lobbying groups in the United States vary according to the kind of interests they seek and the kind of people they defend. The US interest groups represent a wide array of categories of people who think that social, economic and political advocacy can help them to reach their goals.

### **1.6.1 Economic Interest Lobbies**

Seeking economic and financial benefits, for their members, could be the priority of the most important part of lobbying groups in Washington. Big corporations, Labour unions and other corporate groups focus on the substantial advantages that they could bring to the people they represent.

Labour Unions like the emblematic American Federation of Labour and Congress of Industrial Organizations (AFL-CIO) represent more than thirteen (13) million members (Kaminsky & Mathiew, 2009). They are very active electorally speaking by multiplying direct and indirect lobbying efforts to mark its presence at a political level. They usually tend to support Democrat candidates in the various electoral campaigns, where they have been significantly present.

Corporate groups are other lobbying entities, whose priority is the increase of the economic advantages of their members. Groups like the Screen Actors Guild (SAG) which represent professionals of the cinema industry or the American Medical Association (AMA) are considered as the leading associations representing the interest of professionals, grouping themselves to gain advantages from lobbying initiatives such as campaign funding. In fact they are known for the important sums of money they inject in electoral events which make them one of the most important contributors.

Moreover, business groups are considered as the most influential and powerful lobbying groups in Washington. This reputation is due to their overwhelming financial force and sometimes to the number of workers they employ, who can take profit from the lobbying efforts made by their wealthy bosses.

We can mention the example of the US Chamber of Commerce; a super powerful business group which invested nearly one hundred forty five (145) million Dollars in lobbying in 2009 (Top Spenders,” n.d). That powerful organization,- which represents more than two hundred thousand (200.000) US companies- attempts to use its influence to create a business environment which can guarantee economic and commercial success for its members (Broder, 2013).

The National Manufacturing Association is another business lobbying group whose priority is to protect manufacturing industry in the United States. Endowed with important financial means, they regularly make use of political lobbying to curb some disadvantageous legislation (“National Public Affairs”, 2014). In fact, the early nineties witnessed this organization’s struggle to fight potential negative consequences of the North American Free Trade Agreement (NAFTA). This latter represented a threat for the US manufactories. Eventually, this agreement was approved, but many of its original basic points were eliminated thanks to this powerful pressure group’s efforts.

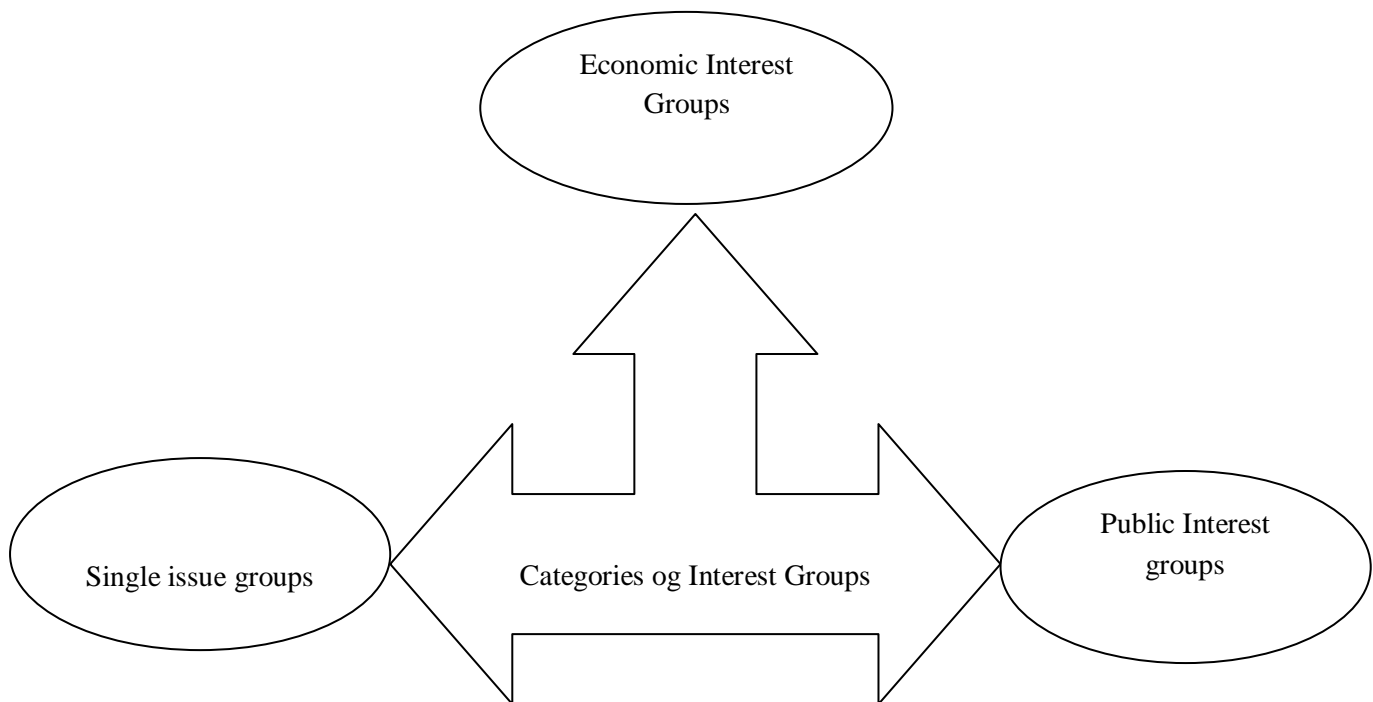
### **1.6.2 Single Issue Interest Groups**

One of the most intense and controversial societal debate in the twentieth century in the United States, has been the passionate confrontation between two camps: those which defend the right for abortion and those which are called ‘Pro-life’ and who are firmly opposed to the ability to have recourse to this medical practice. Both camps are actively represented by two powerful single-issue lobbies. This kind of lobbying concentrates on one objective only, in comparison to the other lobbying groups which try to represent a large spectrum of interests.

### 1.6.3 Public-Interest Groups

It is another category of lobbies, which pretends to protect the rights and defend the interests of all Americans. This category of public interest groups works for the fulfilments of U.S. citizens' desires, objectives and basic rights.

Common Cause, Public Citizens- created by the famous citizen-activist Ralph Nader- the American Civil Liberties Union, or the Public Research Interest Group represent a constellation of public interests which operate in the field of social advocacy. They have strived to protect citizens' constitutional rights consolidated by the First Amendment and have worked to avoid any kind of abuses provoked by a law that can be detrimental to ordinary citizens.



**Diagram 1.2: Categories of Interest Groups**

- **Interest groups in the United States can be grouped into three main categories which can reflect the main objective of each group.**



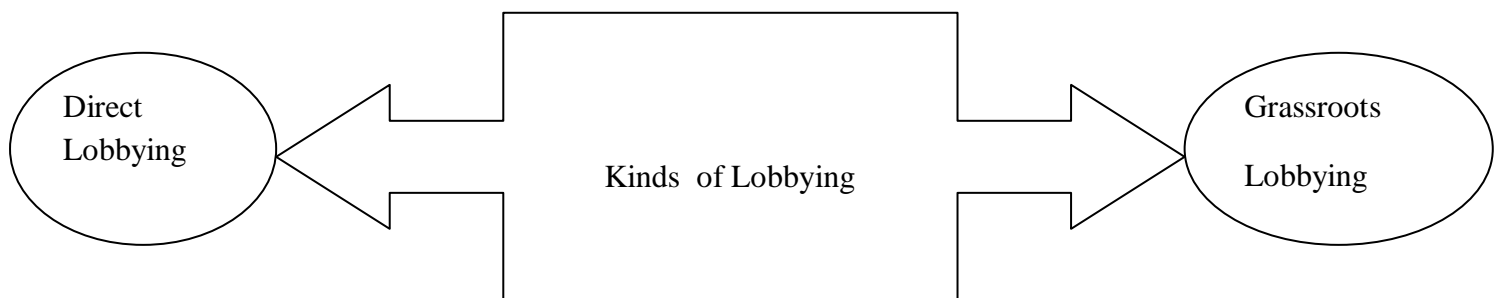
Issue	No. of Clients*
Fed Budget & Appropriations	12,682
Defense	6,774
Health Issues	6,746
Taxes	5,754
Transportation	5,419
Energy & Nuclear Power	4,701
Environment & Superfund	4,221
Government Issues	3,792
Education	3,748
Trade	3,677

### 1.5 Table top issues

- **Lobbying groups are actively present in the advocacy field, defending many issues and hiring a great number of lobbyists.**

## 1.7 Lobbying Tendencies

The literature of lobbying proposes two major lobbying styles. Both have a common objective, which consists in how to better influence their political counterpart.



**Diagram 1.3: Kinds of Lobbying Activities**

- **Direct Lobbying and Grassroots one are the two main lobbying processes that can be adopted by U.S. citizens.**

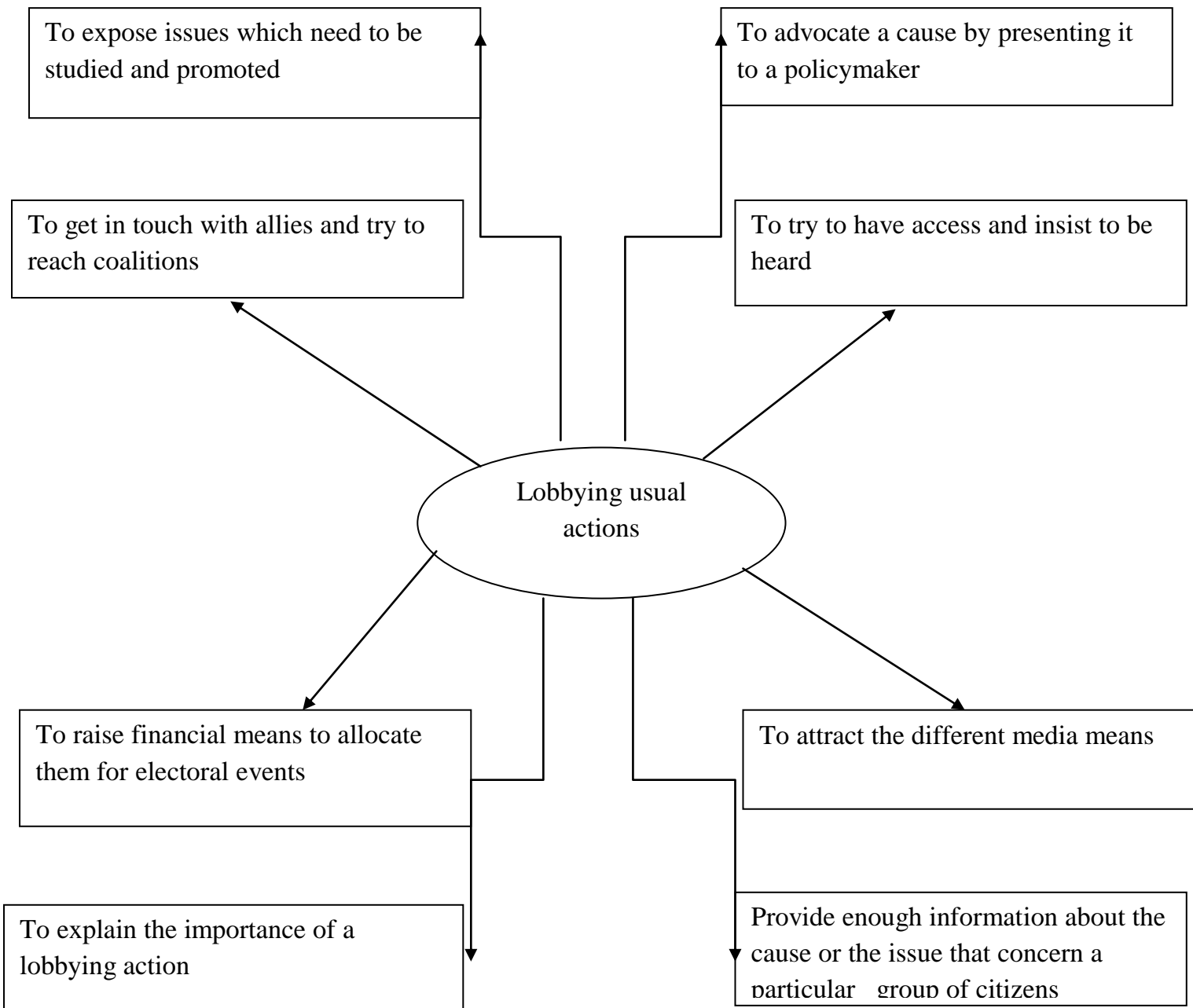
### 1.7.1 Usual Fields of Intervention

The lobbying profession is a demanding one. It requires highly professionally trained members, able to reach a maximum of effectiveness when advocating a cause or when defending a future legislative project. They are aware of the complexity of the task and strive to achieve specific actions that are supposed to influence the numerous policymakers that are present in Washington.

Usually, they have recourse to two kinds of lobbying actions: the direct and the indirect ones. Their actions rely on frequent contacts with policy makers and usually tend to make the following initiatives:

- To advocate a cause by presenting it to a policymaker,
- To expose issues which need to be studied and promoted,
- To try to have political access and insist to be heard,
- To get in touch with allies and try to reach coalitions,

- To attract the different media means,
- To provide enough information about the cause or the issue that concern a particular group of citizens,
- To explain the importance of a lobbying action,
- To raise financial means to use them in electoral events. (“How states,” n.d.)



**Diagram 1.5 Lobbying Usual Actions**

- **The kind of actions usually performed by the professionals of advocacy in the United States**

On the other hand, sometimes, indirect actions are also necessary to achieve lobbying objectives. Public pressure is a method frequently used to curb, in an advantageous way, a legislative project. They push members of an interest group to multiply actions based on a regular contact with policy makers by making use of mailing, sending emails and short messages. Lobbyists, then, exploit the popular side of a given initiative and rely on the size and the degree of the political awareness of people which are represented by these pressure groups.

Other indirect actions such as demonstrations, public relations campaigns or messages, achieved through advertising, can also prove to be very effective. One example is Hilary Clinton's 1993 Nationalised Health care Project that witnessed a political defeat as a consequence of a huge mobilisation organised by the Health Insurance Association of America. They spent more than seventeen (17) million dollars in TV campaigns designed to question the feasibility of such a legislative project.

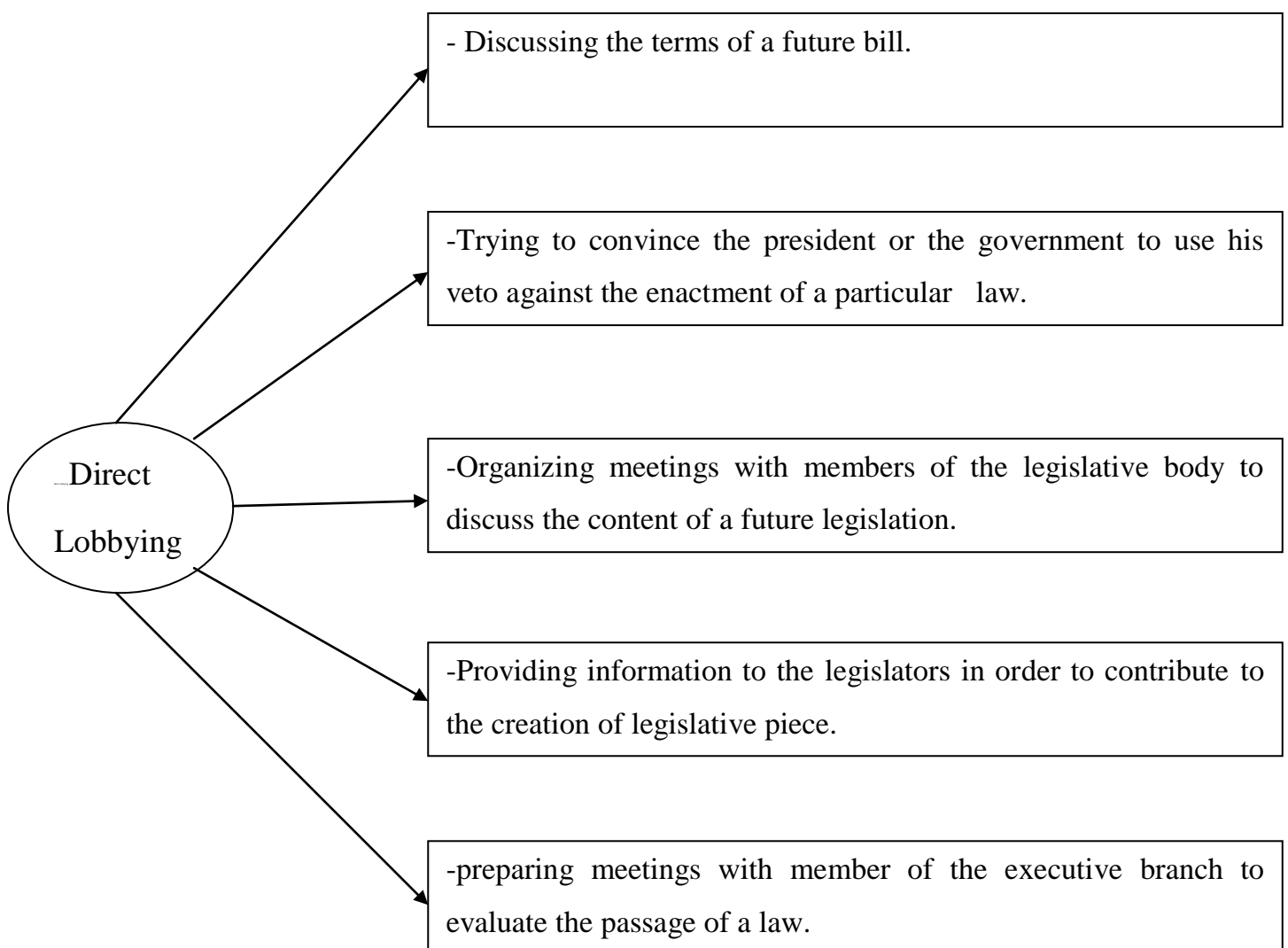
### **1.7.2 Direct Lobbying**

Contacting and having a direct access with the policymaker is considered as the best approach, designed to influence the process of creation of laws. This method, called Direct Lobbying, relies on experimented lobbyists. These latter may belong to a particular interest group or work independently, to play an important role and be an integral part of the process of law making. The same groups have recourse to former policymakers to attract them with official functions inside their organization to fully take profit from their immense experience.

During personal meetings, organised with the target policymakers, lobbyists discuss about the pertinent side of a particular legislation. They also try to convince their counterparts about the relevance of their data and beliefs, concerning that legislative project.

The following actions are generally made by specialists of Direct Lobbying:

- Discussing the terms of a future bill,
- Trying to convince the president or the government to use his veto against the enactment of a particular law,
- Organising meetings with members of the legislative body to discuss the content of a future legislation,
- Providing information to legislators in order to contribute to the creation of a legislative piece,
- Preparing meetings with members of the executive branch to evaluate the passage of a law. (“Direct Lobbying,” n.d.)



**Diagram .1.4 Direct Lobbying Main Missions**

- **Those who choose direct Lobbying to plead their causes should fulfil the actions mentioned above.**

### **1.7.3 Indirect Lobbying**

Indirect lobbying or what is commonly called “Grassroots Lobbying” is the second major aspect of this activity. Its objectives do not differ from those related to the direct one; trying to influence the process of decision making and to work for a supportive law.

Unlike Direct lobbying which relies on hired lobbyists or a particular company’s ones, Grassroots advocacy consists in encouraging the public to contact legislators about the issue of a future law. Constituents linked to a lobby, in an indirect lobbying approach, would be encouraged and urged to contact their congressmen with different means such as letters, faxes or emails or literally call them days before the organisation of an electoral event. They can also use media campaigns to reach out and convince public opinion about the relevance of such initiatives (Jonathan, 2007). This happened during the animated debate that preceded the passage of the North American Free Trade Agreement (NAFTA) and which implied the mobilisation of several US manufacturing and professional groups.

Public demonstrations are other techniques that can be assimilated to Grassroots lobbying. Groups like Mothers Against Drunk Driving (MADD), the National Right to Life Committee (NRLC), and The American Federation of Labour and Congress of Industrial Organizations (AFL-CIO) have already used these methods to attract the attention of the media and consequently make their views and claims known within the entire country. They can even take part in electoral campaigns, not by financing them, but by mobilising their troops to support candidates that share the same views.

In addition, the field of Grassroots Lobbying includes another kind of mobilisation called “Grass Top Campaigns”. This technique consists in looking for and identifying members of the community who can have potential links with Congressmen. Once identified, they will be the subject of lobbying actions in order to contact the policymaker.

## **1.8 Types of Representation**

It is very instructive to study the different profiles of people represented by U.S. interest groups. This would help to detect any kind of inequalities among the American society, which aspires to take profit from the advantages guaranteed by the First Amendment of the US constitution.

It is a well known fact that not all the categories of American people are represented by a lobby or tend to join a pressure group (Lehman Shlozman, Verba & Brady, 2012). It demonstrates that American citizens have different conceptions about this phenomenon, because the majority of them are not represented. Some people consider it as a vital instrument of advocacy whereas others doubt about its ability to solve daily life's problems.

The profile of people represented by lobbies is another source of inequality. Indeed, the ability and the desire to join an interest group can be determined by some distinctive factors such as the annual financial income, the level of education, and the social importance of each potential member. This can generate a possible lack of democracy, which could lead to a kind of bias concerning this representative channel.

However, this lack of homogeneous representation does not imply that this ability to petition is only reserved to one special category of people. In fact, anyone in the United States is able to make use of lobbying and can try- at a personal level- to influence political decisions. As an example, sending a letter for a congressman to shed light on a particular issue that personally involves one particular citizen could also be interpreted as a lobbying action.

### **1.8.1 The lobbyists' Profile**

It would be interesting to study and identify the profile of those people who are hired by interest groups to defend their interests. It appears, then, that being able to undertake a lobbying initiative is something which requires abilities, skills and knowledge of a particular field in addition to a mastery of the legislative and executive processes.

In fact, those who are engaged to intervene on behalf of some interest groups are well connected people who have succeeded to build strong and efficient ties throughout their professional political careers in Washington. They personify the famous concept of the ‘Revolving Door’, which means that some lobbyists have already worked as legislators in Washington. This legislative background could present substantial advantages when advocating a particular cause.

In addition to their recent political past, lobbyists display well-known communicative skills that help them to convey efficiently different messages, which emanate from different fields of interventions. They are able to develop efficient strategies that can- alongside their network of political acquaintances- lead to a successful policy outcome.

It is important to notice that the category of lobbyists was composed, in the past, of different kinds of advocates such as accountants or lawyers. Presently, they are professionals, educated and formed to succeed in the field of voicing people’s desires and objectives.

### **1.8.2 Different Operating Levels**

The activity of lobbying in the United States is practiced at the different levels of government, whether at national, state or local levels. Lobbyists usually try to exploit all the areas where their advocacy can be effective and can lead to substantial political outcomes. Their objective is to succeed to have a significant influence on the process of policy making.

Lobbying at a national level is the target of interest groups which devote important means and long periods of time in order to be able to efficiently negotiate issues during the conception of a legislative project. The national governmental level is a scene which witnesses the passage of the most important laws that affect the whole country. Thus, lobbyists are aware of the vital role of such an important context like the Congress- with its two chambers: the Senate and the House of Representatives- where the most important decisions are made.



Furthermore, the other areas of government such as the counties, the cities and mainly the States, can also represent concrete interests for professionals of advocacy. Being less important than the national level, State advocacy can primarily employ direct lobbying methods, where direct communication with policymakers can be seen as the most useful one. Having access to legislators at a state level is easier and does not imply devoting important financial resources to achieve it.

Besides, the use of expensive and expensive indirect lobbying methods such as Grassroots campaigns is not really essential. There exist stronger links between members of interest groups and policy makers at a state level, than at a national one. This can guarantee a potential positive policy outcome. Indeed, being able to socialise through dinners or cultural and social events would give those advocates many opportunities to plead their cause or their clients' one in a more effective way.

In addition, counties and cities are also areas where policy makers are sought for different kinds of legislative objectives. It is a common fact that there are many important cities in the United States where important economic and social projects are developed. This would attract professionals of political advocacy in order to exploit the numerous potential opportunities that those administrative entities offer.

### **1.8.3 Coalitions**

The concept of coalition is really rooted in the US lobbying field. This latter witnesses the regular formation of coalitions of different interest groups pleading for or against a particular legislative text. The example of the Coalition to "Stop Gun Violence" is significant. It shows the degree of mobilisation and union that can encourage people to fight for reducing the negative and dramatic effects of gun ownership.

These coalitions are known to be heteroclitic because they can be constituted only for one precise objective. They can, thus, last only the time where a question is debated in Washington. It is also important to mention that the same groups can be allies in the Senate and rivals in the House of Representatives. But this does not belittle the importance of such an important lobbying approach adopted by different groups, who can hire effective and highly skilled lobbyists. That was the case of the groups that hired private advocates to try to lobby Senator Charles Grassle as explained by former Lobbyist Jack Abramoff in 2011:

**I had my clients understand that just as other clients who had nothing to do with them, would step up and give contributions to congressmen they needed to have some sway with, so similarly they needed to do the same. I went to every client I could, and rounded up every check we could for him.**  
(Abramoff, 2011)

Coalitions and coalition are the same as the ones used by single lobbying groups. Having access to policy makers, establishing an effective communication model, and trying to provide information about a particular issue, are methods used by interest groups when working inside a coalition.

## **1.9 Lobbyists' Political Influence**

The United States is the country where the lobbying influence is quite significant. It is the consequence of the historical background of the profession and the institutional advantages and legislative victories that the different interest groups have obtained during the last decades.

The legislative arena is, therefore, the place which attracts many professionals of advocacy that defend different sectors. Being electorally vital in the American political system, those groups try and make efforts to influence any kind of a future legislative project by collaborating with policymakers in the way the particular law is framed. They constitute an integral part of the pluralist political system in the United

States and know very well how to exploit their notoriety and their electoral weight to negotiate, in the best conditions, issues that concern their multi-faceted clients.

Thus, we can mention the omnipresence- in discussions which evolve around the field of lobbying- of the word ‘influence’ and its importance in describing the consequences of the real actions of pressure groups. This can be better explained by the Woodstock Theological Center which defines lobbying as follows:

**The deliberate attempt to influence [italics added] political decisions through various forms of advocacy directed at policymakers on behalf of another person, organization, or group”**

**(As cited in Brashe, 2013, p. 86)**

Thus, undertaking actions to change or to impose the different terms of a legislative proposal is the priority of those groups. Influencing policymakers is, consequently, a means and an end at the same time.

### **1.9.1 Political Advocacy**

Being a structural part of the American political system the principal field that represents a great interest for lobbyists is the legislative arena and its influential personalities who are the Congressmen. Those professionals of advocacy in the United States consider those political actors as very important interlocutors that should be met, convinced and successively influenced. Creating, changing and influencing a legislative project can be achieved thanks to a complex political lobbying process, whether at the Senate or the House of Representatives.

These advocates should establish professional relationships with policymakers to be able to reach many objectives such as consolidating links and obtaining concrete political results. Thus, both lobbyists and policymakers end up creating a close relationship where mutual contributions are expected.

## 1.9.2 Accessing Decision Spheres

The professional relationships that exist between the two protagonists start when members of interest groups succeed to obtain an access with the legislator. Thus, this vital objective is frequently sought by those advocates who tend to use many methods in order to reach it. They can, for example, phone them, send letters, organise meals and use other original methods that reduce the difficulty of communicating with political actors, as it is explained by an American lobbyist:

**My style of lobbying is not to have big formal meetings, but to catch members on the fly as they're walking between the House and the office buildings. — Lobbyist, commenting on access**

**(As cited in Bordewich, 2009, p. 11).**

Moreover, theorists of the field have found that there are two distinct theories that can best describe the interaction between lobbyists and policymakers in the United States. These two theories are called the Exchange Theory and the Persuasion Theory. “The Exchange Theory”, as its name indicates, relies on the fact that there should be an establishment of an exchange process between the two parts (Salisbury, 1969). There is a kind of cooperation between them which is constantly improved by a mutual promise of achieving the other’s needs. The lobbyist would assure massive votes to the politician during electoral events and the legislator, at the same time, can guarantee cooperation and would take into account these people’s objectives, once elected.

On the other hand, the “Persuasion Theory” explains the extent to which it is important for the Lobbying firm’s agent to use his talents to convince and persuade the policymaker about the utility of a particular advocating action (Austen-Smith, 1993). In fact, when looking for a re-election, a policymaker would make efforts in order to understand and to take into account populations’ will and desires, obtained and communicated by lobbying agents. These latter present a double promise: one for the policymaker that he can be re-elected and another for the populations that their

preoccupations can be heard. Understanding people's present tendencies would become very important, politically speaking.

Having access to politicians is actually possible, even with the highest political spheres. Recently, indeed, there has been the creation of political structures called Congressional Liaison Offices, sources which serve as a recipient of voting blocs' feedbacks that are considered, by a former U.S. president, as essential( "Lobbying Laws", 2011). They strive to maintain a link with the constituents' tendencies in order to take them into account when conceiving methods of government.

### **1.9.3 Strategies to Sway Political Decisions**

Lobbyists, recently, tend to have recourse to a commonly used technique called 'Ballot measure'. It consists in evaluating the electoral potentialities of candidates. It also pushes a lobbyist to convince and influence voters about the effective side of candidates' electoral programmes ("Lobbying Laws", 2011). This approach which relies on propagating information to the electorate, through the different means of media, constitutes a real tool of influence on policy makers. These latter are conscious of the decisive role of such lobbying activities, as it is clarified below:

**"Interest groups electioneering the media added responsibility to inform the public of the full range of campaign activities, including those by non candidate campaign entities."**

**(Baron, 2008, p. 15)**

### **1.9.4 Lobbying Effectively the Congress**

The profession of lobbyists requires many qualities that those advocates should show. Their objective consists in efficiently lobbying the Congress. To succeed to reach this goal, they should start mastering the intrinsic side of the decision making process. For example, they should know to which level of government a particular law corresponds and should be aware of its complex nature. They should also spot the Congressmen who support it and those who are against it. Lobbyists should also show

a didactic side in order to convey their message in a clear and convincing way by providing pertinent information related to the issue. Policymakers thoroughly rely on their expertise, so they should not fail in presenting all the elements that can help advance the cause they defend in order to satisfy both parts, i.e. their clients and the legislators.

### **1.9.5 Relying on an Efficient Communication**

In order to achieve their advocating goals, lobbyists are aware of the importance of presenting their claims and arguments in an efficient and clear communicative process. The fact of having access to policymakers urges them to develop communication strategies supposed to achieve their objectives. Thus, knowing how to persuade a policymaker -about the importance of a lobbying proposal- and how to put forward the mutual interests, that can be the results of that interaction, is something that can result from an efficient communication. American lobbyists have at their disposal a myriad of means of communication, used to achieve an efficient lobbying process. Those means, whether they are traditional or modern, are used to convey a message to the legislator in a clear way.

Modern communication means are, recently, frequently used by professionals of advocacy. This can be achieved in a direct way like phoning the legislator by using cell-phones or using emails which start to show a growing importance in the way lobbyists get in touch with policymakers. Faxed letters are often used and are largely preferred by both lobbyists and legislators. These modern means can also be exploited in an indirect way by taking advantage from the communicative value that a website and its mine of information can represent. In fact, it helps people to get in touch with the general philosophy of the interest group and invite them to adopt advocating actions to obtain a successful informative campaign.

Moreover, there have always existed traditional methods of communication whose efficiency has been recognised throughout many decades. The list of those communicative tools can include letters, where all the objectives and arguments are presented, as well as personal visits which are very valued by both parts. In addition, we can mention the testimonies performed by lobbyists in front of a committee of

policy makers who are disposed to hear the kind of defence of particular interests presented by a given lobbying group.

### **1.9.6 Policymakers as Strategic Partners**

As a consequence of all the elements mentioned above, a kind of partnerships is created between the lobbyist and his legislative counterpart, i.e. the policymaker. A mutual influence settles between the interest group's advocate who provides instructional elements to the legislator and this latter, who-in turn - will take them into account when shaping the political decisions, as it is explained below:

**“a process of influence that travels along routes sustained by exchanges of information in which both parties have an opportunity to make their message influential as well as informative”**

**(Mayhew, 1997, p. 218)**

In short, the legislator, in many cases, welcomes the learning contribution of lobbyists. Legislators have different tasks to achieve and are responsible for a great number of laws. They do not hesitate, for example, to let themselves get influenced by the interest groups' didactic role, which consists in reflecting the vital sides of a future legislative proposition, its decisive effect on citizens' views and the importance of solutions those advocates are able to suggest.

### **1.9.7 The Revolving Door**

The concept of the “Revolving Door” can show the extent to which both professions, i.e. lobbying and policy making have become so closely related. Indeed, attracted by high retributions offered by the most powerful interest groups, congressional members are encouraged to embrace a future lobbyist career (Drutman & Furnas, 2014). This is an increasing tendency in Washington, where policy makers should wait one year only after the end of their electoral mandate- as it is stipulated by law- in order to be recruited by one of the advocacy firms working in the U.S. capital city.

Pressure groups do appreciate the importance of such members in the lobbying process thanks to their Congressional experience. Having easily access to their former colleagues through social events, and private dinners, such ex- governmental employees do profit from this advantageous position to effectively influence the legislative process.

Moreover, the fact that the media lobbies have recruited many ex- congressional members could explain the extent to which they have exerted a dramatic influence on the Federal Commissions Committee. The importance of their intervention is reflected through the kind of information they have provided to their ex- Colleagues. In some cases, the Revolving Door can take the opposite direction. This happens when ex- members of lobbying groups can choose a political career, something that also provides considerable advantages for their former employers.

### **1.9.8 A Distinction between Both Fields**

The fact, that public policy is a common objective of both lobbying groups and political parties, could create an ambiguity in the way we perceive them and could make observers think of those pressure groups as being able to replace politicians in the future. Because both handle high profile political issues and both are actively involved in the electoral process.

However, such an involvement is different in each camp. This confirms that there still exist differences between political parties and interest groups. For instance, politicians try to win elections and are eventually responsible for their acts vis-à-vis citizens. By contrast, interest groups' involvement in a particular electoral process is limited to some informational campaigns or financial contributions through the well known Political Action Committees (PACs).



Besides, interest groups, which cannot be represented in any government, usually focus on the legislative priority related to the objective of a particular lobby. This represents a difference with parties, which try to resolve different problems related to a wide array of political areas.

Top 20 PAC Contributors to Candidates, 2007-2008			
PAC Name	Total Amount	Dem Pct	Repub Pct
National Assn of Realtors	\$4,036,400	59%	41%
Intl Brotherhood of Electrical Workers	\$3,397,550	98%	2%
AT&T Inc	\$3,153,200	47%	53%
American Bankers Assn	\$2,956,265	43%	57%
National Beer Wholesalers Assn	\$2,897,000	52%	48%
National Auto Dealers Assn	\$2,890,500	34%	66%
Operating Engineers Union	\$2,856,825	87%	13%
International Assn of Fire Fighters	\$2,758,400	77%	23%
American Assn for Justice	\$2,719,500	95%	4%
Laborers Union	\$2,582,650	92%	8%
Honeywell International	\$2,581,116	53%	47%
National Assn of Home Builders	\$2,479,000	46%	54%
Air Line Pilots Assn	\$2,442,000	85%	14%
Plumbers/Pipefitters Union	\$2,412,559	95%	5%
Credit Union National Assn	\$2,346,549	54%	46%

**Table 1. Top 20 PAC Contributors to Candidates**

- **Political Action Committees are very active electorally speaking by investing important sums of money in supporting both US political sides**

### **1.9.9 Governmental Involvement in Creating Advocacy Groups**

The United States, as a country, is known for its liberal economy and its legendary entrepreneurial freedom. People insist on lesser legal, administrative and mainly governmental constraints to develop their businesses. Nevertheless, the U.S. government has always been present in different strategic domains by creating laws to regulate different social, economic, and societal fields.

Accordingly, this governmental omnipresence has led to a multiplication of interest groups working in and managing different issues. The diverse federal agencies, for example that regulate activities, do lead to the creation of lobbies that contradict and defend opposing interests. These groups are created to lobby the government, to present contradictory elements and try to indirectly challenge its important power. Being a priority, at the moment of conceiving the American constitution, “the liberty to petition the government” is an essential part of the American political system and at the same time a great opportunity to legislatively oppose the government, to try to reduce its influence.

### **1.10 Ethnic Lobbies**

One of the numerous specificities of the activity of lobbying in the United States, can be the omnipresent power of Ethnic and foreign lobbying (Pevehouse, & Vabulas, 2012). It is the consequence of the ethnic diversity of the United States, and the influence that this country has over other economic partners in different regions of the world.

Foreign lobbying clearly tries to advocate the interests of a given country, when dealing with the United States in different fields. Their representatives use a wide array of means to reach their objectives. Meanwhile, ethnic lobbies try either to defend the interest of a particular community living in America, or plead for their native country's causes.

There exist different fields where these kinds of lobbies can intervene and deal with the American legislators to have an influence over their corresponding issues. Solutions to questions, like economic and trade agreements and diplomatic and foreign affairs alliances, are studied by foreign interest groups.

Thus, one of the consequences of the famous American ‘Melting Pot’ can be the creation of pressure groups that reflect the needs and desires of the different ethnic groups living in the United States. The Hispanic, the Chinese, the Irish and mainly the Jewish lobbies are among the most prominent interest groups that do not hesitate to effectively make use of the first amendment of the American constitution.

### **1.10.1 Ethnic Lobbies’ Fields of Interest**

Influencing the foreign affairs- that link the ethnic groups’ ancestral homeland to the United States- is the major objective of these lobbies’ intense activities. Their objective is to negotiate advantages that can have positive effects for their country of origin. Thus, the Complaints of the former Canadian prime minister Jean Chretien in 1997, where he mentioned the omnipresence of ethnic entities in the US political scene (as cited in Campos, 2006), explain the extent to which these groups are able to influence many aspects of the US foreign policy.

Furthermore, there are many realms which can directly concern these countries and that can be well negotiated by their respective corresponding interest groups. For example, we can mention the case of Irish Americans who lobbied President Clinton to take part in negotiations for Northern Ireland Peace Process, and the one of Afro-Americans descent who militated for a U.S. intervention in Haiti (Claybrook, 2003). Both have been making use of foreign affairs advocacy to bring benefits to some countries.

Consequently, there are different objectives sought by those ethnic groups. Sometimes, they strive to maintain good relationships between the countries for whom they plead their cause and the United States. It was the case of the American Serbs who worked hard to change the negative perception that Americans had about Serbia (Meredith, 2006).

In other cases, their objective is to bring financial aids to their countries of origin. That is generally the case of Armenian Americans who are constantly working to maintain the important financial contributions the United States annually make to Armenia, which receives the second largest financial aid after Israel (Calabresi, 2006). Financial aids can sometimes be used to improve the democratic living conditions in a particular country. The United States would halt any kind of help if that country will not guarantee basic human rights for its people.

Moreover, there were many cases where these ethnic groups pleaded embargos and radical foreign policy measures against other foreign countries. This happened, for example, when Eastern and central European lobbying groups were pushing hard to encourage The United States to have strict relationships with communist regimes during the cold war (Burger, 2006).

Other minorities groups, for example, invite the United States to harden their relationships with other countries that create problems to these groups' ancestral homeland. It was the case of Armenians living in the United States who have been trying to persuade the United States to adopt a firmer position in issues that involve Turkey due to the ancestral problems between the Eurasian giant and Armenia (Michaels, 2008).

Arms restriction against some foreign countries is the objective of some ethnic groups which encourage the U.S. government to impose an embargo that can be beneficial for their countries of origin. Arab and Muslim Americans, for instance, advocated the interruption of arms export to Bosnia during the Balkan wars (Cooper, 2004).

Moreover, American Cuban opponents to the Castro Regime used in 1996 the arm of the trading sanctions against the Central American country. They succeeded in guaranteeing the passage of the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996; an act which prolonged U.S. sanctions against Cuba.

Oil export is another field which can be the target of U.S. sanctions, inspired by some lobbying groups, against some foreign countries. Because of Kaddafi's threatening ambition to play a major regional role, Libyan oil exports were for example the targets of U.S. sanctions in 1996. The same Sanctions affected other countries which had the reputation of being rogue ones such as Iran and North Korea.

Finally, immigration can be another field which represents important stakes in the foreign relationships that link America to other countries and which can be one of the priorities of ethnic pressure groups. For instance, in 2002, even if the Mexican Americans have not been really involved in the Foreign Affairs that involve both the United States and Mexico, they have been at the same time actively interested in immigration issues, succeeding to shape the Immigration Act of 1990. They, alongside other ethnic groups in the United States, took part in the passage of more advantageous acts and laws which have facilitated, for example, the delivery of more work visas.

Even if the lobbying activity undertaken by those groups, does not guarantee constant successful policy outcomes, they carry on devoting substantial lobbying efforts. The objective has always been to protect, defend and advocate the interests of their countries of origin.

### **1.10.2 The Jewish Lobby**

The Jewish community is one of the most powerful and influential one in the American social, cultural, economic and mainly political landscape. In fact, The American Israel Public Action Committee (AIPAC) is an omnipresent lobby which disposes of very important means to adapt political decisions to the closest Jewish interests. This lobby is considered as one of the best organised and effective group in the field of advocacy in the United States (Mearsheimer & Walt, 2006). This ethnic entity, logically, conceives strategies and organises advocating actions to protect the rights of the Jewish community and mainly to improve and preserve the staunch support of the North American country to Israel in many different fields.

Financially speaking, Israel receives the most important part of the U.S. international financial aid (Mearsheimer, 2009). This is guaranteed thanks to the huge and constant efforts made by the different Pro-Israeli groups which feel the vital need to assure such a financial support.

There exists an omnipresent action of lobbying groups obeying to Israeli Interests and which represent a substantial part of the U.S. foreign policy. In fact, we can evoke a real threat that can represent the weight of such an advocacy on the U.S. national security. U.S. Military help, for instance, has been one of the demands of the Jewish American groups, which considerably consider the importance of such assistance. In addition, they are continuously struggling against Arab lobbying groups who strive, too, to see the United States selling arms to Arabic countries (Cox, 2007).

Other objectives, such as imposing trade sanctions against countries with which Israel has conflictive relationships, have been considered as primordial actions. However, such petitions can endanger the American economy as it was the case during the boycott of the Iranian oil, depriving the United States from an important source of energy.

## **1.11 Conclusion**

This chapter has exposed the different special characteristics of the lobbying world in the United States. It has been proved that the uniqueness of this profession in this country is due to many aspects such as the constitutional, cultural and political factors that contribute to the position that lobbying occupies in the American political scene. Besides, lobbying in the United States is quite special due to the size of the groups present in the field of advocacy such as the financial and pharmaceutical sector, the AARP and the Oil and Telecommunication industry. In addition, being ethnically speaking composed of many origins, the United States has witnessed the emergence of very powerful ethnic lobbying, supported by the different ethnic origins living in the United States. These latter are making considerable efforts to have their claims taken into account.

In the next chapter, the researcher will try to investigate possible positive sides of this gigantic phenomenon. In fact, it would be very interesting to see if it is possible to prove that it can reflect a fair and emancipative aspect.

## **Chapter Two: A Popular Representation Channel**



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## Chapter Two

# **A Popular Representation Channel**

## **2.1 Introduction**

Presently, in the United States, it is usually recommended to have recourse to the activity of lobbying to express claims and opinions, in order to see one's needs satisfied. Many people want to take advantage from this activity which, in many aspects, seems closely linked to the American political life.

This chapter, thus, seeks to identify possible positive aspects of a so controversial constitutionally protected right. In fact, it is important to see if during those two last decades, there have been elements that show that this kind of advocacy has been beneficial for people, and if it is compatible with democracy. The objective is to assess the ability of this activity to provide conditions for a better representation of people inside the most important legislative and decision making spheres. It would also be interesting to see whether People in the United States can aspire for a more effective participation in the political debate to voice their concerns and needs.

In addition, it is important to study the presence of the most important stakeholders of positive lobbying. They, in fact, strive to make available conditions to promote the notion of "Common Good". This latter is the final objective of any positive societal and social initiative.

## **2.2 Lobbying as a Democratic Tradition**

It seems evident that culturally speaking, the lobbying activity has had an important place inside the American cultural landscape. People are aware of the vital side of this recourse and have continued to exploit it in order to protect their basic interests. In fact, the endless proliferation of these interest groups shows the extent to which people in the United States positively consider this practice and do rely on it to defend their daily needs. Being freely able to form, such popular groups- united

around a particular cause- constitute a proof of democratic vitality that contributes to further social and societal achievements.

The traditional and historical side of the lobbying system is compared, according to David (1997), to another traditional symbol of the American culture, namely the “American Pie”. Having the opportunity to fairly influence the process of policy making is an element deeply rooted in the American political mores. It does confirm the involvement of important parts of the society in the political game. Many, indeed, do insist on the fact that this valuable tool of democratic expression has contributed to the political stability that America has had during centuries. In fact, it has served as a barrier against the overuse of political power by a limited group of persons. Besides, American people seem to enjoy the exploitation of lobbying as a democratic concept put forward by the Founding Fathers, James Madison in particular, shortly after the proclamation of the creation of an independent country.

### **2.2.1 The Ability to Redress Grievances**

The drafters of the U.S. Constitution had established many priorities in order to make the American citizen the central point of any governmental action. His satisfaction and emancipation were considered as important targets for the Founding Fathers. Indeed, many rights such as expressing oneself freely, the ability to use the press, to condemn or, on the contrary, to praise the benefits of a legislative project and the right to form popular associations- whose members have the same views about a particular event- had been strongly reinforced by that famous legislative document.

Moreover, the basic liberties and different constitutional rights, which are provided and energetically defended by the US Constitution, were projects initially promoted by interest groups. Such organisations wanted to show the importance of including, in the Constitution, rights which seemed fundamental to them. Nowadays, people in the United States do enjoy the freedom of press and do defend its consolidation in the country. Nevertheless, in the past, the profession of lobbying represented an importance only for a limited group of persons who were professionally involved in the field of press because of the high cost and the slight practical side of

means of communication in that period of time. Thus, universally recognised rights were in the past a priority for some interest groups. The activity of lobbying and the constitutional framework in the United States have generally been linked; that is why we can speak about a mutual influence.

Besides, the U.S. Constitution clearly reinforces this activity through its First Amendment, which authorises people to employ or hire lobbyists to defend their projects and views. This appeared to be, according to the Founding Fathers, as the best guarantee for a better governmental representation. People, hence, could rely on a constitutional basis to put forward any kind of societal visions that deserve to be advocated.

### **2.2.2 Involving a Maximum of Popular Factions**

Advocates of the vital existence of interest groups in the United States do mention the Pluralist Theory to explain and to defend the extent to which a competition between the different pressure groups can create a fair democratic debate and can lead to the consolidation of people's interests. This theory encourages the active participation of these latter in the democratic game, and views lobbying as a beneficial factor for citizens' emancipation because they will be free to voice and to explain the real benefits of their initiatives (Held, 2006). The thinkers of this theory assure that the multiplicity of opinions and the role of factions that expose them enrich the democratic game and can have a good influence on the decision making process. Consequently, a compromise can emerge from this fair competition and can reflect the tendencies of a maximum of people.

In addition, the Pluralist theory advocates the fact that this competition, that takes place between interest groups coming from different horizons of the society, can effectively be an interesting alternative to another democratic tool, which can be elections. Because if electoral events can reflect people's major and general political choices, the activity of lobbying, on the other hand, could reveal more efficient sides because it is daily practiced and allows a day to day evaluation of the most important issues that involve the society.

It is important to mention that this pluralistic theory originated from James Madison's conception of democracy as well as from the form that the Founding Fathers wanted to give to that tool of popular expression. Although he initially warned against the real dangers of the emergence of factions that can create political bias, he did not claim their banishment. He believed that their presence could create balance if they were effectively controlled. He feared their strong capacities but he believed that it was democratically vital to protect their activity.

### **2.2.3 Lobbying as an Expression of Popular Claims**

The democratic systems, all over the world and in the United States in particular, have adopted and integrated, as an important part, the phenomenon of lobbying and its different mechanisms. People are aware of the decisive role that this activity of representing individuals' interests, can play democratically speaking. It, in fact, can foster democratic expression. Democracy in the United States keeps its vitality thanks to the fact that people could shape governmental decisions. U.S. interest groups have started during the last twenty years to assure the function of channelling valuable information to the government in order to satisfy the desires of their respective constituencies.

Thus, Lobbying in the United-States has become an integral part of the democratic process. Some groups such as the Brown community, Sierra Club and the pro-environment groups do believe that lobbying legislators is essential in the American democratic environment. Advocating people's opinions by using lobbying mechanisms has become an element closely related to the democratic sphere in the North American country. This overwhelming phenomenon has gained legitimacy within American citizens who do not hesitate to use it as an effective recourse to claim their own desires. Different organisations in the United States do lobby the government and do know the extent to which this kind of advocacy can be democratically important.

Providing a context of debate that involves antagonistic views, expressed by popular associations and represented by professional lobbyists, has been contributing to the development of the democratic process. U.S. interest groups are likely to use this ability to petition the government to obtain gains and advantages that could provide major benefits for people they represent. These latter can, indeed, enjoy the democratic and fair side of this activity.

Moreover, lobbying can display a determinant aspect as far as Direct Democracy is concerned. American citizens can feel more involved in the political process since they can include their personal views when a legislative project is prepared. In fact, although they are very important democratically speaking, elections could not entirely satisfy citizens' needs. Lobbyists and their day- to- day interaction with U.S policy makers help people to avoid frustrations that can arise just after the organisation of elections, once a politician is elected and immediately tempted to ignore people's preoccupations. Fortunately, U.S. lobbies can contribute to the evolvement of this modern concept of Participative Democracy. People, thus, can support, encourage or sometimes condemn texts that could be imposed on them without the need to wait for the next important electoral event.

Consequently, the societal and political legitimacy of this phenomenon is based on concrete elements. The U.S. government issues many laws and legislative texts, about which citizens should give their opinions. Lobbies, thus, play an important role in shaping governmental approaches, by providing specific information about a particular issue. According to the American League of Lobbyists, it is possible to produce equitable governmental policies if different categories of people are involved (Gelak, 2008). Their contributions do give a legitimacy to interest groups- who rely on large popular bases to be able to organise a debate with the government- are insightful and efficient ones.

### 2.2.3.1 A More Effective Representation

When defending their points of view advocates, of the kind of Democracy which relies on the presence of interest groups in the United States, put forward the argument of a better representation of people inside the different decision making spheres. This important role consists in giving the constituents a stronger voice and can help them to see their ideas become priorities taken into consideration. The professional abilities of lobbyists allow people to be heard, and assure a more efficient expression of their needs.

Consequently, democracy will have a better function because the government will be more influenced by people's suggestions and recommendations. Lobbyists ,then, help the more than three hundred (300) millions of U.S. citizens to have access to the five hundred thirty five (535) Congressmen who do need the presence and the collaboration of such agents to be able to produce legislative pieces which can reflect people's will. U.S. citizens are aware of the so decisive role of those advocates because they will help them in empowering the decision making process.

Besides, the complexity of the legislative procedures and the difficulties that legislators encounter when conceiving laws, reduce the quality and the frequency of the interactions between the governments and citizens. It implies the intervention of lobbying groups to improve the quality of governmental actions. This will facilitate the constitutional right of Petitioning the government, mainly in a federal system where the notion of executive spheres is quite complex and does need people's intervention in the political field.

Moreover, interest groups can assure a qualitative representation thanks to the daily efforts made by those professionals to voice people's interests. This kind of advocacy can also reach quantitative goals thanks to the number of American people that can be concerned by a particular lobbying action as it is explained below:

**Every citizen is a special interest (...) Blacks, consumers teachers, pro-choicers, gun control advocates, handicapped people, aliens, exporters, and salesmen -- are all special interests... There is not an American today who is not represented (whether he or she knows it or not) by at least a dozen special interest groups. ... One person's special interest is another person's despotism..."**

**(DeKieffer, 2007, p. 5)**

Anyone can lobby the government and the average person in the United States can feel himself completely involved in the process of decision making. Different categories of people are represented and do exploit constitutional possibilities to better their conditions of life. They believe in the efficiency of such approaches and do organise themselves to better defend their interests. In addition, they strive to numerically constitute strong groups in order to counterbalance the domination of their financially powerful counterparts.

Thus, the activity of lobbying in America satisfies two aspects of popular representation; at a qualitative and quantitative level. People do not feel themselves marginalised because of their social, geographical or ethnic conditions. They live in a country where the right to efficiently petition the government, is constitutionally protected. Democratically speaking, people are encouraged to fully participate in the political and democratic debate whether directly or through the contribution of experimented professionals, who master the art of having access to the numerous American governmental spheres.

It is a well-known fact that the creation of the United States of America was inspired by many doctrines, among them Republicanism. Therefore, satisfying people's needs has always been at the core of the governmental system of this country. Throughout time, a more effective government has generally been a priority for the U.S. leaders. This fact explains why political advocacy has been encouraged in order to make people feel involved in such complex processes.

### **2.2.3.2 Public Participation in the Democratic Debate**

The American civic process is active thanks to the continuous participation of people in the democratic debate (Nownes, 2006). This involvement has been possible thanks to the democratically valuable role played by the Indirect Lobbying such as the Grassroots campaigns, which have frequently been present in the promotion of public awareness about the multiple issues that concern US citizens throughout lively and dynamic debates. Consequently, this process would have a positive effect on both the quality of people's participation during elections, as well as on the nature of the



policies produced by the government. Political parties will, then, be more concentrated on people's present tendencies which will be taken into account in their respective electoral programs.

Accordingly, lobbyists rely on both their recognised abilities, as far as the control of the legislative process is concerned, in addition to their mastery of topics put forward by the community of people they represent. They succeed to create a lively democratic and political debate where people can easily express themselves about issues that are so dear to them. Freedom of speech will be, as a matter of fact, possible and the quality of the democratic debate will be improved.

Moreover, by hiring skilled professionals, U.S. citizens will be able to see legislative texts written the way they want. They will master and be aware about more details concerning the production of laws that directly concern them. In fact, the US citizens do not hesitate to hire the best lobbyists to reach their goals. Such a chance of addressing the Congress seems to be a priceless recourse for people, who- contrary to situations in other countries- have the right to petition the government. This advantage was sanctified by the Founding Fathers, who strived to promote the freedom of speech of U.S. citizens.

Accordingly, democracy in the United States actively relies on taking into account people's needs which are transmitted to the Congressmen thanks to the daily work achieved by lobbyists in Washington. Their function consists in voicing their clients' concerns, wants and conception of politics. Their role becomes, thus, essential in a democratic country where citizens are theoretically invited to take part in any debate that concerns the whole country.

### **2.2.3.3 Concrete Examples of Democratic Advances**

There are multiple cases and examples where interest groups are undertaking a vital role in the defence of democratic principles and the emancipation of ordinary citizen's social condition. These groups make efforts to protect the fundamental rights of American people and devote their time, financial resources and mainly knowledge to attain goals they have assigned. The notion of Common Good is their final objective. It pushes their members to use their invaluable experience to serve people's benefits.

As a matter of fact, we have the example of the ADA (American for Democratic Action). It is considered as a citizen- driven interest group, which looks for the daily benefits of American people. It was created during the last century by prominent liberal figures such as Eleanor Roosevelt, Labour Leader Walter Reuther, John Kenneth Galbraith, historian Arthur Schlesinger Jr, theologian Reinhold Niebuhr and former Vice President Hubert Humphrey. The objective of this organisation, and the sixty five thousand (65.000) members it represents, is principally based on the promotion of democratic actions inside the political debate in the United States ("Americans for Democratic", n.d.). In fact, American social empowerment is a priority for this public interest organisation, in addition to the energetic protection of citizens civil rights as it is stipulated by the US Constitution. Whether independently or through efficient partnership, they help people to overcome their daily problems and invite them to get involved in the U.S. political debate.

### **2.2.3.4 A Positive Political Lobbying**

Lobbying in the United States can be considered as an excellent recourse thanks to its influence in a critical field like politics. People are aware of the positive results brought about by efficient political approaches undertaken by professional interest groups. The issuing of laws in America is a crucial process and the multiplicity of organisations relies on those advocates to negotiate efficiently the protection of their common interests. Consequently, policymakers become a target that should be reached in order to achieve desired goals.

Being constitutionally protected, the right to have access to policymakers can help people in the United States to defend their opinions and to express their concerns at different levels. Consequently, they are better represented because they have substantial possibilities to take part in the political debate. The action of lobbies, thus, can be beneficial for large categories of the American society.

Lobbying actions that target the government can improve the quality of this latter. Such advocacy efforts would lead to a more representative government. It would also lead to the emancipation of the concept of “Participatory Democracy”, where citizens can enjoy more opportunities of political involvement, as it is mentioned in the U.S. Constitution. To redress grievances, US citizens are, thus, more inclined to participate in a different form of government, in which ordinary people are allowed to express themselves about issues that directly concern them

Moreover, this involvement in political issues can have another positive influence by reducing the omnipresent power of the federal government. This latter is a huge institution and generally interferes in a variety of fields. It is essential to note that it is gaining more power recently and many think that only a large popular mobilization can contribute to counterbalancing an authority that- in some cases- can create bias and prejudices to the constituents.

In modern democracies, elections represent an unavoidable parameter of selection of political tendencies. They are used to select candidates that are supposed to satisfy constituents’ needs by presenting political programs keenly studied to gain electoral successes. In fact, free elections are the proof of a vital democratic and political process, because a citizen is free to elect people who seem to display enough abilities to run the country

However, some discredit can affect such a pluralistic democratic tool due to its lack of absolute efficiency. They think that once elected, politicians tend to forget their electoral pledges and would create frustration among the electorate who can feel duped by the electoral game.

Consequently, recently, it has emerged the concept of a new kind of interaction between citizens and their candidates, something that would be more efficient than organising elections. This new recourse can be private advocacy. In fact, it is hoped that to avoid situations where actions undertaken by the newly elected politician could radically differ from citizens' aims, many specialists presume that this lack of connection could be resolved thanks to the continuous initiatives made by lobbyists on behalf of their clients. Lobbying constantly the Congress is, then, a precious opportunity to establish links with politicians and allow them to receive different kinds of people's concerns and hopes. Elections could be momentarily a tool of representative democracy. However, for more governmental efficiency, social advocacy is recommended to bridge the gap between citizens and the different governmental spheres. This would allow a better expression of their wants through a day-to-day efficient relationship based on professional advocacy and convincing contacts.

Moreover, the organization of the American local politics has been traditionally influenced, since the American Revolution, by the principles of Republicanism which came to contest the Royal authority and to deny privileges gained by a specific Aristocratic social class. That privileged category enjoyed tremendous advantages to the detriment of lower classes. Consequently, the Founding Fathers, who strongly believed in Republican ideals, decided to build their founding policy on such a revolutionary doctrine.

One of the most important bases of Republicanism is the system of “Check and Balances”, where actions should continuously be made to assure a well balanced local policy and where everything should be achieved to prevent the control or the confiscation of powers by minority groups. That system is constitutionally protected by different texts. Ultimately, it has been reinforced thanks to the competition that has erupted during the last twenty years between the different interest groups. These latter contribute to fighting biases, excesses and a possible monopolization of power.

Interest groups are, thus, important elements in the democratic system of the United States. Their presence is of a very high importance and they do contribute to achieve citizens’ social and societal emancipation. They make use of a basic constitutional right in order to exert a fair force of influence, able to serve the interest of people they represent or those who seem to have the same profile. A democratic system like the American one, where people are encouraged to voice their concerns and daily defend their rights, strongly relies on such advocates in order to avoid marginalisation of any category of persons. This democratic tradition allows a better popular representation and is essential in the democratic process. Thanks to the kind of influence they can have on politicians, those groups help people they represent to freely express themselves in a pluralistic way. Every group can devote time, energy and financial means to reach the objectives initially conceived and determined by these pressure groups. Their presence is vital in the democratic debate, by providing antagonistic views that, indirectly, contribute to the consolidation of the Republican system of “Checks and Balances”. They also succeed to create a positive environment where they can display several constructive forms.

### 2.3.1 The Educational Contributions

It is a well-known fact that one of the most important and useful sides of the activity of lobbying in the United States, can be the ability of agents to establish channels of information with policymakers. Information, transmitted to decision makers, can be essential when preparing a legislative text. It reflects many popular tendencies concerning a particular issue. The fact of taking into account inputs, which emanate from U.S. citizens in order to conceive a law, can lead to a popular contribution in the political field. This can also lead to promote the democratic debate in a complex country like the United States.

Thus, the legislative spheres in the United States increasingly need the participation of specialists of social advocacy in order to achieve an efficient policymaking process that can meet people's needs. The partnership between the two sides has become essential and very instructive as it is put forward below:

**A valuable educational function, because honest, well-informed lobbyists provide policymakers and their staffs with relevant information and incisive arguments and analysis bearing on matters of public debate”**

**(Rosenthal, 2000, p.86)**

Moreover, due to the complex organisation of the legislative process in the United States of America and due to the quantity of laws produced on regular basis, policy makers need time in order to deal with and grasp the different elements of a future law. In 2005, for example, there were four thousand (4000) laws which were treated during the 108<sup>th</sup> Congress. And according to the Center of Responsive Politics, every Congressman is responsible for voting nearly two hundred (200) laws a year.

Congressmen are confronted to a shortage of time and human resources to be able to treat the legislative issues. Relying on experimented lobbyists can be the solution according to Kenneth Gross, a famous expert on lobbying activities:

**The truth of the matter is that legislation in Washington is extraordinarily complex . . . [and] [t]he staff available to members, both House and Senate is very limited. And the only way that they can really get to the bottom of a lot of complex issues is to rely on lobbyists.**

**(As cited in Ryan, 2013, p. 172)**

Meaningful legislation should, then, be based on the factual information that is given to Congressmen. These latter are regularly overwhelmed by the number of laws that should be prepared and that concern the future of large parts of the society. So, lobbyists' intervention becomes compulsory in order to guarantee an efficient source of information that would be eventually processed and can constitute the core of a given future law. Lobbyists are playing the role of bridging the gap between policymakers and ordinary people who are sure that their input will reach out high governmental spheres.

Lobbyists have succeeded during the last two decades to achieve a high quality of expertise in different fields. It helps them in the improvement of the decision making process. It also helps policy makers to understand a given project's particularities and mainly to avoid flagrant mistakes. This valuable work will result in more well-informed policy makers and a more efficient system of government. Presently, there exists a close link between the decision making process and the lobbying one. The availability and the quality of information have become according to Neubauer (2009) essential elements and are at the heart of the Lobbying process.

Thus, their pedagogical intervention, based on feedbacks taken from citizens, has become necessary for Congressmen's daily legislative work. Legislators are aware of the important contribution of professionals of advocacy as it has been revealed by a survey which involved one hundred thirteen (113) Congressional staff personnel. Two thirds, of those who took part in that study, used the terms 'collaborators' and 'educators' to define lobbyists, who have been considered by respondents as necessary for their work (Allard, 2008).

Moreover, the educational side of lobbying implies not only an enriching relationship that is established between professionals of advocacy and policy makers, but also concerns the interaction that occurs between lobbying agents and ordinary people. Thanks to these advocating instructive efforts, people can understand the process of policy making and its particularities. They can also master the way to monitor and effectively petition Congressmen as it is explained below:

**Lobbyists play a critical “intermediating role”<sup>86</sup> by enabling people and businesses to understand how government works and what government is working on, and then helping these people and businesses identify and communicate their interests to the government in an effective manner.**

**(Drutman, 2005, p. 89)**

On the other hand, being a source of information does not mean that Congressmen should blindly believe in one source at the expense of another. On the contrary, - and this may represent another positive side of this activity- lobbying can provide opportunities of competition between antagonistic and contending theoretical and practical views. What is commonly known as the “Clash of Viewpoints” is a guarantee that policy makers can have in order to be exposed to different visions of a problem. This would lead to avoiding a one-sided version of things that can be anti-democratic and have negative effects on people's aspirations. Promoting contradictory debates among the different tendencies can also prove the extent to which this activity can help people to check-up that transparency is respected and no one single tendency has an information-peddling monopoly over the others.



### 2.3.2 Social Advocacy

It is known that the civil society in the United States tend to make use of lobbying techniques in their search for the social emancipation of every citizen. Different categories of the U.S. society have recourse to a tool that they consider quite efficient to promote ordinary people's rights. A considerable number of lobbies are energetically defending the rights of different social groups as it was once stated by the former president Bill Clinton while addressing Democratic presidential candidate Barack Obama, who tended to severely criticise lobbying actions:

**You know, a lot of those lobbyists, whether you like it or not, represent real Americans. They actually do. They represent nurses. They represent, you know, social workers. They represent ... yes, they represent corporations. They employ a lot of people.**

**(As cited in Condon Jr, 2007, p. 11)**

Indeed, social issues have become a priority for different lobbying groups, starting from the nineties. Groups representing socio-professional categories like teachers, lawyers and doctors are very active in the lobbying arena in Washington. Other groups with moral objectives have also been trying to petition the U.S. government to, for example, fight abortion like 'the Moral Majority' or to reintroduce moral courses in the academic programs (Baer, 2002). Meanwhile, other entities have been defending other rights like the National Abortion Reproductive Rights Action League which has been during the last two decades mobilised to preserve the right to have recourse to abortion.

Moreover, the importance of such social movements lies in the fact that they are continuously looking for institutional changes that can benefit disadvantaged persons living in the United States. Lobbying, here, can be very important to efficiently influence public policies in favour of underrepresented people who suffer from a lack of a vital representation at an institutional level.

These groups are usually grouped into two categories; Empowerment and Professional movements. The first category relies financially on contributions of its members (Bacqué & Biewener, 2013). Their objective is to build a large base of constituents that can achieve an important force of influence to obtain the desired objectives. The beneficiaries of such approaches, thus, play an important role in the success of such organisations. On the Other hand, professional movements also tend to influence Congressmen and policymakers in general. However, their force of influence is not based on people they represent and defend their rights. In fact, these groups do not use citizens' financial resources to organise their actions.

The notion of citizenship in the United States is an integral part of the American culture and mores. The empowerment of citizens has always been a priority in such a complex country. Defending their rights and improving their conditions of life, contributed to different social, political and legislative changes. Thus, “Citizen Lobbying” is another kind of social advocacy conceived to protect people's elementary rights and promote their basic needs.

Furthermore, the different changes that the American society witnessed throughout centuries made the emergence of the idea of “Responsible Citizenship”, something which helps people to fulfil different kinds of duties such as paying taxes, voting and respecting the rule of law. They are also meant to exploit the constitutional right to petition the governmental spheres, in order to shape the most important legislative texts, as it is mentioned by the Center for Public Justice:

**“, Responsible citizenship includes not only paying taxes, law-abiding behaviour, and voting, but also the exercise of influence “by means of the media and other independent organizations, such as lobbying organizations, and advocacy groups to help shape our civil society along paths of greater justice.”**

**(Claybrook, 2003, p.194)**

Citizens, then, strive to play an important role in the process of decision making to make sure that their opinions, their priorities and their views are taken into account in Washington and even in the local legislative spheres. They do not hesitate to rely on experimented lobbyists that can foster their rights. They are even playing an important role to provide policy makers with any kind of information that can contribute to the development of the democratic debate.

“People’s Lobby” is one of the most active citizen lobbies in the United States. Its role consists in promoting democratic practices that can help the civil society to reach a satisfying emancipation. This lobby has been present in many fields such as educating people, responsible electoral campaigning, and advocating vital environmental fights. They have also been very active, giving birth to a National Initiative Process, a project which has been initiated to serve people’s interests and needs.

### **2.3.3 Popular Mobilisation**

One of the aspects of social advocacy that usually brings significant results, can be the capacity and the possibility of people to mobilise and to join their efforts to get better legislative gains. People in The United States have regularly had recourse to this efficient strategy that can help them to overcome any kind of obstructions to their fights.

US citizens are aware of the fact that individual initiatives and actions cannot bring the desired objectives and only an energetic mobilisation can help them to have an impact at a federal level. The “Alzheimer’s Association” or “Mothers Against Drunk Driving” are two examples of public interest groups where people have been trying to be active to solve daily problems. Their force is based on the capacity to present a source of influence that cannot be neglected in the highest political spheres.

Modern life in the United States is complex, and individuals are unable to have direct significant influences on policy makers. Such a popular mobilisation guarantees a democratic legitimacy which can have a pressure on policymakers. These latter are aware of the importance and the impact of public opinion in a particular societal subject.

Recently, US citizens tend to make use of an efficient indirect lobbying technique which is the Grass-Roots campaigning. This famous form of popular mobilisation can be very effective during electoral events. People are aware of the vital importance of their participation in such events and want to make use of this strategy to obtain a maximum of advantages for the group to which they belong. They know that they have the ability to make difficult a policymaker's re-election, who would tend to take into consideration their views to get another mandate. Through different means, such as mails, e-mails, phone calls and other technological devices, mobilised people are able to form a powerful entity able to change things and impact political decisions. This can show the extent to which lobbying in The United States can contribute to providing democratic vigour. For example, The United States witnessed during the 110<sup>th</sup> Congress a lively debate about State Children's Health Insurance Program (SCHIP) and various features of Medicare. In fact, numerous lobbying associations- present in the field and representing large categories of people directly involved in this vital question such as children, doctors, nurses and other health public associations- have been actively mobilised. They have behaved collectively to put forward their views about that reform. They strategically used different tactics, among them the Grassroots one, which helped them to get substantial gains.

The Field of advocacy in the United States usually displays a high degree of competition between the different contending parts that are advocating the same issue. Each group is striving to impose its own views and see his opinion taken into account by policy makers, who will include the most convincing point of view in the conception of a future law. These groups should possess different kinds of means and resources to be able to fight the challenging side with a considerable efficiency. Thus, the success of a lobbying initiative will of course depend on the importance of such means.

Accordingly, financial resources do matter when trying to impact a future legislative text. The most financially powerful lobbies do take profit from this efficient arm to try to convince political spheres about the vital side of a given law. However, there exist other means to oppose the evident power of money. In fact, financially

modest and small interest groups in the United States have been exploiting another strategy that can help them to have a say in the legislative arena. They tend to reflect another source of power through building alliances. These coalitions include groups that fear that individual initiatives can lead to failure. The ability to form a united front against powerful groups is perceived as an efficient tool that can guarantee success. Usually, different interest groups join together to obtain substantial results in their will to convince stake-holders about the pertinent side of their views. They share common interests and feel the need to work together to strengthen their lobbying side and to be able to achieve their goals, as it is explained below:

**“There is no single interest group in the USA that has the ability to shove through the legislative process everything or anything that it wants without help, which means that you have to work in coalitions. There are no permanent friends and no permanent enemies, only permanent interests.”**

**(Richan, 2006, p. 83)**

The need to form coalitions has become essential in the United States. In this country, the lobbying activity has become a complex one and needs more and more efficient resources as it has been mentioned by Charles Walker, one of the most emblematic figures of lobbying in The United States, who explained in 2001 that every issue is closely related to a particular coalition, determined to effectively tackle that issue's most important elements.

Moreover, naturally, these kinds of alliances are not eternal. Lobbying groups can form the same coalition just because they share the same opinion about a particular issue in a limited period of time. Eventually, their union will disappear after the end of that legislative competition. However, we have some examples where a coalition can last many decades as it is put forward by Mike beard, the founder of a powerful coalition called ‘To Stop Gun Violence’:

**The coalition is a lobby organization that has been around for 27 years, we are made up of 47 other organizations - national public interest groups in the United States, groups like the American Public Health Association, doctors working on public health issues, the United States Conference of Mayors, religious groups, education groups, social work groups, political organisations.**

**(As cited in Beckel, 2009, p. 215)**

### **2.3.4 Lobbying for Good**

Lobbying can present a fair side when it is used in noble causes and for the whole good of the society. Being responsible, this activity can solve many problems and can help people to cope with different kinds of critical issues that would be difficult to solve without companies' lobbying efforts. In fact, "Responsible Lobbying" can be related to the notion of lobbying for Good, where people aspire to be adequately represented by efficient lobbyists. Accordingly, lobbyists can be hired by any social entity supposed to defend their rights and provide them with advantages. This can be possible thanks to the ability of professionals of advocacy to make sure that a particular legislative text would be made for that purpose.

Lobbying for good, thus, has become during the last two decades a priority for many sectors of the society whether they are important companies, philanthropic associations or public committees. Michael E. Porter, a professor at Harvard Business School, and Mark R. Kramer, founder of FSG Social Impact Advisors, identified, in their classic Harvard Business Review article on strategic corporate social responsibility (CSR),<sup>3</sup> three targets of lobbying for good: Generic Social Issues, Value Chain Social Impacts, and Social Dimensions of Competitive Context (Braendle, 2007).

The first target deals with the kinds of efforts made to achieve social victories and to bring about societal emancipation, without having the intention of guaranteeing concrete positive consequences for a particular company. These actions would provide benefits for the whole society and its different categories. The most important issue should be how to satisfy people's needs and how to solve their problems. We have the example of six Mary Kay independent national sales directors who organized, on June 15th, 2005, a campaign in favour of renewing the Violence Against Women Act. That campaign coincided with the period of time where the Congress was working on that act. The organisation of that campaign witnessed a remarkable success, since George

W. Bush signed the reauthorisation into a law in January, 2006 (Pettersson & Pfizer, 2009).

The second objective is reached as a consequence of the industrial commercial and technological operations conducted by a particular company. This latter is active its actions can indirectly provide benefits for the whole society. They, recently, tend to choose more and more projects that can guarantee financial successes and social advances. The objective is to have an intelligent choice whenever there is a list of projects from which a manager should choose. Social criteria will obviously play an important role to determine managerial and business priorities.

Lastly, the third target, which is the “Social Dimensions of Competitive Context”, can be reached thanks to the ability and the determination of companies to lobby for the creation of projects which are exclusively beneficial to the society. Building schools, roads and hospitals and lobbying the Congress to achieve these social projects become the responsibility of such powerful groups which are aware of the importance of the social dimension of such initiatives. Consequently, this tendency is gaining ground, and more and more companies are inclined to follow the same path by actively supporting positive social actions.

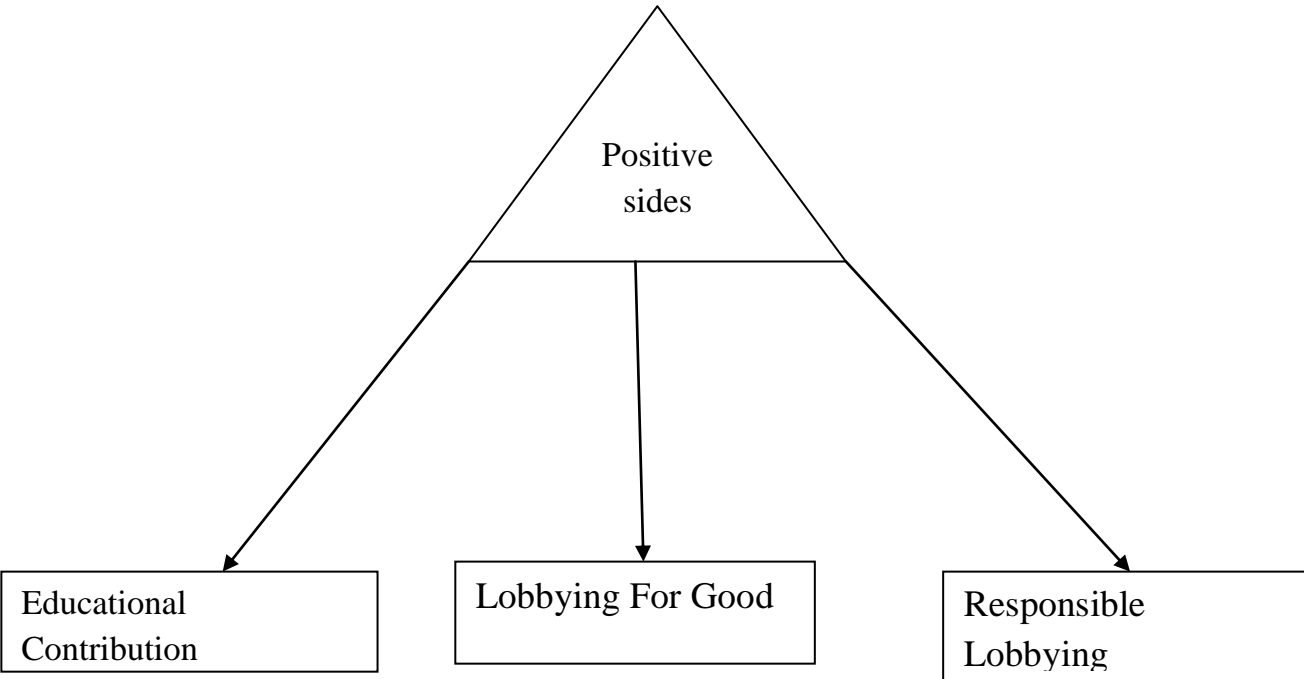
When companies are involved in lobbying actions, supposed to bring substantial financial advantages, they succeed to guarantee stability for the employing firm. The company is reinforced, and so are the jobs of millions of workers. Indeed, initially designed for pure commercial and business objectives, corporate lobbying can be beneficial for different categories of people. They can take advantage from such advocacy successes. Thus, this can be considered as another positive consequence of major lobbying actions undertaken by big companies, their interests can be normally meant to be the workers’ ones.

Thus, it is difficult to deny the huge work and the great importance that are reflected through the big corporations’ continuous lobbying efforts. In fact, those companies have at their disposal more elements and assets than other entities. They represent a major force at the moment of negotiating a law that may concern the future

of ordinary citizens. Those powerful entities, primarily, rely on a popular base which is the number of their employees. These latter are citizens who decide on the kind of candidates that would run the country. Being tax payers, they are mainly financially very important for the financial situation of the country.

In addition, it is very important to rely on the efficiency of big companies because they are able to build coalitions with other important firms, creating a further much important influence. This fact can, indeed, be beneficial for people they represent. They have more possibilities to lobby than non-profits companies and charities which have a less important weight (Rytz, 2013), because they have no restrictions on the financial resources they should use to achieve their advocacy. They can also use their own means like their powerful marketing arm to spread messages. This can also help to make people aware of the critical side of the action they are undertaking for the benefits of the whole society.

In sum, more and more companies start to seriously take into account the social side of their business projects. They do not hesitate to make efforts to reach two goals; to make money and to promote civil rights and popular causes. Their responsible behaviour is essential for lobbying for good because of the efficiency of their intervention.





## **Diagram 2.1 Advantages of the lobbying practice**

- **U.S. citizens enjoy some advantages when having recourse to the different kinds of advocacy.**

### **2.3.5 The Notion of Common Good**

As it has been mentioned above, the world of lobbying is generally an arena of contending and antagonistic camps, seeking to use different means to impose their own vision or their clients' one about a particular issue. This can be a good way to guarantee a fair and clean practice of democracy because people are supposed to explain and expose their arguments and make them prevail over others'. This can substantially influence the policymaking process.

However, lately, there has been a notion that has started to emerge in the world of social and political advocacy. It is intended to try to preserve a shared interest for the majority of US citizens. In fact, the notion of "Common Good" reflects the extent to which trying to satisfy citizens' needs, is compulsory to reinforce social emancipation. Apparently, those who have intended to implement this concept are providing advantages for the majority of US citizens. They are trying to guarantee an ethical approach of lobbying practices. According to them, any kind of advocacy should include a fair side, where anything that can hinder people from having a quiet life should be vigorously fought and contested. This has been explained by the framers of the Woodstock Theological report on the "Ethics of Lobbying":

**The first principle of ethical lobbying advanced by the Center is that "[t]he pursuit of lobbying must take into account the common good, not merely a particular client's interest narrowly considered.**

**(Rozell, 2005, p. 235)**

The same authors warn against possible negative consequences of a public policy which does not take into account Citizens' Common Good:

**“If the result of a public policy, for example, is that it supports racial discrimination, or unduly burdens the poor, or leaves children unprotected, or violates civil liberties, or creates unjust distribution of social benefits and burdens, or threatens the environment, then we know that it is wrong and must be opposed”**  
(Parenti, 2002, p.178)

Different American associations and lobbying groups have been very active during the last two decades in securing advantageous conditions of life for American citizens. Their actions tend to reinforce the idea that lobbying should primarily reflect the spirit of the American Constitution, which considers the objective of “Pursuit of Happiness” as an essential goal.

There exist many fields where the objective of reaching the Common Good can be extremely beneficial for ordinary citizens. These latter can benefit from ethical lobbying efforts made by honest and committed professionals of social advocacy. For instance, in the mid 2000's, there was a case where dermatologists had difficulties to prescribe an efficient Iso Tretinoin, a kind of molecule that can bring concrete benefits for patients (Deighan, n.d). However, legally speaking, its prescription was not authorised. Fortunately for them, lobbying efforts had been effective. Consequently, they succeeded to secure many benefits for large categories of people as it is explained below:

**The unfortunate thing is that a drug with a high safety profile and exceptionally high efficacy is now very limited to the public. It is limited because of the exorbitant steps necessary for a dermatologist to prescribe this useful drug. I am proud to report that the matter is under review and The United States Food & Drug Administration has been asked by eight U.S. Senators to review its policy on iso tretinoin prescriptions. I am proud to report this because it was extensive lobbying efforts which brought about this change.**

(Mitchell, 1998, p. 145)

Accordingly, during these last two decades, the world of lobbying has started to assimilate this notion of Common Good. Many groups have emerged to work together to achieve advantageous actions in favour of a majority of people. They have had as objectives to protect the environment, to promote equality between sexes, to help needy children, etc. These objectives are important to attain social emancipation.

There are many cases where their interventions can be of very great importance. A first example can be ‘The Union of Concerned Scientists’, which has been working on how to effectively lobby the Congress in order to avoid possible negative consequences of the development of technology. A second example is ‘The National Taxpayers Union’, whose mission has been to lobby for a reduction of taxes and a better use of public financial resources. Other lobbying groups, like the famous liberal organisation of “Americans for Democratic Action”, concentrate their efforts on preparing ground for a democratic emancipation of US citizens. This helps to involve them in the political and mainly the democratic debate.

On the whole, one of the most powerful lobbying groups working to promote the Common Good can be the “United Way” and its large network of one thousand three hundred (1300) State and local organisations. They work to guarantee better conditions of life for people who really need such a financial, and moral help. These organisations strive to provide steady jobs, a high level of health coverage and decent financial means. Their actions are visible in urban areas and even in rural ones. Their priorities consist in identifying the real needs of people who live in such difficult and harsh environments. They are aware of the complexity of their task. They try to detect the kind of things that can be a barrier to social emancipation and the kind of solutions that can be recommended to achieve meaningful positive outputs.

Moreover, this financially powerful advocacy organisation relies on private funds worth several billion dollars. It is conscious of the vital importance of lobbying, because it can help them to approach things in an effective way. Their determination to use lobbying corresponds to the need to educate and inform policy makers about the importance of their actions and claims. They feel that they have accumulated enough knowledge to use it in benefit-generating tasks.

Moreover, their ability and readiness, to discuss and negotiate issues with federal and local politicians, is essential to work on priorities and make them succeed. In fact, being one of the bases of their lobbying actions, improving the level of education, mainly at early level, represents an optimal objective for this organisation. Statistics show that less than 40% enter the school lacking basic educational knowledge such as counting to 20 or to recognize letters (“Advancing the Common,” n.d.). Such problems have harmful effects on the subsequent intellectual level of young children. Consequently, the ‘United Way’ has developed an ambitious program called Two-One-One (2-1-1) Program, which is supposed to be transformed into an act. Consequently, thanks to their expanded network, they have succeeded to get support from Congressmen like United States Senator Richard Burr or Congresswoman Anna G. Eshoo, who have been, among other decision-makers, committed to various Common Good promoting campaign (“Advancing the Common,” n.d.).

Protecting people’s health is another objective of ‘United Way’, since they devote important means and tools to keep people healthy. Their action in this field is so decisive, as it is pointed out by Dr. Janet Collins, a member of the National Center for Chronic Diseases and Health Promotion:

**As we approach our goals for Healthy People 2020, United Way will be an important partner in creating strong local relationships to address prevention of risky behaviors and the root causes of poor health outcomes and disparities among groups.**

**(As cited in Sandak, 1997, p. 25)**

### **2.3.6 Responsible Lobbying**

Lobbying has become an integral part of the U.S. society for its overwhelming influence in many fields. U.S. citizens are aware of its power in different sectors. They may, from time to time, fear misconducts and harmful situations that can threaten the democratic practices and even the spirit of the famous “Right to Petition”, which is a sacred pillar of the U.S. Constitution.

Consequently, during these last two decades, lobbying groups representing powerful and outstanding US firms, have been working to promote the idea of “Responsible Lobbying” (Pettersen & Pfizer, 2009). This notion should respect people’s basic individual rights and mainly avoid negative consequences on their daily life. Their objective has been to reflect a positive image of the lobbying activity. It is based on fairness and serious behaviours by adopting practices that must respect the rules of advocacy as originally conceived by the Founding Fathers.

This new tendency of producing correct lobbying practices, has contributed to make different parts of The U.S. society to work together by following the fundamental rules of lobbying. The objective has been to educate people on how, for example, to provide a meaningful and serious literature to policymakers and to avoid misleading them with false facts. This responsible lobbying urges people to adopt a correct civic engagement to achieve social emancipation, and mainly to encourage people to share lobbying victories with the involvement of a maximum of persons for the general good.

Moreover, big corporations have lately shown a clear involvement towards improving the quality of their lobbying in order to improve people’s conditions of life in different domains. This fact would have positive consequences on these same companies, because improving citizens’ social conditions in fields like education or business can produce more educated and efficient workers that can intervene in a fair environment. They are both very beneficial for the company’s development. Thus, the idea has been to create an emancipated social environment where big companies

explain to policymakers the achievements of social projects in favour of large proportions of the society.

In 2009, Hewlett-Packard had used its convincing power to make decision makers- belonging respectively to Government, University, Industry Research Roundtable (GUIRR) and the Alliance for Science & Technology Research in America (ASTRA)- to provide technological learning opportunities for women and underrepresented minorities (Pettersen & Pfizer, 2009). That initiative has had a positive effect on both the company's reputation and categories of people. These latter have started to enjoy possibilities of social emancipation thanks to efficient responsible lobbying efforts made by a business company.

In 2002, there was another example of responsible lobbying where Shell, an outstanding oil company, had contributed thanks to its lobbying efforts to deal with a major environmental catastrophe that affected the coastal wetlands along the Louisiana Delta. These wetlands were continuously vanishing and a large scale intervention was needed. The company had important infrastructures in the area and several thousands of the company's workers were living there. Consequently, they started to prepare initiatives to avoid an ecological disaster by initiating a project that included financing environmental research and an important lobbying campaign called "America's WETLAND" to raise public and congressional awareness (Pettersen & Pfizer, 2009). Consequently, this dynamic campaign had led to the passage of the "Water Resources Development Act". It significantly contributed to the development of people's living conditions in those affected areas. So, serious and efficient lobbying efforts allowed a company to save its strategic assets and infrastructures. It also helped to improve its reputation thanks to the achievement of their initiative based on a fair determination to improve the social environment of a fringe of the society.

A corporate can, thus, be socially very useful thanks to a deliberate tendency towards beneficial actions. This responsible role cannot be neglected, alongside with the one of interest groups essentially striving to serve public projects.

## 2.4 The Vital Role of Public Interest Groups

The U.S. Constitution had been initially drafted and mainly conceived to bring an end to undue privileges among the different citizens living in the newly created country. The original purpose was to build interconnected legislative and governmental systems to guarantee a maximum of benefits for all the social categories regardless their different origins. Consequently, the notion of public interest emerged from the spirit of the U.S. Constitution which has been, throughout the centuries, trying to defend the interests of American people and contribute to a social emancipation that would satisfy them. This would be in conformity with the spirit of the American Revolution and its denial of any kind of segregation.

Accordingly, advocates of the social importance of lobbying, due to its multiple positive gains, have always put forward that this activity guarantees public interests and would be, then, in conformity with the US constitutional and Revolutionary ideals. In fact, during the last two decades, there has been a vigorous mobilization undertaken by diverse organizations to maintain and defend the basic interests stipulated in the U.S. legislative texts. Their objective has been to make use of all the available legislative and legal tools, to be able to efficiently communicate specific concerns to policy makers, to take them into consideration when producing legislative texts. They are the cornerstone of social advocacy. This latter seeks, through the activity of public interest groups, to take advantage from the use of lobbying techniques to establish links with actors of the political system to contribute to the protection of individual rights. This situation can help to gain social advances in different fields, economically, culturally and even politically.

The different movements protecting the notion of common good appeared for the first time in the United States during the 60's. It started with the emergence of an emblematic figure, Ralph Nader, who took as a mission the defence of the U.S. consumers' rights by orchestrating a campaign against the then-new General Motors Company car: Corvair, considered by him as a product which did not satisfy all the security requirements (Nader, 1991).

Shortly after, other organisations commonly known as the Public Interest Research Groups (PIRGs) have started to be very active in the field such as, Common Cause, whose members work to promote public access to the political spheres for a better involvement in the process of policy making. Other entities like the League of Women Voters were responsible for the sponsorship of presidential electoral debates until the 2000's (Avner, 2002).

These groups strive to communicate the views of ordinary people and make their opinions understood by policymakers. This kind of public-centred advocacy has encouraged U.S. citizens during the last two decades to be very active politically speaking in order to reap the fruits of such an involvement. This approach would avoid that any kind of social category, to be excluded from the political and democratic debate, which can be very beneficial socially speaking.

There are many concrete cases where public interest groups have succeeded to obtain spectacular and decisive successes that brought precious aid for needy categories. It was the case of the YMCA interest group, large providers of Child care in the United States. During the late eighties, precisely in 1989, they organised a large campaign to urge policy makers to include not only the public schools but all the entities when granting financial means to all the children in the country (Bayless, 2002). In fact, the first initial version of the law, made by the House of Representatives, stipulated that only the public schools should be recipients of such aids guaranteed by the future Child Care Development Block Grant. Hence, all the local YMCA groups, in addition, to other child care communities, joined their efforts to contest that legislative project by getting in touch with Senators and local officials to propose a better and more advantageous law. In fact, the R-Utah Senator Orrin Hatch could successfully organise a campaign in order to help all the U.S. States to provide a global and nationwide child care help. Later on, the YMCA continued its efforts in helping the authorities to wisely and efficiently share the funds allocated to child care. Thus, from the conception of the law till its implementation, this public interest group showed a particular efficiency in dealing with issues that directly concerned an important category of the U.S. society.



There have been other examples where a mobilisation of members sharing the same needs led to the creation of a public interest group and eventually to the fulfilment of their objectives. It was the case of the Association of Child Support Enforcement, which was originally created to solve single mothers' financial problems. It succeeded to emerge as one of the most powerful associations in America that work to reserve a better fate for children ("National Child Support," n.d). We can, also, mention the case of "Mothers against Drunk Driving" which struggled to fight traffic accidents rate increase ("Advancing the Common," n.d.). They had recourse to social advocacy which helped them to gain legislative victories at a local level, by imposing laws to vigorously punish drunk driving. Such an initiative has been quite effective and the number of deaths substantially decreased.

Hence, all these initiatives and struggles have been possible thanks to the efficient side of lobbying and public interest advocacy efforts. The constitutional and legislative framework has also helped to provide legal tools to these social advocates to have free access to legislators in order to create a citizen driven policy. Their local participation also helped to give a more realistic dimension to the cause. It is easier for local interest groups to explain the ins and outs of the future law to their local policy makers, whether at a state or county level, than to federal legislators who do not master very well the situation, ignoring very important details.

Moreover, the concept of public interest is very large and there can be differences in interpretation of the real objectives and priorities that can be provided by this positive lobbying. Versions diverge about how to accurately define it. For instance, the Baron's Business Dictionary defines it as follows:

**"Values generally thought to be shared by the public at large. However, there is no one public interest. Rather, there are many public interests depending upon individual needs."  
(falk, 2001, 25))**

On the other hand, the Woodstock theological Center judges that:

**The “public interest” is neither knowable nor timeless but in fact discovered through a process of inquiry and debate. the “public interest” is “what we seek to discover through deliberation and argument,” which are the fundamental practices of democracy. In this way, the “public interest” is about the “how,” not the “what.**

All in all, the spirit of the public interest groups usually matches the one of the American Constitution and its search for the general interest that should be guaranteed for the majority of the U.S. citizens. It is the sum of collective thoughts, views and needs that should be correctly valued in order to reach a multidimensional emancipation of individuals. Moreover, this would reflect a sane democratic debate, because the majority’s opinion and desires will be an integral part of any kind of future actions.

### **2.4.1 Public Interest Groups’ Main Principles**

In the United States, the activity of lobbying can reflect many positive sides thanks to the invaluable work done by public interest groups. Their creation is supposed to provide social and societal benefits for large categories of U.S. citizens. These groups are very active in order to counterbalance the effect and the impact of powerful lobbies’ financial means. They rely on a tremendous force of negotiation and influence when dealing with policymakers at the moment of conceiving a legislative text.

Moreover, these public interest groups are putting forward and making use of different principles that constitute the cornerstone of their activity. In fact, they are socially very active by promoting, for example, the principle of “Participatory Democracy”, a concept which is gaining ground in modern democratic societies. It incites people to fully take part in the democratic debate by providing suggestions and by presenting views that can be taken into account by decision makers. These groups

also strive to give a considerable importance to people's sources of information that can be very insightful and very enriching politically speaking. They believe in the importance of people's ordinary requests and try to play a channelling role with policy makers to try to avoid unjust policies. They collect data based on citizens' personal stories, so important for a future law. In addition, they make efforts and spend considerable time to contest bad and unfair policies by guaranteeing an efficient social advocacy meant to protect large categories of people, avoiding the exclusion of any one. Having a broad and a long term vision, their objective is to maintain a deep relationship between the constituents, those who vote and can make use of this electoral arm to deny a re-election of policy makers. These latter rely on the vital role of their ability to listen to people's views and needs in order to achieve a fair governing approach.

#### **2.4.2 Promoting People's Representation**

People might believe that lobbying is possible only through the existence of substantial financial means that facilitate access to policy makers. That cannot be entirely true. A lobbying organisation requires important financial means to strengthen its position inside this constellation of pressure groups. At the same time, other organizations like public interest groups do also have a considerable influence over the policymakers thanks to the popular mobilisation guaranteed by its numerous members. These latter are grouped together to defend positions that seem essential for them, as it is stated by veteran lobbying reporter Jeffrey H. Birnbaum:” **if lawmakers see merit in a position, and there is a public outcry in its favour, that is the way they tend to vote**” (2005, p. 85).

Accordingly, people in the United States do believe in the ability that the public interest groups have to positively influence policymakers. Politicians perceive efforts made by specific groups with a particular number of members as having a beneficial impact on the whole society. So, it is important to mention that, initially, they involved only one group, but with the success of their lobbying actions, the whole society has become interested in the process.

Moreover, a whole national organisation, the Advocacy Institute, has been created to reinforce and foster the presence of public Interest groups. This idea was inspired by essay writer David Cohen, who overtly defends the idea that the presence of such groups in the US political game is a great chance for democracy. He states:

**Lobbying helps to balance the many special interests that, naturally enough, push policy in ways that benefit narrow parts of the population. Finding ways to organise and amplify the voices of your members is one of the most satisfying and challenging aspects of being public interest lobbyist.**

**(Coen, 1999, p. 48)**

Public Interest groups also play a role in imposing a new concept called “Civic Balance” (“Save the Children,” 2006). Being aware of the multiplicity of self-interest organisations, they created this concept in order to achieve a balance in the arena of pressure groups that are active in the United States. Their goal consists in guaranteeing interests for the majority of U.S. citizens instead of putting forward narrow self-interest ones.

Thus, the main objective of these groups is to defend the collective good for every U.S. citizen and not only private ones. They have been, throughout decades, very active in championing equality and justice, like the protection of minorities. For example, the National Association for the Advancement of Coloured People (NAACP) spends considerable time defending the right to vote, to have a house or to work in a decent way. Another example of these organisations could be the National Organisation for Women, which has been working for equality and the end of discrimination between genders (“National Organization,” 2013).

### **2.4.3 Concrete Examples of Public Interest Advocacy**

There exist many examples where public interest groups can have determining actions in different fields in order to serve the population they try to represent. Indeed, in the early nineties a lobby has been created in order to look after the large category of workers and employees in the United States. The idea of founding a pressure group that can defend workers' interests was inspired by the famous American sociologist Herbert Gans, who pleaded, in 1993, for the creation of a lobby, in an article entitled "Time for an Employees' Lobby" (Gans, 1993). The creation of such a structure according to Gans would promote the rights of people coming from different social classes, having different ideological beliefs and occupying a wide range of functions and responsibilities.

It is essential to note that the emergence of Herbert Gans in the political scene coincided with the first term presidency of Bill Clinton, who had decided to put forward the idea that fighting joblessness should be a priority. Gans encouraged President Clinton to strengthen Full Time jobs which were considerably declining at that period of time. He proposed several suggestions to conceive governmental policies, whose objective should be to create jobs, to save the existing ones and devote financial means to efficiently eliminate such a social and economic problem.

Moreover, Gans's idea of creating a worker lobby originated from his scepticism about the fact that Unions could effectively defend the worker's rights and interests. He alleged the declining number of membership among these organisations which would fail to provide concrete solutions to the millions of workers' daily difficulties. Thus, he believed that a worker lobby could be an effective entity that can positively rely on a membership that would include job losers, unemployed ones, and those who fear that one day they would lose their job or would have difficulties to get job opportunities.

Consequently, an employees' lobby, called "Working today", has been created by Sara Horowitz, who firmly believed in the idea that it was compulsory to create such a public interest group, which was launched on Labour Day in 1995. Its founder wanted to copy the AARP model by adopting individual membership. Initially, this group displayed huge ambitions and goals as it is mentioned below:

**"to put jobs back on the public agenda by lobbying for political action on measures to save jobs, create new ones, and explore long-term solutions to the ongoing erosion of good jobs."**

**(Hencer, 2008: 124)**

Accordingly, the primary objective behind the creation of this lobby was the establishment of a structure able to protect workers' rights. Its advent reflected a determination to create an effective advocacy tool able to compete with powerful groups, working in the same field as it is explained below:

**Working Today aims to be a low-dues, broad-based lobbying organization for workers of all sorts—full-time, part-time, the increasingly numerous ranks of contingent workers and the unemployed—patterned on the immensely successful AARP, with its 33 million members.**

**(Warsh, 1995, p.73)**

Sara Horowitz decried the inefficiency of Labour laws and firmly believed that the ability to lobby high governmental spheres could be of an immense importance for the workers' right. A worker lobby would be able to meet the needs of such a large social category of people, who should unite their efforts inside the framework of a powerful public interest group.

### **2.4.3.1 The Retired People Lobby**

The AARP lobby is considered as an unavoidable actor among the various interest groups. It is one of the most powerful lobbies in the United States with its membership which attained, in 2003, thirty five (35) million members who must be 50 and older (“AARP Arms,” 2002). Its 12.50 US Dollars annual fee membership can help people to obtain discounts for different categories of goods and services such as the many kinds of insurance (cars, life, and health insurance) proposed to its members. In fact, the creation of this historical lobby in 1958 by Leonard Davis was inspired by the Percy Andrus’s idea of providing a health service to retired people. Consequently, the AARP lobby started to provide the same model of service to its members.

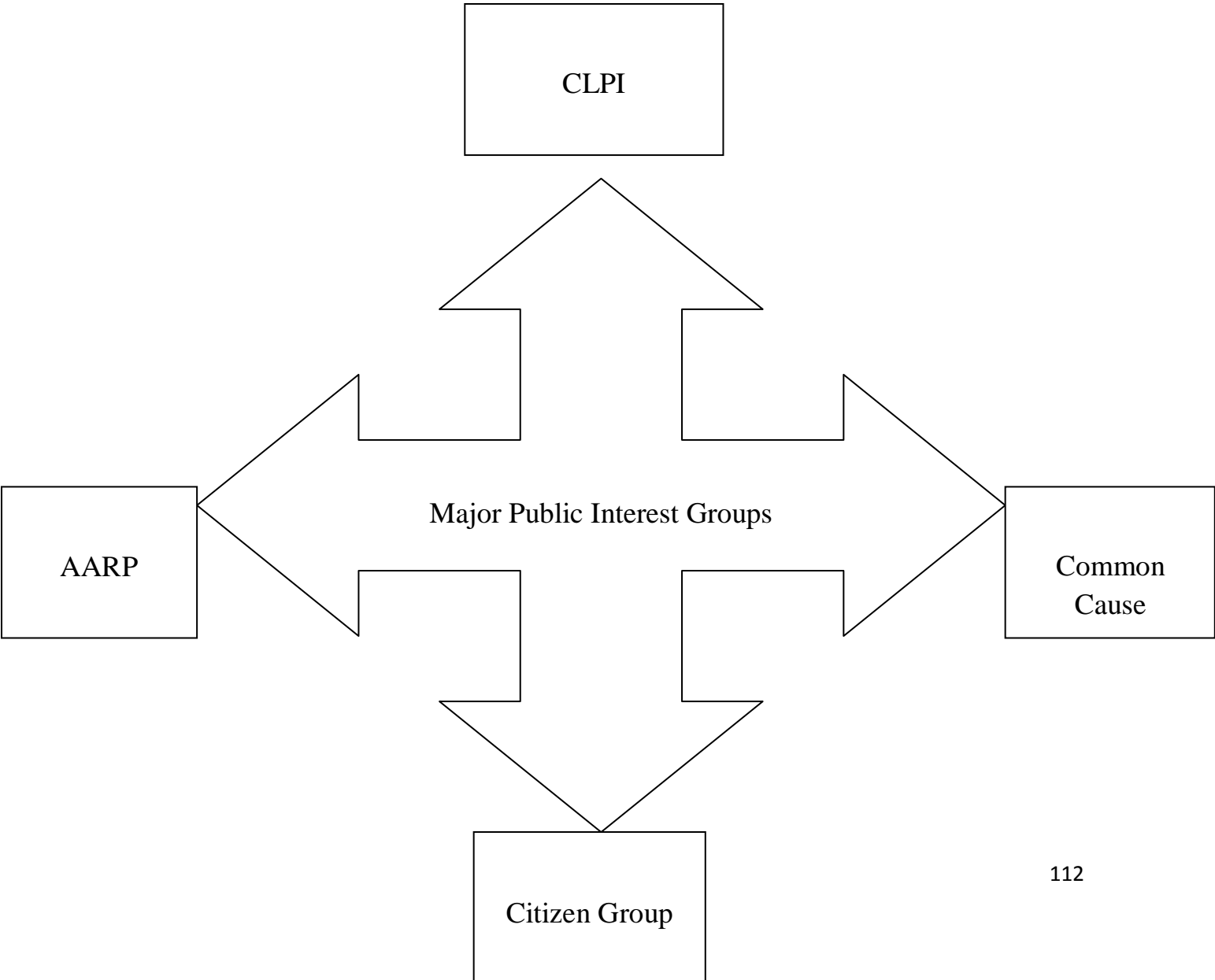
### **2.4.3.2 Common Cause**

Common Cause belongs to another kind of public interest groups since it adopts a totally different system of membership in comparison to the one proposed by the AARP and mainly because it offers another kind of actions, different from the goods provision of AARP. This organization seeks to contest unfair advantages that powerful Lobbies could enjoy. Its main objective consists in guaranteeing an efficient system of government that can satisfy the needs of different categories of people.

This powerful organization was founded in 1970 by John W Gardner, former manager in the US department of health, who was aware of the importance of lobbying actions in order to promote social classes’ interests. Common Cause replaced a former Gardner’s association, Urban Coalition, which was dissolved as a consequence of the Tax Reform Act of 1969. That act made impossible the foundations to provide financial resources to lobbying organisations. Consequently, Common Cause started to adopt the system of wide membership to gain financial abilities. Indeed the more than two hundred thousand (200.000) members annually contribute to finance this public interest group by paying 20 US Dollars, which are so decisive in guaranteeing its financial survival (“Common Cause,” n.d.).

### 2.4.3.3 Center for Lobbying in the Public Interest

It represents another Public Interest organisation. Its actions are destined to promote the action of Non-profit entities that rely on their legal actions to promote fair and people-centred lobbying initiatives inside the framework of a pure democratic debate. This organisation played an important role in organising a National Summit on Smart and Ethical Principles and Practices for Public Interest Lobbying. That convention served to put forward the critical side of the Public Interest lobbying actions and their vital role in securing an ethical environment of social advocacy. Their objective was to define the necessary tools required to promote good governance, which represents a guarantee for a good policy production. They also fight any initiative that can hinder the good practice of democracy or that can deprive people from essential individual rights that are the bases of the American Constitution.





## **Diagram 2.2 Major Public Interest Groups**

- **There exist powerful public interest groups in the United States that strive to guarantee the maximum of advantages for ordinary people.**

It is worth noting here that the organization, mentioned above, continuously work to achieve social and societal advances for the majority of Americans. They do it because they know the legal as well as the efficient side of their intervention.

### **2.5 The Effective Side of Lobbying Actions**

A traditional activity such as lobbying has succeeded throughout centuries and decades to play a vital role in the American political, social and cultural life. Constitutionally protected, the right to petition policymakers and impact legislative texts is considered as an integral part of the US society's traditional actions. Indeed, one of the reasons, that made this phenomenon unavoidable, is its capacity to achieve effective results. Lobbying is an arm used by US citizens to solve problems and to take part in the political and democratic debate. They are aware of its effectiveness and its crucial importance in, for example, redressing people grievances. They tend to have recourse to special experimented agents because they know the extent to which these agents have become reliable partners for policy makers. This has been recognised by Hilary Clinton at the yearly Kos Convention. She affirmed that the government is unable to handle political issues without lobbyists (Baladas, 2007).

There have been uncountable cases where lobbying has been extremely effective, where people saw things changing in their life in a positive way. Social advocates' experience throughout decades has helped people to overcome problems and feel the ability to actively take part in the democratic system. They have the readiness to change things. In fact, lobbyists have become reliable persons able to be solicited to use their valuable experience, as far as an issue is concerned.

## 2.6 Subjective Misconceptions

The lobbying activity in the United States enjoys a constitutional credibility as well as cultural and societal foundations. It attracts millions of Americans for the kind of benefits it can provide to people who believe in it. There is an important part of the US society which firmly believes in the efficient side of this multidimensional phenomenon and its influence on policy makers to make things change and reach social emancipation. This latter is, in fact, an objective which dates back to the Founding Fathers' period.

However, scepticism frequently invades some sectors of the US society, which do not trust this kind of advocacy. They put forward the kind of undue advantages that powerful groups could have when using lobbying practices. This activity can generate founded fears and can really sometimes be a threat to the democratic health of the United States. However, it is fair to recognise that many of the arguments that are put forward by its detractors may lack credibility and objectiveness.

Accordingly, this activity is a controversial one. People are afraid of an overall control of money over the legislative process. This latter could be, according to them, totally controlled by financially powerful lobbying groups. It is true that this field involves different categories of the society like business companies, non-profit associations and charities, religious groups and even individuals. All these categories tend to make use of and exploit their respective means, mainly the financial ones.

However, different cases have shown the extent to which money can be inefficient and can be defeated by the advantages provided by popular memberships. This latter assures many positive aspects such as a popular and democratic legitimacy and an electoral importance. Citizens are able to deny the re-election of a policy maker who would not be receptive to their arguments and claims.

There exist many cases, where it was evident that there is no accurate relationship between financial resources and the outcome of the legislative battles, made by lobbyists of a particular side. These cases have become emblematic in the

history of Lobbying in the United States. They proved that powerful groups do not always win legislative confrontations.

There is an example of a lobbying proposition financed and supported, in 2000, by a large telecommunication company and two trade associations. The objective of the lobbying efforts was to convince the House of Representatives and the senate to vote a law that would reduce taxes on the telecommunication services which dated back to 1889. Huge sums of money were invested in this lobbying project, being critical for the future development of the companies of the field. Unfortunately, for the owners of that company, even if the law passed in the House of Representatives, it was blocked in the Senate, because the country was in need of financial resources and such tax cuts were not welcome. Thus, it was the case where the importance of the company's rank and its resources were not enough to convince policy makers about the pertinent side of the law. That legislative project was a failure even if the financial support seemed initially critical in achieving a positive outcome that would satisfy its supporters.

We can also mention another case, where well- connected lobbies with huge financial resources and strong relationships with policymakers have been unable to win a legislative battle. Their rivals were members of traditional credit unions, which usually rely on a large popular base thanks to the low-cost banking and financial services they offer to their members and clients. These latter are people working in Federal Administrations or national institutions. Consequently, the powerful banking industry was unable to win the battle over these credit Unions that have a better reputation and safer financial practices. In fact, in a period of time where people are complaining about the lack of transparency and regulation of the banking activity, the credit unions present a guarantee for fair practices thanks to the existence, for example, of a regulatory agency which verifies the correct functioning of their activities. Such assets, alongside with a large popular involvement, made the decision makers more receptive to their positions and points of view. Indeed, this can be presented as a proof that too many means do not guarantee Congressional successes.

Thus, both cases do not reflect the importance of the financial efforts made by wealthy lobbyists. Of course, there have been cases where the influence of money has been decisive and where policymakers have been overwhelmed by the financial power and the close relationships that these groups maintain with high governmental spheres. However, at least, it shows that an effective popular representation can also play an important role in the legislative arena. Both cases also prove that policymakers are not always overtly influenced by lobbying groups and can usually show that their profession is not enslaved by that powerful kind of advocacy.

## **2.7 Conclusion**

This chapter was an attempt to show that the lobbying phenomenon can present some positive sides that can help people in the United States to improve their daily life. It can contribute to their involvement, in a better way, in the different public and political issues. Being an American democratic tradition that dates back to the period of the foundation of America, this activity can help people to have a say politically speaking, since petitioning policymakers is constitutionally allowed. In addition, it has been shown that during the two last decades the notions of preserving the “Common Good” and the public interest have gained ground in the American political scene. In fact, many public interest groups such as Common Cause, the AARP and CLPI have emerged as unavoidable actors in the field of social advocacy.

However, in chapter three, the researcher will try to detect the negative features that push people to fear this phenomenon. These features may make ordinary people think of the existence of biased situations that can be very harmful to the development of the democratic environment.

## **Chapter Three: A Source of Controversy**

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## **Chapter Three**

### **Lobbying: A Source of Controversy**

#### **3.1 Introduction**

Financially speaking, interest groups are able to play an important role in the political scene. However, American people have many doubts about the profession. They apprehend the fact that it can endanger a whole political system which relies on a kind of stability that dates back to the period of the foundation of The United States.

From this view of things, chapter three, aims at studying the different cases where lobbying has been really harmful and where U.S. citizens have suffered from its negative effects. Trying to study a whole period of time can be useful to find elements that possibly can prove the extent to which this field has created biased situations and pushed people to complain about possible inequalities. It seeks to assess the degree of efficiency of representation offered by this activity, in order to see if the majority of American people can enjoy this constitutional right and use it to defend its views.

The objective of this part of the research also consists in studying possible negative impacts of the profession on ordinary citizens' social emancipation. It tries to investigate the existence of concrete cases where lobbying has had detrimental effects on American people.

### **3.2 Generating a Lack of Trust**

The activity of lobbying in the United States has ancestral constitutional roots. It has been practiced throughout centuries by American citizens who have felt the need to change things thanks to an efficient advocacy that can help them to gain benefits and repair negative aspects of legislation. People have been using different means to achieve their goals. Unfortunately for ordinary citizens, a part of these means has been illegally and unfairly used by some lobbying groups to unjustly gain more advantages at the expense of others.

Consequently, a feeling of a lack of trust has started to invade people, mainly during these last two decades. They feel that the rules of the game have been rigged and that the activity has become the prey of wealthy and powerful groups. These latter would rely on huge means to use them to inflect policymakers' decisions and make them influenced by the possible veracity of their claims. The majority has become, then, vulnerable in comparison to the minority which enjoys a great financial opulence. This has made people start to think of a possible corruption of political elites by highly trained and richly equipped professionals of advocacy. Thus, this present atmosphere of mistrust towards outstanding lobbying groups has got another bad consequence on the perception that American citizens have got about their political leaders. It is a perception that neatly reflects a decline in trust and a feeling that these interest groups enjoy a limitless impunity.

Moreover, people in the United States are aware of the increasing importance that activity can enjoy. They do not hesitate to express this feeling through the different polls that are made to evaluate the impact that lobbies produce on people's perception of the political game. In a 2007 Roper Poll, eighty one percent (81%) of the respondents thought that the Congress should adopt a more impartial attitude towards some powerful interest groups (Drutman, 2009). Regulatory actions should be, hence, launched to reduce their influence in the Congressional spheres. In a January 2006 Pew poll, eighty one percent (81 %) of people concerned by this study revealed that it is possible for lobbyists to buy politicians' consent thanks to their financial means



(Drutman, 2009).. And, a 2008 Zogby poll revealed that nearly eighty percent (80%) confessed that:

**Political parties, presidential candidates and candidates for the U.S. Congress should be banned from receiving financial contributions from lobbyists or other representatives from those industries that are vital to the financial and national security of the country.**

**( Salisbury, 2001, p.196)**

These three important polls reflect the lack of trust that more and more Americans show when evoking this controversial activity. Nearly four Americans out of five apprehend the emergence of these groups in the legislative and executive scenes. They also believe in the need to open an era of moralisation of the activity to enhance public trust and dispel doubts.

Lobbying groups' reputation is affected by some unfair practices that make people consider a potential dangerous side of this activity on the democratic practices in the United States. The economic liberalism, this country has witnessed since the eighties, has created huge and powerful financial groups. They are devoting important means for lobbying the Congress and, thus, obtaining advantageous positions over other groups, less financially endowed.

However, the fact that Americans can express fears about the activity does not imply that it is totally corrupted. In general, people undertaking lobbying actions are persons trying to respect law, but psychologically speaking, only one big scandal- like the Abramoff case- could deeply and negatively influence the reputation of these advocates as it is expressed below:

**Although interest representation generally takes place according to the legal regulations and political conventions, as is everywhere the case, there are black sheep here as well, who sometimes make use of methods that are external to the basic democratic consensus – and irrespective of the fact that they are suspected of acting in such a way. Individual cases that come to light are, on the other hand, taken up and generalised by a critical general public, which furthermore has an impact on the culture of the representation of interests in the world of business.**

**(Simon, 2003, p.156)**

Lobbying is presently increasingly, negatively perceived in public consciousness. US citizens are aware of the benefits of this activity; however they feel that these same powerful actors are gaining more advantages. They think that it would be useless to aspire to changes if these unfair practices will be unavoidable in the public sphere. This can provoke a phenomenon feared by the American politicians, which is the lack of involvement of U.S. citizens in the political and democratic debate. This consequence would be detrimental to the democratic vitality of a country like the United States. The North American country was founded on ideals that put forward the principles of equality between people and the denial of any undue privilege, in order to promote civil rights and social emancipation.

Moreover, a negative publicity is threatening the popular and democratic side of a profession which has got constitutional bases. Professionals of this multidimensional advocacy are suffering from a bad image which is nurtured by three negative and manipulative aspects. Firstly, we should mention the kind of frank and solid relationship that these lobbying groups are developing with the highest political spheres. These relationships seem, sometimes, to be denied to ordinary people, something which can generate a popular mistrust towards the political class. Secondly, the use of sophisticated marketing techniques may manipulate the citizens' political and ideological tendencies. Marketing is a very important tool used by powerful

groups to strengthen or weaken people's beliefs about political, societal and economic issues. Nowadays, lobbying entities are being seen as the powerful financial and industrial groups' "Hired Guns" able to execute their orders and use their highly valued experience to make policy makers strive to achieve their goals (Drutman, 2009).

Accordingly, there is an ongoing passionate debate about the usefulness of this activity and mainly the fact that it presently suffers from a negative image by more and more sectors of the American society. This debate includes those who remain faithful to the noble founding principle of this constitutional right which is "The Right To Petition the government", and those who put forward possible harmful effects of this activity.

### **3.3 A Negative Impact on Democracy**

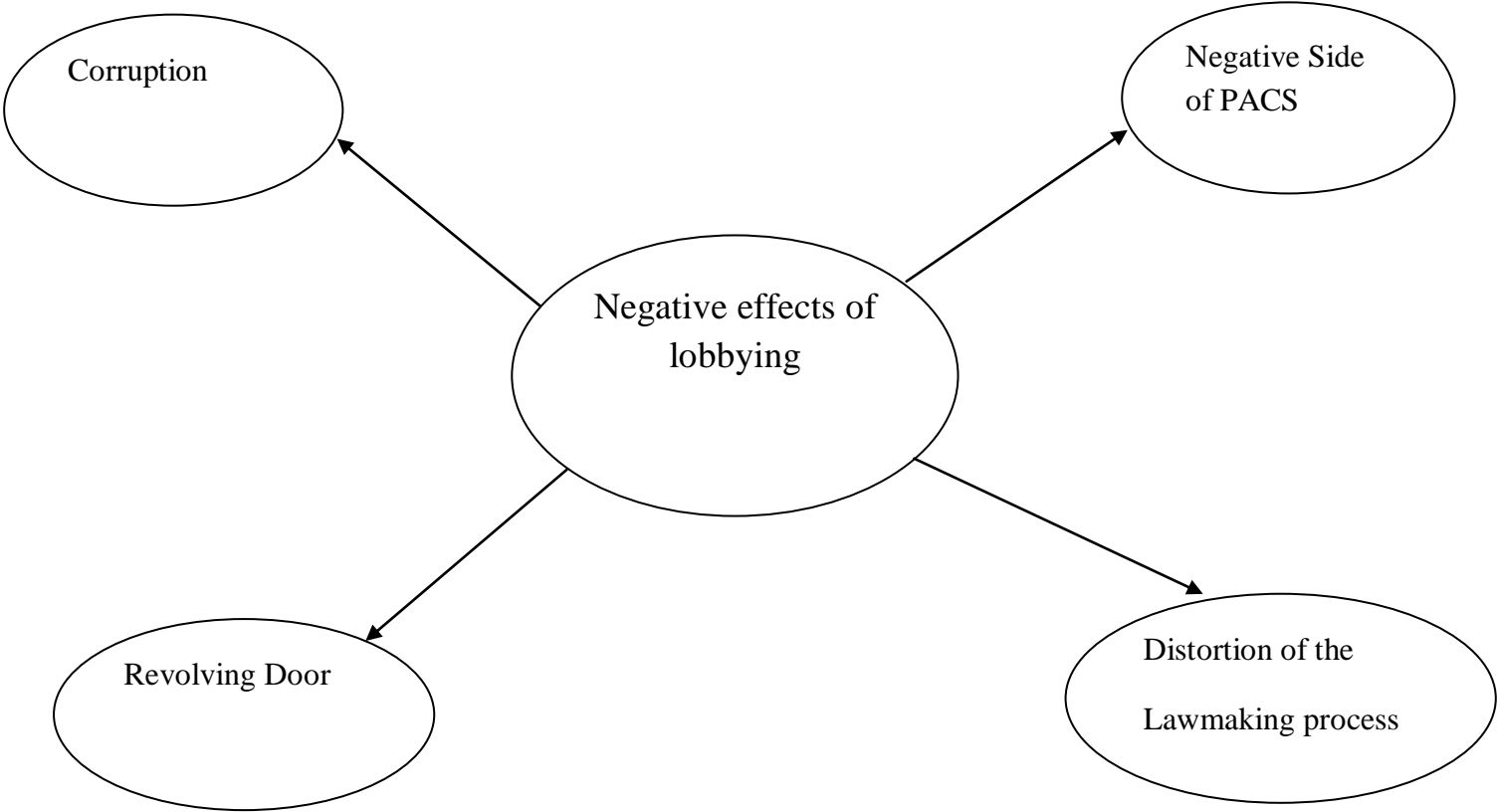
Some aspects of the lobbying practices in the United States have had negative consequences on the democratic life in this complex and powerful country. Historically institutionalised to protect people's rights and to assure democratic gains, the practice of the lobbying activity may cause some situations which can hinder the involvement of people in what is commonly called "Representative Democracy".

Being naturally attracted by building useful relationships with policymakers, some advocates, who- unlike decision makers are not responsible vis-à-vis the society, electorally speaking- have behaved wrongly. They have put in danger the democratic health of the American society. In fact, the subversive power of some interest groups has replaced the sacrosanct electoral democratic principle of "one man-one vote", by both an undue influence of money and doubtful political ties with policymakers. When representing some interests, these advocacy groups try to bypass the rule of the majority by imposing views that can be beneficial to only limited parts of the US society.

Accordingly, the popular majority has lost, in some cases, its prevalence as an efficient criterion for political rule and decisions. In fact, there are some cases where an overwhelming public opinion about a particular issue has been neglected in favour of the financial power of a wealthy interest group. For instance, we have the example of the Phillip Morris Company whose lobbying efforts hindered the passage of laws that were dealing with important aspects such as Public health. Indeed, in the mid – nineties, -during the William Clinton mandate- there was a popular, institutional and executive determination to tighten control over the Tobacco Industry (Beal, 2007). In 1994, David Kessler of the Federal Drug Agency (FDA) and President Clinton prepared regulations to reach this objective. Unfortunately, these texts were not passed. That was principally due to the huge lobbying actions made by the owners of the Tobacco major companies, at their head Phillip Morris, which spent more than twenty five (25) million dollars to impede any kind of regulation of the sector (Beal, 2007). They, in fact, spent more than seventy five (75) million dollars in seven (7) years to reduce the effect of any legislative action that can threaten the development of its activity. Thus, even if people were mobilized to defend a cause of a public interest, this democratic mobilization was defeated by a minority. At the same time, this latter knew how to make use of the dynamism of some important lobbying groups, able to ignore the notion of common interest by guaranteeing benefits to a limited number of wealthy companies (Moss, 2008). This has, on many occasions, endangered the U.S democratic process.

Moreover, the fact that some groups are clearly underrepresented can lead to a democratic failure. In fact, not all people have the chance to be represented by lobbying groups, even if it is constitutionally protected. This is due to the fact that some social classes do not naturally tend to form interest groups that defend their rights and transmit their claims to spheres of decision. Both middle and upper classes are more inclined to consider this kind of advocacy as essential, in comparison to disadvantaged social categories. Consequently, there is a membership bias due to the fact that some categories are better represented than others. This can contradict the spirit of the Pluralist theory which encourages a better and wider lobbying

representation of the society, as a way to take into account the different societal ideological, cultural and political currents.



**Diagram 3.1: Negative Effects of Lobbying**

**\*Therefore, when lobbying is not well structured, it can cause several damaging effects and among them the negative side of PACs, distortion of the lawmaking process, corruption, and the Revolving Door.**

### **3.3.1 A Lack of Efficient Representation**

Lobbying has been initially and theoretically designed to represent the maximum of American citizens, to give them the opportunity to better express their claims and demands. Thus, an efficient representation is essential to cope with the spirit of this profession. However, problems emerge when this representation becomes inefficient and does not respond to people's daily needs.

Recently, there have been voices to denounce the fact that many categories of people do not take advantage from this constitutional right of petitioning Congressmen. In fact, they think that they can lose a very important opportunity to defend their rights in an optimal way. As mentioned above, there is a tendency which reflects the fact that only educated people are motivated by the formation of lobbies that would protect them. This can create the exclusion of large proportions of the society from the representational field. Studies show, for example, that only few millions of Americans have formed an interest group. Two thirds, for example of the lobbying entities working in Washington, belong to big corporations, trade and professional associations (Gawande, 2012). This reflects a threatening inequality of representation among American citizens. The right to have access to this universe of public representation is not automatic for some categories who do not master the techniques of such a complex profession.

Moreover, in addition to the underrepresentation of modest categories of people, associations which represent them tend to disappear after a period of time. Because groups that represent outstanding financial groups, being more and better represented, remain in the field for a longer period of time.

Thus, the fact that not all Americans are equal, as far as lobbying representation is concerned, can create ethical problems and severe disparities. Lobbying, thought of as being an arm for every American, can become, then, a field mastered only by special categories.

### 3.3.2 The Elitist Theory

The Elitist theory explains that lobbying representation is dominated by an outstanding presence of different elite types (Mills, 1963). They know how to exploit the numerous advantages that this profession can provide to get advantages and defend their closest rights. These selected categories of people, which enjoy a particular status inside the U.S. society, have always been perceived as privileged one. Thus, their omnipresence in the field of lobbying has increased mistrust and scepticism towards this activity. There is also a lack of trust towards the close relationships that exist between economic and political elites, as it is explained below:

**A long-term downward trend in political trust reflects not simply skepticism toward authority but a much more negative cynicism toward anything that happens in politics. To doubt and question public authority is a time-honored American tradition. Always to expect the worst is not.**

**(Stier, 2013, p.196)**

The Elitist Theory describes the field of public advocacy as being controlled by some groups determined to maintain a monopoly of political ties with governmental spheres (Bottommore, 1993). This aspect corroborates the impression- present during these last two decades- that in the United States, the government is run by important companies. They strive to impose their views at the expense of ordinary people who ignore the art of influencing decision makers.

### 3.3.3 The Pluralist Theory and its Limits

A pluralistic environment of popular representation was the objective of the Founding Fathers, James Madison in particular. Their objective was to include the different parts of the U.S. citizens and mainly to avoid their exclusion from the decisional spheres. It was a period of time where the protection of the civil and individual rights was the priority of the leaders of the newly founded country. They thought that the presence of a diversity of groups can contribute to enrich the political

and economic debate and can eliminate any feeling of marginalisation of any section of the society. In fact, even if they feared the triumph of factions at the expense of the majority, they paradoxically called for their creation and their proliferation in order to create a balance between them. Consequently, the different currents of the society would generate neutrality among them; a key to avoid that power would be confiscated by a particular group as explained below:

**There is an extraordinary theory of effective governance in which the principal legislative task of government is to regulate competing interests by involving the spirit of those interests in the ordinary operations of government.**

**(Straus, 2013, P. 40)**

Nevertheless, this theory has shown many drawbacks at a practical level. Theoretically, people are invited to form lobbying groups according to the Pluralistic view, in order to impede any kind of monopolisation of the power by private sectors of the society. But in reality, some groups in the United States have been- mainly during the last twenty years- adopting practices that contradict the spirit of this theory. Some powerful groups have been exploiting their financial assets to impose their views and get benefits from situations in which there has been an absence of equality between the different contending forces. The power of a business association would be- according to the Pluralist View- balanced by the presence of labour unions. However, it is well known that these latter have lost the weight and the importance they had at the beginning of the twentieth century. This has been confirmed by the number of members which has been constantly declining.

There have been many cases where the difference between powerful groups and large civic associations has been significantly made. For example, The Health Care reform has never known a clear success that could have been profitable for the majority of people, due to the resistance of drug industry giants and major insurance companies. These latter have always enjoyed very important financial and material means.



### **3.3.4 The Selfish Side of Lobbying**

The lobbying activity was institutionalised to protect the interests and consolidate the rights of all the Americans. It was supposed to serve the interests of the majority of people by respecting their views, claims and positions about a particular aspect of life. Accordingly, people should work together in order to seek their general good and common interests in order respect the spirit of the nation's founding fathers.

However, some interest groups have shown a selfish side at the moment of electing a lobbying strategy to petition any policymaker. They have been working to achieve narrow objectives that serve the interests of a small proportion of the society putting aside the general interest of the rest of citizens. Private interests have replaced a culturally reinforced American concept which is the "General Welfare". As an example, in 2005, there was a discussion about a future bill that could help Oil companies to enjoy more liberties and to have at their disposal large financial resources. These companies devoted important sums of money: three hundred sixty (360) million Dollars, in lobbying the highest Congressional and executive spheres (Beal, 2007). On the other hand, there was a coalition which included civic groups, environmentalist companies and some state governors. Their objective was to impede the passage of this bill, but in vain. The Congress passed it and those who worked for the general interest were defeated by another lobbying initiative (Beal, 2007). This event has proved the extent to which selfishness is a characteristic that can be displayed by some interest groups in the United States.

Such a selfish behaviour can undermine the coherence of the national objectives. In fact, these independent lobbying actions can lead to a situation where instead of adopting a clear and global policy; the U.S. governmental authorities would try to satisfy the sum of individual causes at the expense of collective ones.

The narrowness of the lobbying objectives can also be reflected through the action of the one-cause lobbying issues. In fact, those who strive to defend one cause, tend to ignore other priorities that concern other categories of people. They would lack a global vision about the real, critical, societal issues. Thus, serious questions such as

environmental threats, public health and children's education would be neglected in favour of more superficial and particular ones.

Accordingly, the bad effects of U.S. lobbying are reflected in the limited scope of some objectives. They can also be the consequence of the degradation of the original fair principles of this activity as well as other illegal and unfair procedures.

### **3.4 A Risk-Generating Practice**

It is known that the lobbying activity in the United States has played an important role at a democratic level by promoting people's rights and voicing their concerns and claims. Their pedagogical role helps policymakers in conceiving well-balanced policies that can be beneficial for the majority of U.S. citizens. However, like any kind of public and political advocacy, this activity can generate risks and negative points that can be detrimental to the common good.

Lobbying has been at the centre of many polemics where the democratic spirit, so sacred in the United States, has been seriously threatened. In addition, the overwhelming feeling that this phenomenon is everywhere, pushed some analysts to speak about a new phenomenon called the "Lobbification of The United States" (Silver, 2011). This means that the U.S. political, democratic and social scenes are tremendously influenced by the presence of lobbies trying to get substantial advantages for them and mainly for people they represent. This fact has created a context where the Democratic system has become the sum of the different interest groups instead of the sum of individuals, a conception of democracy that was originally created by the Founding Fathers.

Therefore, the contending lobbying groups would be the most important part of the democratic relationships. Nevertheless, this situation would have a negative effect on US citizens' perception of their democratic and political system. In fact, people start to have some doubts about the kind of pervasive actions that the activity of lobbying can produce as a result of the intervention of powerful advocacy groups, seeking the private interest at the expense of the general one.

There are other pervasive actions undertaken by pressure groups when making use of the right to contact policy makers. For example, this lobbying process can be transformed into an auction between the different interest groups (Jehiel & Tisse, 2001). The one which will be the most efficient would have the ability to impose its views and its conception of a particular issue. This can impede the triumph of the general interest and can foster an individualisation of claims and a privatisation of initiatives that would serve the interest of small groups. Thus, and as it was put forward by Harstad in (2011), lobbyists' actions can lead to the establishment of an auction, which generates a financial competition between the different donors.

Another dangerous effect of the activity of advocacy can be the formation of coalitions that can be dangerous for the democratic system in the United States. In fact, theoretically, the principle of coalition can be an advantage for people who are in need of an effective negotiating power to inflect a particular legislative project. They feel the need to create a mobilisation that would include many little associations. These latter know that they can have a say in Washington only if they succeed to work together. However, this ability of creating coalitions can be exploited by powerful groups who share the same interests and the same priorities. Their union would create an important force that can be very dissuasive or convincing according to a given context. It depends, in fact, on the kind of initiative they want to undertake at the moment of dealing with the highest legislative spheres. For example, in the United States, very strong coalitions have been created by some major U.S. companies. They have contributed to creating more legislative freedom for the development of their activities. They have also provided different kinds of resources in order to impede any kind of projects that can threaten their objectives.

Moreover, specialists of U.S. lobbying have pointed out the Status -quo as another pervasive effect of the activity (Jehiel & Tisse, 2001). It is the result of the presence of many powerful contenders, looking for different objectives when treating a given issue. More concretely, the status-quo consists in exploiting the different means that are at the disposal of an interest group. It pushes them to devote time and energy

to impede the passage of a bill that can threaten present comfortable situations. For example, a group can enjoy a particular situation and if it sees that that position can change, with its corresponding advantages, it starts to organise a lobbying action to stop any kind of modification of the law.

During these last two decades, some lobbying groups in the United States have been relentlessly insisting on maintaining the status-quo, if of course the situation allows it. They have used different strategies to defend what is also commonly called: a stalemate. Other interest groups, for instance, looking to change things, are unable to do it due to an energetic position adopted by those who would like to defend their advantageous positions. Bearing in mind that defending an existing policy is easier than changing it, the status-quo can naturally represent a pervasive effect of lobbying. In fact, there have been many cases where liberal social groups have been unable to impose their views and to introduce changes, just because these societal innovations would threaten the existing advantages.

Moreover, the defenders of the status-quo rely on some parameters that can make the production of a new policy a quite difficult task. It is known fact that policy makers, and due to the complexity of their responsibilities, have not enough time to discuss the vital side of a modification of the law. They are also less inclined to immediately tackle a legislative project, bearing in mind the kind of constraints that this operation can engender. They can also be relatively influenced by the status-quo defenders that preach in favour of the existing law. They put forward potential risks that can threaten the present equilibrium. In addition, those who want to keep the same situation exploit the fact that their position helps them to receive all the arguments presented by Status-quo challengers. This aspect can help in analysing them more efficiently, to be able to prepare the corresponding counter-arguments.

### **3.4.1 The Fraudulent Side of Lobbying**

The Founding Fathers of the New American nation legalised the activity of lobbying, allowing factions to compete with each other and mainly to petition the government. But, they did not think that one day corruption could affect the American government and particularly the legislative process. In fact, living in a country where

there is a governmental omnipresence, and legislation is produced by elected policymakers, some lobbyists have had recourse, throughout the three last decades of the twentieth century, to fraudulent actions. These latter blackened the image of political and public advocacy professionals. They have become subject of hard criticism. Consequently, this profession is sometimes unfairly depicted as a source of scam, corruption and unethical behaviours.

It is worth mentioning here, that U.S. citizens have been complaining about the lack of transparency in the lobbying activity, excessively fearing that the whole legislative process is being rigged. They are aware of the lobbies' multidimensional force of influence and they have doubts about the state of the American democracy, being the prey of some fraudulent intermediaries that have not hesitated to use illegal and unethical methods. Moreover, they operate in the field of advocacy to gain advantages at the expense of the majority of the US citizens. These latter are supposed to live in a perfect political system, where free competition between the different contending parts, should be both a means and an end.

In addition, recently, many unethical attitudes have been detected in the relationships that lobbyists have had with policymakers. In fact, these specialists of advocacy have in some cases profited from the advantages provided by the practice of the lobbying activity. This has been possible, for example, by manipulating and providing data that do not reflect the real elements of a particular issue, in order to serve strictly narrow interests. Some of them have also tried to conceal important information such as the amount of time dedicated to a particular client, at the moment of registering as a lobbyist, to conform to the famous Lobbying Disclosure Act of 1995. Besides, to achieve their objectives, some unscrupulous lobbyists try to use different tactics to influence policy makers, who can be vulnerable for the reasons mentioned above, such as the urgent need of money to finance electoral campaigns.

Moreover, there is a category of lobbyists who really lack a moralistic behaviour. This fact has pushed them to use corruption to try to have access and subsequently influence decision makers. This tendency has really had some bad effects on the activity. U.S. citizens have started to link a profession constitutionally allowed, with some immoral practices that constitute a real threat to democratic mores.

The process of corruption generally starts with the facility with which these advocates can access policy makers. These latter, supposed to honestly represent their constituents, can in some cases succumb to financial temptations as it is explained below:

**The structure of representative government, elected by the people, was to be our system's built-in protection of the whole of us—fairly elected officeholders were to represent their constituent groups, free from any obligations to special interests. Unfortunately, money has corrupted the system and compromised both the fairness of the electoral process as well as the independence and impartiality of elected officials.**

**(Grossman, 2002, p.131)**

Everything starts with the intention of a lobbyist to befriend his Congressional counterparts. Subsequently, dinners, wine and means of entertainment are used to obtain an approval or at least opportunities in dealing with an issue whose income directly interests a given interest group. According to a study conducted by the Centre for Public Integrity, American Public Media, and Northwestern University's Medill News Service, Congressmen and their staffs were able to go on twenty three thousand (23000) trips entirely financed by big corporations and their lobbying arms. The cost of these gifts reached almost fifty (50) million dollars (Moris, 2006). Consequently, these Congressmen would feel obliged, when conceiving a law, to introduce concrete elements that could serve interest groups' objectives.

In addition, it would be possible to mention that this form of corruption has been produced because of politicians' urgent reliance on lobbies' financial resources. Some of them have become addicted to this manner of financing their electoral

campaigns. Observers compare this reliance to a form of extortion, where policymakers literally oblige members of interest groups to supply money to finance future electoral events, which are organised every two years (Masnick, 2012). It is, in fact, an electoral rhythm, apparently, difficult to support.

The fact, that a part of US citizens has become sceptical about the honest side of the lobbying activity, is the result of a series of lobbying scandals which have deteriorated the image of a whole profession. Actually, it has a negative connotation due to the immoral attitudes that some lobbyists have had during the exercise of their job. This bad side of interest groups is not new and dates back to the nineteenth (19<sup>th</sup>) century where prominent railroads lobbyists had tried to bribe some senators. They gave them several checks in order to obtain a more advantageous legislation to develop their ambitious activities.

Subsequently, throughout the late twentieth 20<sup>th</sup> century, there have been different cases where lobbying has had a very bad behaviour. Politicians failed to govern honestly and avoid luring financial offers. For example, scandals involved Congressmen like Cunningham and Bob Ney, Senator Ted Stevens and Representative William Jefferson who were convicted of misbehaviour. Representative Tom Delay was also obliged to resign, and California Congressmen Richard Pombo lost his seat in 2006.

However, the most emblematic scandal, that provoked a lot of controversy in the world of political advocacy, has been the Jack Abramoff case (Shmidt & Grimaldi, 2005). That scandal involved many notorious Washington lobbyists and other famous Congressmen. Their attitude and professional behaviour have contributed to the creation of founded fears towards the profession. This case has proved the extent to which the absence of legal controls and an increasing lobbying ambition can lead to unexpected disastrous effects on the U.S. political life. In addition, even if hard sanctions hit lawmakers like Tom Delay and Bob Ney and dozens of staffers for the unscrupulous collaboration they had with the main protagonist, public opinion showed a big disgust towards some mores and practices. According to them, these people should disappear from the American political scene.

That context was created when former Congressmen and prominent lobbyist Jack Abramoff and other professional advocates, like Ralph E. Reed, Jr., Grover Norquist and Michael Scanlon, were hired by Indian tribes with the intention to lobby the Congress( Miller, Vandome, McBrewster, 2009). The objective was to obtain a legislation that would allow natives to construct casinos in their reservations. Paradoxically, these lobbyists started to organise lobbying actions against their clients. It was intended to obtain a more unfavourable legislation for their clients in order to oblige them to devote more money in lobbying, a quite Machiavellian procedure. Meanwhile, in addition to the fact that they had deceived their own clients, they also organised huge corrupting actions to bribe prominent Congressional officials. In fact, they paid luxurious trips and other material benefits such as the celebrated St. Andrew's golf junket for Chairman Bob Ney and his Chief of Staff. Jack Abramoff was also convicted of having hired Congressional staffers who were not legally allowed to lobby.

That scandal has sounded the alarm bell concerning the activity of advocacy. Such a shock was the consequence of the fraudulent scheme that involved high profile personalities convicted of corruption. It pushed the U.S. legislative authorities to consider more efficient regulatory actions to impede and to put an end to any future lobbying scandals.

### **3.4.2 Undermining the Common Good**

One of the noblest causes, put forward and defended by specialists of lobbying, is the promotion of a dear concept to advocates of the democratic system, which is the "Common Good". The whole American Constitution ideally seeks the achievement of dreams and benefits for ordinary U.S. citizens. The general interest becomes, then, an objective for every political, social or societal entity in this powerful and complex country.



However, lately, it has emerged a kind of lobbying which seeks exclusively the defence of some people's interests. The notion of "Common Good", which is supposed to be shared by all the Americans, has consequently been threatened on many occasions by those who devote time, human efforts and mainly tremendous financial means to gain an advantage over the other contending parts.

Moreover, some lobbying groups try to influence policymakers by injecting important sums of money. This heavy investment has led in many cases to the impoverishment of the Common Good, in favour of strong financial groups as it is explained by Louise Slaughter, a Democrat Representative from New York:

**They [Founding Fathers] never intended to condone a system in which private lobbying firms, wielding vast sums of money, spend their days shaping our nation's legislation, and do so to a degree the average citizen can't even dream of.**

Thu (As cited in Berman, 2009, p. 11) when there exist diverging opinions about a particular issue. Seeking, primarily, interests of private entities, by showing a great activity at the moment of trying to convince policymakers, this kind of lobbying can easily undermine the general welfare that is common to all US citizens as it is mentioned below:

**Their focus is narrow, their goals selfish. They are not voters, not patriots and they're definitely not acting for the common good, in "best interests of the country.**

**(Cooper, 2004, p.75)**

The Political system can be, thus, the prey of very effective private entities striving to achieve narrow interests that do not serve the national one. Different fields, such as public health, the educational level of the country and the society's economic conditions would be affected by such individualistic initiatives that seek to increase profits for their bosses. These groups are not interested in the promotion of social emancipation. They consider political advocacy as a resistance to governmental

spheres. This resistance can be conflictive by using sharp lobbying arms and can cause many victims, mainly modest people. These latter can suffer from the aggressiveness of some lobbying organisations which work against the public good.

### **3.4.3 The Media's Negative Role**

It is known that the media in the United States play a tremendous role, politically, socially and democratically speaking. Their different means are commonly called "The Fourth Power" due to its multidimensional influence (Little, 2008). In the last few decades some very powerful financial groups have been founding media empires which have a daily impact on critical issues in America. So, their influence is significant due to the important means with which they are endowed and the kind of messages they give to a population that relies on the press and the different TV channels, to get daily informed.

In addition, as a consequence of the economic liberalism initiated by President Ronald Reagan during the eighties, very powerful financial groups have emerged and started to occupy an important role in different fields other than their original one. They have succeeded to found media giants and efficient and powerful interest groups. Nevertheless, in some cases, both of them are working together to constitute a significant force of influence on policy makers. In fact, the media are exercising an influence over the government which feels meticulously observed, analysed, and criticised. Their lobbying allies also display the same characteristics, looking for a more efficient impact on public policies to gain or preserve different advantages. And even if both of them are not elected, nor have a direct control on the way policy makers are conceiving laws, they can succeed to use their capacities to serve the interests of their stakeholders.

Besides, in many cases the mass media play the role of lobbies' propaganda by propagating messages and diffusing ideas and views to convince public opinion. Lobbies spend important sums of money in advertising political messages that serve their interests. Media campaigns have been an unavoidable way which is adopted by lobbies, to make their positions about a particular issue reach different parts of the

United States. These interest groups consider media as an informative arm. This situation can create cases of conflict of interests that can arise when both belong to the same financial group. For instance, we have the case of the TV news channel, Fox News, which has played a crucial role in the communication world in the United States, mainly during the Bush<sup>Jr</sup> presidency. They were, in fact, very active during the period which followed the 2001 September 11<sup>th</sup> events. Being owned by a powerful financial group which itself relies on high-profile professionals of political advocacy, they have been accused of inspiring the Republican Presidency in many fields, such as the military one during the Iraq's intervention. By serving the interest of outstanding economic powers, they did not hesitate to provide the public opinion with news and details which did not reflect the reality. That action provided many benefits for the powerful arm industry lobby which took advantage from that reigning martial atmosphere. Indeed, it could have contributed to the development of their own industrial activities and increase their financial power.

Pressure groups tend to spread their influence inside the media and the political spheres. However, collaborating with decision makers can reflect potential unethical behaviours as it will be explained in the next section.

### **3.5 Suspicious Links with Political Spheres**

It is essential to mention that the American Constitution, and through the famous passage “the Right to Petition”, included in the First Amendment, gives the possibility to the activity of lobbying to establish frequent contacts with political spheres. They can do it in order to present their points of view about a particular issue, and give their knowledge about it. This can help policymakers to produce better legislative works that can serve, according to the spirit of the Constitution, the interests of the whole American society. Therefore, such links are totally allowed if they are legally made, by respecting the details of accessing Congressmen. Recently, however, with the emergence of powerful business lobbying groups, different sectors of the society have started to complain about the unfair side of these relationships. They fear that it could establish special advantageous situations for wealthy groups at the

expense of less-endowed ones, a fact that can lead to biases that can tarnish the image of the whole profession.

Lobbyists are actively operating in two different legislative contexts, namely the Congress and the State legislatures. They deploy their convincing skills to get different kinds of advantages. It is known that they have become an integral part of the policy making process. Consequently, their omnipresence in the legislative arenas made observers give them the name of the “Third House” and any kind of attempt to isolate them from this process could threaten many balanced situations (Rosenthal, 2000).

However, politicians’ credibility has, during the last two decades, deeply suffered from this connivance with special interests advocates that can, in some cases, impede legislative responsibilities to function normally. These relationships could hinder the implementation of an efficient system, able to guarantee the maximum of benefits for the majority of people. This situation has reinforced the position of lobbyists and has given them enough power to impose things and make them work the way they like. This could also help them to take advantages from the very profitable ties established with policy makers, as in the case of Representative John Boehner's who has regularly established deep relationships with well-integrated lobbyists (Lipton, 2010).

This facility of having contacts with policy makers can reflect, at the same time, difficulties for others to access such legislative spheres. A former Chief of Staff, member of Congress, and Director of the Office of Management and Budget for example, thinks that financial prosperity is a necessary condition to be able to meet policy makers and collaborate with them (Straus, 2011). This fact can obviously reduce ordinary and modest people’s chances to fully participate in the conception of laws as it was hoped by James Madison. This latter believed, in 1788, that **“The door of government must be open to merit of every description—without regard to poverty or wealth.”**

Unfortunately, for some social categories, Congressional members are more accessed by business lobbyists than any other American. This fact has contributed to increase the risk of partiality and absence of equal treatments to all sectors of the society (Krishnakumar, 2007).

Recently, one of the beneficial effects of the lobbying activity, which is providing lawmakers with important information about a particular issue, has been criticised by defenders of public interest advocacy. In fact, they put forward that these powerful business groups can impede the process from producing a fair law, due to biased information that are provided to Congressmen. According to these contenders, information sometimes can lack accuracy could not reflect the real elements of a particular issue (Briceno, 2009). Indeed, necessary and good information could not be transmitted to politicians.

In 2009, a Spanish study, conducted in a serious education institution, showed that “wind power” has a negative impact on jobs creation and cannot be recommended as a possible economic project. Immediately after, the American wind industry lobby invited the Energy department to produce a counter study to prove the economic reliability of such an industry. This has been made to invite American legislators to vote in favour of it. Eventually, it was the case due to the unreliable set of information handed to policy makers.

Moreover, because of the fact that the Congress has maintained strong relationships with lobbyists, these latter have played a decisive role in blocking the passage of important laws that were supposed to serve people’s interests. Their active participation in the legislative process has given a particular ability to hinder the development and the creation of a public interest law. For example, from 1993 to 1994, it was impossible for the Congress to pass any kind of reform, meant to grant needy Americans the ability to enjoy a viable health care insurance. In 1996, the Congress also failed to produce effective laws which could impede that electoral campaigns can be financed by strong business corporations. Moreover, from 1997 to 1998 the only important Bill passed by the Congress; was the one related to the two hundred eighteen (218) billion transportation bill (Birnbaum, 2005). These cases show

the extent to which a huge pressure exerted by lobbyists can impede policymakers to get interested in important issues. In fact, the legislative process has lacked, sometimes, a normal functioning due to the presence of competing aggressive lobbying groups working for very narrow private interests.

The Relationships that link policymakers and business lobbying advocates have reached a significant step with the creation of the K Street Project (Williams, 2006). It has been intended to create an entity that includes a maximum of interest groups that can facilitate connections with the highest legislative spheres. The creation of this project was possible thanks to the active involvement of Tom Delay, former member of the House of Representatives (Shelden, 2010). He, in fact, participated in the development of the influence of such an activity. Indeed, spending made by eleven thousand five hundred (11500) lobbyists reached the sum of one point twenty six (1.26) billion US dollars, i.e. every lobbyist spent nearly two point four (2.4) million dollars (Shelden, 2010)

Thus, the “K Street Project” relied on the active participation of influential Congressmen such as, for example, former Republican presidential candidate Rick Santorum. This latter vigorously advocated, inside the Senate, the development of that project. He was particularly prone to meet on regular basis with business advocates to give them the ability to collaborate in the conception of political agendas. He even worked to recruit some of them in Republican political committees. At the end of his congressional career, he was appointed K Street’s “Strategic Adviser”, showing the extent to which the pervasiveness of these relationships can have a negative effect, politically speaking.

Accordingly, Contacts that exist between the two parts are constitutionally legal, but the abusive use of such a legal possibility can lead to some unusual legislative situations, where advocates have been the framers of crucial texts. In fact, Tom Delay, the K Street Project’s active supporter, created in 1995 the “Project Relief”, a legislated moratorium which has as an objective to provide more legislative regulations. It really seemed a fair initiative, however and paradoxically, he involved

lobbyists in preparing it. Indeed, personalities like Bruce Gates and Gordon Gooch, two famous lobbyists, were responsible of running the project and preparing the first draft of the bill (Edsall, 2012). It was, subsequently, modified by Peter Molinaro and Paul C. Smith two other prominent specialists of private advocacy. It is to be noted here that these mutual interferences show perfectly the uniqueness of the American political system which accepts a private intervention in public issues.

### **3.5.1 A Distortion of the Lawmaking Process**

Any country in the world should rely on an effective system of government in order to guarantee a fair functioning of the democratic system, hoping to secure the general welfare for the majority of people. To reach this objective, the lawmaking process should be carefully carried out, taking into account all the necessary elements that should be employed to avoid biased situations such as bad legislative texts. This legislative efficiency is also achieved thanks to the competence and the neutrality of policy makers. These latter can have at their disposal information, details and data provided -as it is the case in the United States- by lobbying agents who have a particular knowledge that can be helpful in the elaboration of laws. However, these agents should not be, for example, the unique framers of the law. They should not collaborate with the intention to distort the law making process, supposed to create bills that serve the interests of the U.S. citizens. Unfortunately for American people, the active participation of political advocates beyond the ability to provide useful information has provoked in many cases the deterioration of the law production system.

The process, therefore, has been on many occasions badly influenced throughout the last decades due to the evident power of lobbying groups. They have been able to create beneficial contexts that can help them to collaborate in political outcomes that serve their interests, as it is explained below:

**The United States interests groups pay close attention to influencing congress, sometimes producing the so called iron triangles comprising interest groups, congressional subcommittees and bureaucratic agencies.**

**(McLean, 1996, p.244)**

Godwin also evokes the legislatively distorted actions of lobbying in the United States, stating: **“interests groups entrench political equality by strengthening the voice of the wealth and privileged those who have access to financial, education organizational or other resources”** (2012, p. 277). In the same line of thought, in 2000, Goldberg speaks of the secretive side of the actions of interest groups, which use their multidimensional influence when negotiating the terms of a particular policy. They play an important role in avoiding that details of the law will not be revealed to citizens’ inspection.

Moreover, it is even possible that these groups can exercise a greater influence on the law making process. In fact, sometimes lobbying firms prepare and write a piece of legislation on behalf of Congress and State Houses officials. Then, they propose it to the same policy makers by convincing them to accept it, putting forward its possible beneficial side for U.S. citizens.

### **3.5.2 Privatisation of Politics**

Controversial links between policymakers and lobbyists made people think of a risk of privatisation of U.S. political scene. Indeed, these advocates have become so influential in Washington, that it is really difficult to imagine a legislative process without their active presence. This involvement has generated a risk of privatization of political spheres. Because due to their informational and financial contributions, special interest groups have a strong hold over legislative decisions and any kind of future Bill conceived in Washington or in the other local legislative spheres.



### 3.5.3 Political Action Committees' Bad Influence

The United States is one of the biggest democratic countries in the world with historical democratic roots. With the exception of the cold war, they have rarely suffered from major political troubles. That was due to the solidity of their systems and the sacred side of their Constitution. Having a strong democratic and political system; relies on the success of their representative democracy. It is supposed to help U.S. citizens to elect competent people to represent them. Thus, electoral events represent a vital aspect of the institutional stability of the country. This latter regularly witnesses the organisation of different elections, mainly the Presidential and the Mid-term ones, to elect members of the Congress.

Consequently, policy makers are constantly involved in the organisation of elections by devoting time and mainly financial means. They are in a situation defined as “the Permanent Campaign” as it is explained below:

**The combination of image making and strategic calculation that turns governing into a perpetual campaign and remakes government into an instrument designed to sustain an elected official's popularity.**

**( Fergusson, 2011, p. 21)**

Political Action Committees are, in fact, the corner stone of an efficient electoral campaign. Political parties have at their disposal several financial sources to face the different campaign expenditures, among them the possibility that lobbying groups can be financially involved in a particular election. Their strategic importance has become, then, evident in financing a candidate's marketing and media campaigns to compete loyally with his political rivals.

Thus, PACs are considered as outstanding participants in U.S. elections. These organisations are able, thanks to the contribution of wealthy donators, to raise huge sums of money to invest in a potential future President or Congressman. In fact, political parties have become more and more dependent on their money, generating mistrust and serious doubts among the public opinion. This can generate fears about a kind of privatisation of political life at the detriment of ordinary people who are unable to financially compete with wealthy lobbying groups. Thus, PACs have become an elementary part of the activity of lobbying mainly during the organisation of electoral campaigns. Interests around these committees have significantly increased due to their role in such important events like the U.S. elections. They play the role of a lobbying electoral financial arm, seeking to influence elections' results.

Moreover, the Campaign Reform Act of 1974 drastically limited people's ability to finance political parties during electoral campaigns. However, at the same time, it created an opportunity for PACs to be more and more influential. Besides, interest groups have started since the creation of that act to increasingly prepare such financial electoral instruments. In fact, it has been reported that more than 4000 PACs have been actively operating in Washington ("Political Action Committees," n.d.). Unfortunately for the American democracy, more than half of them represent powerful Business groups, with the underlying consequences of such a disparity of representation.

Accordingly, the pervasive side of the bill mentioned above is reflected through the fact that financial groups are taking advantage from it more than others, thanks to their ability to efficiently form very powerful committees and their ability to access policy makers. In addition, they are known for a great capacity of opportunism, since, for example, they are able to anticipate the future victory of a particular candidate or a political tendency. They can also adapt their strategies accordingly, as it is illustrated below:

**Washington's \$3 billion lobbying industry has begun shedding Republican staffers, snapping up Democratic operatives and entire firms, a shift that started even before Tuesday's ballots were counted and Democrat Barack Obama captured the presidency.**

**(Burger, 2006, p.13)**

Hence, it is legitimate to criticise this natural tendency that policy makers have to solicit PACs' private financial sources. Even if it is legally practiced, this way of injecting money in electoral races can logically push elected candidates to be receptive to their donators' claims and views. A risk of privatisation of politics can be logically evoked, because such financial resources can easily condition lawmakers' attitudes at the moment of conceiving a law that directly involves groups that partly financed their campaign.

### **3.5.4 Revolving Door's Negative Side**

As it has been explained above, during a congressional mandate, politicians work with lobbyists and, hence, establish very close relationships with them. They exchange views and prospective anticipations about a particular issue. In some cases, lobbyists exploit this good relationship to propose to Congressmen a professional retraining once the electoral mandate is over. They do it intentionally in order to try to indirectly influence the policy maker, by attracting him with a prospect of a new lucrative career. This phenomenon, called "The Revolving Door", is well known in the field of Political Advocacy. It is considered as one of the negative outputs of the relationships between both parts.

Being able to be a part of a prosperous advocacy group at the end of a political career, has become one of the objectives of more and more politicians. They are attracted by a golden retirement and the ability to change drastically one's conditions of life thanks to very tempting salaries, as it is explained by Citizen Group, a famous public interest group:

**“The revolving door on the journey from Capitol Hill to the lucrative world of federal lobbying is spinning at a rapid rate. ...For many lawmakers, it has become a way station to wealth, a necessary period of job training and network building so that after leaving their public service jobs they can sell their influence to those with deep pockets ... Lobbying is the top career choice for departing members of Congress.”**

**(Beard, 2001: 54)**

Accordingly, the real objective of some US policymakers is to spend a period of time in legislative offices to get enough experience and acquire a reputation. Subsequently, they try to be hired by a lobbying group, with whom they have established relationships during their political career in Washington. Indeed, they have a crucial role in explaining how official authorities function.

During many decades, policymakers' chief objective was to have a political career in renowned legislative places, without having the intention to leave such prestigious functions.

Recently, more and more lobbyists have already worked as Congressmen. In fact, it is the case of Robert L. Livingston, a Republican and former chairman of the House Appropriations Committee, and presently owner of a successful lobbying agency. He once recognised the lucrative side of the lobbying activity for former policymakers (Birnbaum, 2005).

Moreover, there exist impressive numbers which reflect how former policymakers have been attracted by the world of political and business advocacy. For example, according to a study conducted from 1998 to 2004, more than four (4) congressmen out of ten (10) who left their offices became lobbyists. And according to the results of a 2011 report, five thousand four hundred (5400) former Congressional staffers have chosen a lobbying career over the preceding ten years (Farnam, 2011). Nevertheless, the same report revealed that during that period of time, six hundred five

(605) former lobbyists have become members of legislative offices (Farnam, 2011). This number reflects another aspect of the Revolving Door: former lobbyists can become policymakers, raising suspicions about the possibility of remaining faithful to their former bosses.

In addition to the number of former policy makers who have embraced a lobbying career, the important sums of money earned when exercising their new profession of advocate, can also show the dimension of the phenomenon. They can also explain the attractiveness of the new job as it is put forward in a Washington Post's article:

**Starting salaries have risen to about \$300,000 a year for the best-connected aides [which is luring] nearly half of all lawmakers who return to the private sector when they leave Congress, according to a forthcoming study by Public Citizen's Congress Watch."**

**(Birnbaum, 2005, p. 09)**

The average salary for those who leave their Congressional function can reach one million dollar. There have also been cases where these former policymakers have founded their own lobbying firm, like former Speaker-elect, Bob Livingston. He resigned in 1999 from his function to create the Livingston Group, considered as the twelfth (12<sup>th</sup>) lobbying firm in the United States, earning more than forty (40) billion dollars in 2004 (Brownfield, 2012).

Moreover, there have been emblematic cases which can illustrate politicians' reconversion to the world of lobbying. For example, we have the case of Powell Moore, who presently works for McKenna Lobbying, as well as Long and Aldridge who worked in the Nixon and Reagan administration, in addition to other Congressional members such as Senator Don Nickles, Republican P. Billy Tauzin, and Republican Jack Quinn (Rozeff, 2005). Other cases, like the one of Bob Livingston or Dick Gephardt's who has had as clients the Glodman and Sachs banks, show again the

dangerous links that exist in some cases between the two worlds. These interactions can be explained by the attractive side of lobbies' material attributes.

### **3.5.5 Foreign and Ethnic Lobbying Undue Influence**

Being historically and demographically composed of citizens with different descents, the United States has always been influenced in different forms by these ethnic groups. Politically speaking, their tendencies and claims have generally been taken into careful consideration to produce a well- balanced American domestic policy. In fact, the world of lobbying has been occupied by groups representing minorities, that seek to influence laws and bills that directly or indirectly could concern them. However, being related to interests narrowly linked to their community or to their original country, their actions could have negative consequences on the overall welfare of the country.

In fact, ethnic lobbying is not a new phenomenon. It firstly appeared in the American advocacy scene at the beginning of the last century. This phenomenon witnessed a real development due the fact that, legally speaking, since 1965, no ethnic group has become superior to the others, mainly those representing minorities (Jacobson, 1966). Consequently, during the last twenty years, ethnic groups have been investing millions of dollars to influence the U.S. foreign policy and accordingly to neutralize competing ethnic lobbies ("The Influence of Ethnic," 2012.). This could have created an unfair atmosphere of ethnic competition. Besides, traditionally speaking, the United States have always sought a harmonized policy, something that has been difficult to reach because of the activity of the groups mentioned above as it is stated by former Defence Secretary James Schlesinger who declared in 2001 that : **"The United States has less of a foreign policy in a traditional sense of a great power than we have the stapling together of a series of goals put forth by domestic constituency groups"** (As cited in Wilsson, 2004, p. 108).

Consequently, the national unity and cohesion of the different parts of the U.S. society have been threatened on many occasions due to the unavoidable force of influence of ethnic entities. Their policies have had, as a priority, the emancipation of some origins at the expense of others as it is illustrated by Eric Uslaner, who asserts declared that: **“foreign policy decisions increasingly reflect ethnic interests rather than some overarching sense of national interest”** (Grossman, 2002, p. 356). Besides, Samuel Huntington also put forward the risks of ethnicisation of the political advocacy by affirming that: **“serious problems could arise when “the cultural communities” transform into Diasporas and take control over at least one state”** (Grossman, 2002, p. 361).

Moreover, In addition to the negative consequences that ethnic lobbying can cause at a domestic level, such an advocacy can create real dangers for the American national security at an international level, as mentioned by Samuel Huntington. He explains that, in addition to commercial interests: **“transnational and non-national ethnic interests have come to dominate foreign policy”** (as cited in Kollman, 1998, p. 174).

This involvement has obliged US Congressmen to take into account these groups' claims and opinion to influence, in a significant way, the U.S. tendencies in matter of foreign policy. Nevertheless, this influence has generated many problems to the United States due to the hard lobbying practiced by these groups, which can, for example, push the U.S.A. to invade a country by wasting billions of Dollars just to satisfy the needs of a particular community.

The most significant case, of the spectacular influence that one origin can have on the U.S. foreign policy, has been the AIPAC, the American Israel Political Action Committee. This powerful ethnic lobby was considered in 2001 by Fortune Magazine as the fourth strongest interest group. For example, Lessig in 2002 asserts: **“American Jews are distinctive in their ability to affect foreign policy. They have established the most prominent and best-endowed [ethnic] lobby in Washington”** (p.358).

In fact, this group has usually adopted a very aggressive policy in the United States. It uses its multidimensional power to make pressure on politicians. These latter

fear this organisation' force and ability of retaliation, as explained by a History professor at the West Chester University in Pennsylvania:

**From wealthy and powerful potential allies, the Zionists could instantly, become wealthy and powerful potential enemies. And they have a known record of success at defeating those politicians who will not cooperate with them.”**

(As cited in Logan, 2013, p.43)

The same group also takes advantage from the lobbying ability to provide policy makers with information that can help them to conceive laws. In fact, and according to Logan (2013:59):

**You no longer look to the State Department for information about the Middle East or the Israeli-Palestinian conflict. Now all that material comes from AIPAC and similar sources. Thus your deepening dependency on this lobby is not just financial but also informational. They have melded your world view with theirs. Congratulations, you have been officially lobbied.**

Thus, this lobby is very powerful in the United States. Except for some cases at a domestic level, foreign policy remains its main field of interest. Its unique narrow objective has always been to serve the Jewish State's interests in many domains, and guarantee an unfailing U.S. financial and military assistance.

Consequently, this lobby has always tried to create strong ties between Israel and the United States. This fact, for example, has provoked different political and military interventions in geographic regions like the Middle East and even in other countries to serve the interests of Israel and to protect it from any kind of foreign threat. At the same time, however, it has put the United States in difficult situations and has caused many security problems as the consequence of its involvement in the management of Israel foreign affairs.



Moreover, the AIPAC is the pioneer in ethnic lobbying. It strives to influence domestic and foreign policies. Their work consists in using their different assets to influence lawmakers, who are conscious of the kind of pressure generated by such an activity.

### **3.6 An Overwhelming Financial Power**

The world of finance is playing an important role in the different sectors of life in the United States. Powerful financial groups have been constituted, as a consequence of a capitalistic system which enjoys continuous legislative opportunities. This advantageous business environment first emerged during the Republican presidency of Ronald Reagan. Those same groups have been involved in the world of political advocacy thanks to their impressive financial potentialities. They have also relied on policy makers' need to finance their electoral campaigns. In fact, this gigantic financial power has become an unavoidable element in the American political system.

Consequently, some lobbying groups have succeeded to form a powerful financial arm. This latter is able to generate decisive victories, due to an impressive ability to constitute important capitals and raise huge sums of money. In fact, there are many examples of these groups such as the giant search website Google, which has devoted important sums of money to constitute its own Political Action Committee, as it is commented by Brashay in 2008:

**They're playing the imperial Washington game by time-honored rules. Google started a political action committee. That's a fund executives and other employees can contribute to. Lobbyists use the money to make contributions to the campaigns of lawmakers who support their cause, because to really get things done in the Imperial City, you need ideas, you need friends, and you need money.**

Moreover, the pharmaceutical industry with its important injection of money does regularly make use of this effective negotiating tool, along with the well-known Chamber of Commerce, which is a notorious financial contributor in U.S politics. Similarly, we have the example of the Business Roundtable; it includes the most powerful American business companies which make massive investments in public and political advocacy.

According to a 1996 study, conducted by Baumgartner and Leech, the financial lobbying contributions of businesses, trade associations, and professional groups represented eighty (80%) of the overall American political lobbying spending. Whereas, financial contribution made by public interest groups and non-profits ones represented only ten percent (10%) as it is put forward below:

**The extent of business predominance in the group system is greater than previously reported...Not only do businesses constitute the largest category of lobbying organizations in Washington...but they are by far the best endowed and most active.**

**(Lathem, 2006, p. 07)**

These big disparities show an alarming financial difference between those business groups and their contenders. This difference has provided them with many gains in matter of political successful outcomes. It means that money has been, in some cases, decisive in helping big corporations to obtain what they want legislatively speaking. This financial importance in the legislative process has been one of the negative aspects generated by the practice of political advocacy. In many cases, citizens and less financially endowed organisations have not enjoyed the same treatment.

In Addition to the aspect mentioned above, this significant financial power can be used for other more practical objectives. In fact, being very important in influencing policy makers, hiring experimented lobbyists is very expensive. Due to their high salaries, only big corporations can afford the ability to recruit outstanding political advocates as it is explained below:

**Lobbyists, political consultants and recruiters all say that the going rate for Republicans — particularly current and former House staff members — has risen significantly in just the last few weeks, with salaries beginning at\$300,000 and going as high as \$1million for private sector [corporate lobbyist] positions.**

**(Grant 2005, p. 12)**

Accordingly, constitutionally speaking, every U.S. citizen has “the Right to Petition Government for their Grievances”. However, this legal element can be altered by corporations’ huge financial weight. This fact has increased U.S citizens’ fears and doubts about a lobbying phenomenon which is suspected to be behind biased advantageous positions for the wealthiest. These latter rely both on their multidimensional capacities as well as on some regulating drawbacks.

### **3.7 Loopholes in Regulation**

One of the Founding Fathers of the American nation, James Madison, was aware of the inevitability of the existence of factions that represent interest of different sectors of the society. He admitted their creation, even if he was deeply preoccupied by a possible dangerous side of their actions and the negative consequences they can engender as a result of a potential selfish initiative. His priority was, in fact, to guarantee a neutralisation between the different interest groups, where competition should be the determining factor to avoid any kind of abusive result.

Thus, the will to control factions has always existed and the need to regulate their activities goes back to the first days of public and political advocacy. The successive American governments with their different political tendencies have been, throughout history, issuing a legislation supposed to avoid abuses, to promote competition between the different pressure groups and to moralise the activity. Usually received by a great opposition from the different actors of the field, the creation of a new law is deeply analysed whether by those groups, which fear a threat for their activities, or by those who apprehend a lobbying hegemony that can endanger the basic civic individual rights.

Moreover, during the last two decades, as a consequence of economic liberalism that was developed during the Ronald Regan Presidency, business lobbying groups have become too powerful. This was the result of the importance of their multidimensional means, whether they are human, material or informational. Claims from different parts of society started to demand more control and regulation of an activity that has become more and more influential in the public and political spheres. In fact, it frequently tends to take these powerful groups' views into consideration, ignoring the others' opinions which are inefficiently voiced by their representatives. Consequently, as a response to the growing importance of interest groups, the American government, during the first mandate of the Bill Clinton presidency, made an important move towards more control and regulation of this phenomenon. Therefore, the famous LDA, or the Lobbying Disclosure Act of 1995 was then issued. There was an urgent need of transparency in the advocacy activities and legislators were obliged to provide a convincing concrete answer to insisting popular claims for a real moralisation of the sector. Lobbyists have been obliged to register, i.e. to openly declare their activities, the time devoted to them and mainly the financial means used during the practice of their function.

However, that major regulating act, like those which preceded it, has shown limits and has not brought about the desired results. Generally, it lacks efficiency and only pushes the lobbying firms to create new subterfuges to counter the new regulating decisions. They usually provoke a practical adaptation to legislative changes which subvert and eliminate a moralising effect.

Besides, regulation efforts are not perceived as real reforms that can profoundly change the sector. Instead and paradoxically, they generate more loopholes than benefits. Interest groups have not hesitated to conceive ingenious approaches that have always helped them to avoid regulating obstacles. They have usually had recourse to a craftiness to overcome the strictest rules, to develop their activities and enhance their profits.

In fact, as mentioned above, one of the major objectives of the Lobbying Disclosure Act of 1995 was to oblige professionals of the public and political advocacy to register to make public the volume and the kind of activities they have. Paradoxically, this new regulating parameter has created an enormous loophole. Since the law obliged them to declare activities that represent more than twenty percent (20%) of their overall schedule, they succeeded to counter it simply by avoiding exceeding this threshold. That is why the American Bar Association suggested banning this measure of the twenty percent (20%) (Susman, 2008). In addition, the law does not involve those who practice a specific kind of lobbying such as media firms, businessmen, and different actors intervening in the public and political scene with their informational ads. These categories are not considered as being a part of lobbying, and are not obliged, then, to declare their activities, even if they can easily access political actors and Congressmen to advocate their causes. Consequently, the recent history of the United States witnessed situations where these groups behaved badly and where this activity has been negatively exploited.

### **3.8 Emblematic Cases of Negative Lobbying**

As it has been mentioned above, the lobbying activity enjoys a constitutional legitimacy which allows people to get in touch with their governing political class to change things or to defend their rights against any negative effect of a particular law. Theoretically, this activity was institutionalised in order to avoid abusive cases and it has been proved throughout decades that, at a practical level, it is able to change things positively. Many cases have shown the extent to which it has been beneficial for democracy in the United States.

However, lobbying has also got a negative side which produces bad consequences in US citizens' daily life in different sectors. In fact, throughout these last two decades, there have been many cases where lobbying has had a detrimental impact on people's general welfare. Cases which have proved that powerful advocacy groups, endowed with very important means, can impede things to change. Their actions can also lead to very bad effects on the U.S. society, due mainly to the aggressive ambition to dominate issues politically and legislatively.

Thus, it would be insightful to study some cases from where people have been literally suffering from the harmful actions of pressure groups. Among these cases, we have two emblematic ones that have provoked many polemics during the last twenty years, namely, the different health care reforms and the most recent 2008 financial crisis.

#### **3.8.1 The Successive Unsuccessful Health Care Reforms**

Several attempts undertaken by the different U.S. administrations to find a solution to what is commonly called the Health Care Reforms have successively known significant failures. These initiatives all belong to the US imaginary. They correspond to the inability of a government to overcome a powerful opposition from determined lobbying groups, representing outstanding actors of the health care scene.

The field of health care is very strategic The United States; it concerns millions of Americans who should spend money to insure themselves from diseases and unexpected accidents. In a country where the spirit of individualism is neatly accentuated, the health care system corresponds to this pure American vision of things. In Europe, the majority of countries, particularly the Scandinavian ones and France, people are very well socially protected, being equipped with a very important and universal efficient system of social coverage. In these countries, for example, health care insurance is based on obligatory contributions. Meanwhile, the System in the United States is completely different. The American citizen is supposed to build his own system of insurance coverage by choosing private individual contracts for specific health services. His periodic payments are not included in a universal system, without any kind of mutual contributions, where a part of the society can contribute to medically cover another one.

It is a field which involves very important stakeholders such as major companies of the pharmaceutical field, multinational insurance firms, private doctors and well- privately managed hospitals. They all have important stakes and want to preserve their acquired privileges by initiating aggressive campaigns. This occurs when there are legislative projects that seek to put an end to their particular advantageous positions. They benefit from this system which has always been ideally conceived for their own and narrow interests.

Accordingly, the best way to preserve their interests has been to rely on a powerful lobby able to defeat legislative innovations by maintaining a status-quo that would logically be in their favour. In fact, the lobby that defends these industries related to this field is considered as one of the most powerful ones operating in the U.S. advocacy scene (McGreal, 2009). It has always been strongly present, throughout decades, during debates which have resulted in future legislative reforms, especially during the last twenty years.

The different actors of the field such as WellPoint, which is active in more than twelve (12) states and relies on thirty five (35) million members, the United Health Groups, Aetna, and, Cigna are represented by several lobbies (Hersch, 2003). The sum of these lobbies constitute a general one which is called the health care lobby that comprises satellite ones. It is a powerful advocacy group which has at its disposal very important human and material means. For instance, according to the Center for Responsive Politics, the number of registered lobbyists working in the fields of health care has dramatically increased from 1998 to 2008, reaching the number of three thousand six hundred twenty seven (3627) advocates, the majority of them were ex-congressmen. In 2009, the one thousand seven hundred fifty (1750) companies, working in the field, engaged almost four thousand five hundred twenty five (4525) lobbyists to defend their interests during meetings with legislators (Ricciardelli, 2009).

In addition to the significant number of lobbyists engaged to preserve the advantageous side of the health care legislation, those same lobbying groups have invested considerable sums of money during the last two decades. The pharmaceutical lobby spent more than 186,496,467 Dollars in 2009 to defeat groups working to change the present Health law. These financial means were used in electoral campaigns to finance candidates from both political sides (Pharmaceutical Manufacturing, n.d.).

It is worth mentioning here, that representatives of both U.S. major parties prefer to use the word investment rather than spending, because they consider that money used in such campaigns as something being invested to gain corresponding financial and legislative gains. In fact, these kinds of investments can provide huge return on investment as it is explained below:

**From an industry perspective, it was money well spent. A close look at the health reform bills that passed the House and Senate show lobbyists were apparently effective at blocking provisions like a robust government-run insurance program, and blunting the effect of cost-cutting measures on health care companies.**

**(Adenauer-Stiftung, 2013, p.19)**



Culturally and psychologically speaking, the field of health care reform has always occupied a significant place in the American minds. It has always symbolised the opposition that involve two protagonists, namely, those who are attracted by financial gains and beneficial positions and those, looking for the Common Good, and who have been trying to convince policymakers about the inevitability of a good social system of coverage. This latter would prevent Americans from having problems when dealing with medical cares. This struggle has contributed to putting forward the negative aspects of professional political advocacy, conceived to defeat civic programs in favour of the different private interests.

Nevertheless, these last two decades have witnessed governmental attempts to apply a health care reform that would serve the interests of the American people. However, they have been confronted to armies of lobbyists to frustrate any kind of emancipating law. There have been two presidential mandates that dealt with these reforms namely, the George Bush Junior and the Obama one. Both faced different obstacles that hindered the realisation of their projects.

In fact, during his first mandate at the head of the U.S. government, the Republican president tried to devote important means to create an efficient law that would please both sides. This initiative was vigorously supported by defenders of the issue among them associations like PNHP (the Physicians for National Health Care Program), the COAC (the Citizen Organised Acting together) or politicians like the Congresswoman Tammy Baldwin, in addition to a significant popular support reflected in a poll, which revealed that sixty five percent (65 %) were in favour of the project. Indeed, this initiative succeeded to build a solid opposition, determined to bring about concrete advantageous political changes (Beall, 2007). Unfortunately for Americans who cannot afford costly medical coverage, that group was confronted to another one, more organised and mainly better financially endowed, represented by the powerful American Medical Association and its efficient lobbying machine. In fact, it showed an unequivocal refusal to any kind of future bill. Besides, this association is

known to be an active specialist of political lobbying, due to the important sums of money devoted to this kind of advocacy. In fact, they are considered as one of the largest spenders in lobbying activities in the United States, and this money is used to inflict threatening public policies (“Lobbyists that the,” 2002).

Consequently, the bill called Medicare Prescription Drug Improvement and Modernization Act of 2003 was a failure. That could be possible because of ongoing financial efforts made by interested industrial and financial entities to counter the project. Concretely, due to that unfair victory, the government was unable to negotiate prices with pharmaceutical firms, causing serious financial, social and medical consequences. It has also generated enormous profits for stakeholders. Sixty one percent (61%) of Medicare spending on prescription drugs enriched more insurers, private hospitals and drugs manufacturers (Ricciardelli, 2009). The fact that the bill did not pass could prove that in some cases such reactionary positions can be dangerous for the public good, and show the extent to which excessive financial means can defeat a popular majority.

Subsequently, another presidential mandate witnessed a hard competition between the same powerful actors and a public ambition to improve the insurance conditions of the majority of Americans. It was during the first Obama mandate, where the Democratic President came with a double determination: to reduce the lobbyists overwhelming influence and to reform the Health care legislation in particular. In fact, during the presidential electoral campaign, he was determined to assure an effective regulation of these interest groups. According to him, they represent a danger for the democracy in the United States. Therefore, he thought that a proactive program can help to better deal with this powerful corporation. That determination provoked an outcry from the major spenders in the lobbying scene, fearing a drastic change that would impede them from making considerable profits.

President Obama has been elected in a context of defiance towards lobbying groups which seemed to be playing a crucial role in the field of policy production. People were complaining about this tremendous power that can even impede Congressmen or members of the government from imposing things that would serve the general interest. The different episodes that marked, for example, the failure to produce a popularly beneficial Health Care Reform, increased people's doubts and fears about the democratic legitimacy of such an activity. They believed that this profession's high profile leaders do not hesitate to inject millions of dollars to defeat their opponents and impose their political, economic, and cultural views.

In addition to exploiting important means, the Health Care lobbying groups are known to have a skilful ability to adapt to different threatening situations. Their advocacy skills have allowed them to solve many situations thanks to well-trained communication strategies. In fact, in order to face president Obama's inclinations towards a historical Health Care Reform, some stakeholders of the field started to adopt a low profile by initiating fair contacts with the newly elected president's administration. In fact, one of the most outstanding lobbyists representing the interests of the corporation, Karen N. Ignnani, assured the American chief of state that the insurers, for example, will not obstruct the administration efforts to create an efficient reform of the field (Abelson, 2009).

Negotiations seemed to be in a full swing when the first signs of disagreement started to appear, due to the fact that both Obama and his close political allies started to become overzealous. In fact, he denounced the fact that the industry was "pocketing winfall profits" and Nancy Pelosi called "Villains" the insurance industry tycoons (Cowan, 2009). This provoked the stupefaction of Mrs Ignani, the chief executive of the trade group America's Health Insurance Plans (Pickert, 2009). She assured that her colleagues were ready to open a frank and sincere negotiation with the US administration to find a global solution.

Unfortunately for the defenders of an efficient law that could serve the Common Good, this position did not reflect the insurers' real intentions. They continued to insist on the need to preserve their advantageous position by jeopardizing Obama's plans. The American president's project was confronted to a strong opposition determined to impede significant changes and to discourage him from providing revolutionary changes.

### **3.8.2 The 2008 Financial Crisis**

The economic liberalism has always been extremely criticized by those who consider it as a menace for people's right to have a decent life. It has often been perceived as an instrument that can serve powerful financial groups which seek the maximum of profits at the expense of modest people, enslaved by a system that does not take into consideration the basic human rights.

That system was terribly hit in 2008 at an international level -and mainly at an American one- by an unprecedented financial crisis. This latter was about to provoke the collapse of the whole system as it was the case during the 1929 Great Depression. The Crisis started in the United States and was propagated in the whole world due to the financial and economic interconnections that exist between the different countries as a result of an uncontrolled globalization. What was commonly called the "Sub-Primes crisis", which was directly related to another housing crisis, showed the extent to which the world of economy was significantly so vulnerable. The United States was one of the countries which suffered, in alarming proportions, from that crisis. It was the state intervention which saved the whole economy from a disastrous collapse. In fact, the Federal government injected hundreds of billions of Dollars providing the famously known "Bailouts" to impede catastrophic consequences.

Thus, the housing crisis was the main cause of the outbreak of what is commonly called the "Great Recession" of 2008. In fact, famous outstanding lenders of the American financial scene like banks and credit providers made possible that people of modest financial means could acquire houses, without taking into account their borrowing capabilities. There were no tough controls to check the solvency of

these clients. Real estate agencies proposed hundreds of thousands of houses to be sold, creating a housing bubble. These clients failed to periodically pay, provoking the bursting of the Bubble. Foreclosures were generalised and American people started to identify those who created this terrible crisis.

Being financially powerful, U.S. real estate interest groups were logically accused of being responsible of creating that economic depression. In fact, these advocacy groups are considered as top lobbying spenders in the United States. The Wall Street Journal, for example, revealed on December 2007, that “Ameriquest Mortgage” and “Countrywide Financial”, two important mortgage lenders in the United States, have injected from 2002 to 2006 the sum of twenty nine point two (29.2) million dollars in lobbying actions, political advocacy and in financing electoral campaigns (Igan, Mishra & Tressel, 2009).

Moreover, it would be pertinent to mention the dangerous role that real estate lobbying groups could have played in the 2008 financial crisis. There would be two pervasive sides related to the practice of their activity. On the one hand, due to their outstanding power, they participated in the creation of a legal atmosphere, facilitating both lending and borrowing with the subsequent negative consequences. And on the other hand, thanks to the strong ties they have always maintained with policymakers, pressure groups succeeded to convince Congressmen to vote very advantageous bail-outs to keep afloat important sectors of the financial and lending industries. They have, in fact, brandished the risk of a general economic and financial collapse if the government failed to provide the necessary finances.

Moreover, there was a serious IMF study which thoroughly focused on studying the causes of the 2008 financial crisis. That study, conducted by Igan Mischra and Thierry Tressel (2009), concluded that there is an evident link between that economic storm and the pervasive actions of some famous lobbying groups working in Washington. The authors of that study thought that it is very insightful to observe that crisis, to better understand how these groups can create negative situations. They showed that such influential entities can inspire politicians in many ways with uncertain consequences. They confirmed that such interferences between the two

worlds, namely, the financial and the legislative one are dangerous for the legislative credibility of the country. Such mutual relationships should be reduced and better treated as it is mentioned in the following passage:

**The prevention of future crises might require weakening political influence of the financial industry or closer monitoring of lobbying activities to understand the incentives behind better.**

**(Drinkard, 2001, p.12)**

In addition, the second negative intervention of special advocates hired by powerful financial lenders, was a consequence of the fact that these latter exerted a great pressure on the Federal government to finance losses made by financial firms as a way to share losses. They made clear to policy makers that injecting money in the field would be salutary and economically decisive. The same study has proved that there were indications that heavy-lobbying lenders were more likely to receive bailout funds (Igan, Mishra & Tressel, 2009).

Thus, the 2008 financial crisis was the consequence of a relentless lobbying campaign that favoured the passage of laws to facilitate lending conditions. This would have contributed to boosting the whole sector. This passivity, shown by policymakers, created an impunity which pushed these groups to exceed the limit, threatening the economic and social sustainability of a developed country like the United States.

### **3.9 Conclusion**

Lobbying has had a negative connotation in different parts of the world and in the United States in particular. This is essentially due, as it has been explained in this chapter, to many reasons that confirm that this activity can also reflect some aspects that are harmful for the democratic emancipation of the ordinary U.S. citizens. Indeed, their important financial power has helped in many cases, during the last two decades, to have undue advantages at the expense of less financially important citizen groups.

The use of money has also encouraged the adoption of some illegal practices that led to thunderous scandals that seriously deteriorated the reputation of the profession.

Accordingly, after studying the harmful effects of the lobbying activity, it will be interesting to see what have been the actions undertaken by the U.S. Legislative and executive authorities to put an end to that negative corrupting tendency. In fact, moralising actions were needed to organise, structure and encourage people to adopt fair advocating attitudes.

## **Chapter Four: Regulatory Initiatives**



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# Chapter Four

## Regulatory Initiatives

### 4.1 Introduction

During the last decade, pressure groups were the target of a hard criticism due to a series of scandals and unethical behaviours that have significantly deteriorated their image. Consequently, the champions of the lobbying activity, and mainly those who think that it plays a considerable role democratically speaking, have started to undertake some moralising actions. The objective has been to change the attitude of the persons involved in the field, in order to guarantee more transparency.

Hence, the objective of this chapter is to try to study these initiatives, their authors and the principles behind each one. It also seeks to analyse the process of regulating the corporation. It intends to show the extent to which they have been efficient in making U.S. interest groups respect the rules, conceived and imposed by competent legislative and executive authorities.

It also seeks to observe the efficiency of Barack Obama's different initiatives to regulate a system, frequently criticised by different parts of the society. His actions have been trying, to bring into order a profession which needs more moralisation, not only in the United States but in the whole world.

Another objective of this chapter consists in identifying other stakeholders of the regulation and the moralisation process. It is, thus, interesting to see if other entities have been trying to propose or impose regulating forms to try to put an end to any kind of negative lobbying practices.

## 4.2 A Historical Background of Successive Regulating Acts

Since the issuing of the U.S. constitution, the Founding Fathers, at their head James Madison, believed in the fact that Interest groups, previously called factions, were going to play an important role in the future of the American political and democratic life. They were conscious of the difficulty to govern a geographically vast country like the United States. They also considered the importance of popular alliances seeking to defend their own rights. In fact, the principle of “Competing Factions” was immediately, unavoidably, established.

Nevertheless, fears and apprehensions about such an importance displayed by these groups pushed James Madison to seriously consider this threat, by putting forward the vital role of official institutions composed of a large number of delegates (Madison, 1787). These latter can be able to assure neutrality between the different competing groups, which theoretically would be unable to monopolise the ability to petition the government. In addition, the Founding Fathers’ capacity to anticipate future governmental breakdowns, that can be the consequence of lobbies’ misbehaviours, encouraged them to constitutionally invent the system of “Checks and Balances”. It has been applied to the different structures of the government. Thus, the need for regulation came originally from this ancestral American spirit of neutralising the different factions.

The twentieth (20<sup>th</sup>) century witnessed many attempts to impose a regulation of public and private advocacy. In fact, the first Congressional initiative to regulate the sector took place in 1907, when they decreed that financial contributions of banks in electoral campaigns would be prohibited. Four years later, the same legislative authority started to evaluate the possibility to impose more restrictions on domestic lobbying. In 1913, there was an attempt to start investigating different categories of lobbies such as the “National American Manufacturers”, as a way to study scrupulously their lobbying practices and their impact on the overall sector. During the thirties, and as a consequence of the first lobbying scandals, the Congress enacted a legislation to try to cure the controversial dimension of that growing multidimensional phenomenon.

Subsequently, in 1946 the Congress enacted the Federal Regulation of Lobbying Act; the first major regulating act in the history of U.S. lobbying. It was the first deliberate initiative to try to organise the profession and to avoid unfair practices. It issued a legislation that was supposed to take into account the different movements of lobbyists during the practice of their missions. In fact, that act obliged any lobbyist to reveal, to both the House of Representative and the Senate, the different elements concerning his lobbying mission, such as the corporation or the organisation that hired him, his salary and the final objective of his initiative.

More concretely, a lobbyist was meant to register everything that was related to his actions. He had to declare all the financial elements of his lobbying firm as well as the company or the group of individuals he represents. Thus, and according to Largerlof and Frisell (2004, p.27): **“registration of lobbyists should at least work in the direction of greater transparency”**. In addition, lobbyists were asked to fill a series of forms to give further details. They were even obliged to mention every article published in the press, whose topic was closely related to their lobbying actions.

However, that act generated many debates. It was due to the fact that many limits, or what are commonly called in the jargon of the field as loopholes, had been detected. For example, that legislative text principally obliged lobbyists to register only if their lobbying actions were supposed to influence or change legislation. In fact, other major participants in the activity of lobbying were not concerned by this law, because their initiatives were more difficult to identify and not considered as Direct Lobbying. In fact, different lobbying protagonists succeeded to avoid registering thanks to their particular status.

Moreover, this act was characterized by a certain ambiguity and a lack of clarity. For instance, those who communicated with Congressional staffers were not obliged to register, even if those staff members were actively involved in the preparation and the conception of legislative texts. Besides, those who devoted less than half of their professional time lobbying the Congress were not concerned by that regulating law as it is explained below:

**In support of the power of Congress it is argued that lobbying is within the regulatory power of Congress. Lobbying, properly defined, is subject to control by Congress (...) Neither semantics nor syllogisms can break down the barrier which protects the freedom of people to attempt to influence other people by books and other public writings. We agree that lobbying by personal contact may be an evil and a potential danger to the best in legislative processes. It is said that indirect lobbying by the pressure of public opinion on the Congress is an evil and a danger. That is not an evil; it is a good, the healthy essence of the democratic process (...)**

(Supreme Court decision, 1952)

Paradoxically, in spite of waves of criticism that negatively affected that law, the US authorities did not react with major legislative shifts. They had to wait nearly half a century in order to enact a new regulating law, supposed to assure more registration. In fact, the Lobbying Disclosure Act of 1995 came to impose new requirements to reach more transparency in a field which was in need of more efficient reforms.

### **4.3 An Urgent Reorganisation of the Field**

Throughout many decades the field of lobbying has become unavoidable in the political, public and democratic scene in the United States. That tendency, which consists in pleading a particular group's causes, has turned out to be an overwhelming power, with huge financial means. It is able to affect different sectors of American life. Thus, and as it has been mentioned above, due to the fears of U.S. citizens about the negative side of these groups, regulation of the field and attempts to moralise the profession have always been a priority for U.S. political leaders. Their objective has consisted in avoiding biased monopolies which would threaten the democratic stability of a country, whose founding principles have been the cornerstone of every public and political approach.

Moreover, the last two decades witnessed a political ambition to regulate the field and to avoid monopolistic situations where some groups would exploit the constitutional side of lobbying to serve their interests in a strictly narrow way. This could be at the expense of those who do not master very well the techniques of such a complex phenomenon. In fact, even if this period has witnessed a development of powerful groups which have been able to influence- in a significant way- U.S. politics, some politicians have tried to initiate a campaign to reduce their influence. The objective has been to avoid scandals that could threaten U.S. public trust towards the American political class.

Accordingly, different acts and legislative texts have been issued to bring order into the advocacy field. Their efficiency has not always been guaranteed, but policy makers have generally insisted on doing so. They have wanted to make sure that the profession should not be the prey of unscrupulous actors, whose sole objective can be the triumph of the private interest at the expense of the general welfare.

Such reforming initiatives took place not only in the United States but also in other parts of the world. Authorities have, in fact, started to impose new restrictions on this growing activity.

#### **4.4 A Moralisation of Lobbying in the World**

The activity of lobbying has always been internationally practiced mainly in the most industrialised regions in the world such as the European Union, Canada and the United Kingdom. However, the procedures are different from a region to another one. These differences can be explained by their respective cultural, political and institutional specificities.

However, we can mention a higher degree of regulation in The United States in comparison to the other regions of the world. In fact, it is well known that an intense activity of lobbying implies a much stricter legislation, meant to regulate it. Thus, regulation in the United States guarantees registration, which provides important sources of information concerning the different advocacy firms. These sources can be easily consulted by anyone who wants to have a closer look at this profession.

Accordingly, if in the majority of the regions of the world, the executive branch remains the most important part of the political system, in the United States the legislative responsibility is confined to the Congressmen. Getting in touch with them is much more possible. However, it implies a tighter legislation to fight all sorts of unfair links with law makers.

Moreover, another major characteristic of U.S. lobbying, that can accentuate a governmental regulatory intervention, can be the involvement of private funds in electoral campaigns. In fact, due to the complexity of the system of election in the United States, private capitals and other organisations are allowed to financially support a particular candidate. This external financial intervention is almost prohibited in other regions of the world, as it is explained by a Washington lobbyist:

**I'm sure that you've found that here in the US there are a lot of different ways to access Government decision-making. There are things that we do here that European parliaments and other places view as being unethical and illegal, but that's the way that our system is set up. There are other systems where members of parliament are able to take outside income from a corporation, which here is viewed as being unethical and illegal. So there are a lot of cultural differences in terms of how our politics and government systems operate and how they are open to, influences from the outside'**

**(As cited in Lobianco, 2009, p. 96)**

Consequently, the U.S. legislative authorities are obliged to control this financing system, by imposing a more effective regulation. In fact, it tries to moderate the influence of those lobbying groups who have been financially and electorally very active.

Besides, the System of “Checks and Balances”, created by the Founding Fathers and the pluralistic environment of the US politics, both, encourage other contending parts of the lobbying system to control the activity of stronger groups. In fact, many civic interest groups rely on financial resources provided by citizens and other non-profit organisations, to constantly evaluate the transparency of the activity of

corporations involved in the field. This guarantees a neutralisation of the different lobbying actors and could be the fruit of an efficient regulation.

## **4.5 Regulation**

Regulation has become during the twentieth century the main objective of both responsible policy makers and U.S. citizen groups seeking a way to organise and efficiently monitor the lobbying process. This action, according to them, would avoid that the field can be monopolised by some special interests with strictly narrow goals. This would guarantee more ethical governmental practices that contribute to cementing the public trust in such complex operations. Moreover, even if the constitutional credibility of the profession is guaranteed, the kind of means, mainly the financial ones, should not pervert the political and democratic process. They cannot prevent that some pressure groups can avoid control and regulation process.

Accordingly, a country like the United States has been seeking practical and pragmatic rules to ensure a regulation of the field. This approach has had as an objective to reach a good level of accountability and transparency. In fact, it can be essential in avoiding scandals that can threaten the political and democratic stability of the United States.

Moreover, different authorities and services have been committed to bringing into order this complex profession. They work together to reach the objective of maintaining an ongoing control on the groups' attitudes and lobbying efforts. For instance, the Office of Government Ethics in the White House, and other ethical official entities, strive to oblige an interest group to display an ethical behaviour during the exercise of its activity. Meanwhile, the US department of justice has the authority to impose fair lobbying laws. Ethics Committees in the Congress also monitor the ethical behaviour of both the Staff and members.



In addition, in order to regulate more efficiently this activity, it has been recently observed that an increasing number of states have been trying to consider all forms of lobbying as activities to be formally and rigorously regulated. In fact, what is called “Indirect lobbying” such as Grassroots campaigns has become the target of regulation in thirty six (36) states. They consider that any kind of communication with policy makers, whether through an official contact, a legalised access in the United States, or through media campaigns and popular mobilisation, are attempts to influence the process of preparing legislative texts. Such a regulation is not possible federally speaking, but many specialists plead for its implementation at a national level.

Accordingly, the activity of lobbying has become so powerful that these regulating attempts are considered as essential to guarantee a healthy democracy for the country. Their importance can help to make the public opinion think that democracy is not rigged and that the respect of the rights and the claims of the majority still remain the final objective. In fact, constant regulation has been the response to public suspicion linked to thundering scandals that have really threatened, in a significant way, the credibility of U.S. authorities as it is stated below:

**Our profession is at a critical point where we can either embrace the constructive changes and reforms by Congress or we can seek out loopholes and continue the slippery slide into history alongside the ranks of snake oil salesmen.**

**(Kelleher Richter, 2011, p. 74)**

Accordingly, there was a dominant will for the introduction of more moralising principles, controlling the activity of lobbying. That urgent need was expressed by large categories of US citizens.

### 4.5.1 Registration

Registration is a procedure directly linked to the process of lobbying regulation. It is performed by those who invest the advocacy field in order to be able to practice this profession. Registering consists in a kind of candidacy to lobby in the different legislative levels, whether at a state or a federal level. The last regulating acts, like the 1995 Lobbying Disclosure Act, insist on the fact that a maximum of lobbyists should register to freely advocate his cause or the one of the group he represents. In 2000, and according to Open-Secrets.org, almost fifteen thousand nine hundred sixty five (15 965) lobbyists registered according to the regulating act mentioned above.

Furthermore, the act of registering involves every person who receives an amount of money against his lobbying efforts. He should register, with both the secretary of the senate and the clerk of the House of Representatives, forty five (45) days after personally getting in touch with any policy maker.

Therefore, a lobbyist must also register within the same period of time when he is hired by a particular interest group. He must, then, declare his lobbying occupation if he succeeds to obtain two or more contacts with a legislator, when defending the rights of particular interest groups. In addition, corporations are also concerned by the operation of registration if they tend to regularly have recourse to any kind of advocacy. They should also do it if they employ their own special advocate, called an “In-house lobbyist”.

On the other hand, there are some categories of people who can avoid registering. Indeed, among these stakeholders, we can find those who earn less than three thousand (3000) dollars for each client or those who spend less than eleven thousand five hundred (11.500) dollars for each fiscal quarter (“Rep.Tom,” 2004). Both cases are considered as flagrant loopholes spotted in the american regulatory system. It is also the case of part-time lobbyists who spend less than twenty percent (20%) of their working time in lobbying. Other non-profit organisations, except churches, are not required to register too.

In general, the operation of registering is done every three (03) months. A file should be composed by a lobbyist for every client he represents. This file must contain information about the name of the lobbyist's client, the amount of money spent in advocating actions and the amount of money earned by the advocate, once his mission is achieved.

#### **4.5.2 Disclosure**

Disclosure is another procedure imposed by the regulation process. After registering himself and declaring his activity, a lobbyist is invited to report details and information about it. In fact, the different regulating acts oblige professionals of advocacy to disclose or to reveal the different elements linked to his activity, mainly the financial means used to access politicians.

Thanks to this disclosure, U.S. citizens have become more aware about elements that concern the professionalism and ethics of people who govern them. They can evaluate their work. They can also control their different interactions with their lobbying partners mainly during electoral events. Indeed, electoral campaigns usually witness the use of important sums of money to help candidates- thus possible future policy makers- to cope with financial difficulties due to extremely high electoral spending. Consequently, people, can detect any corrupting attitude in interest groups or any kind of unethical behaviour of politicians.

Moreover, thanks to the Disclosure process, both the "Senate Public Records Office" and the "Federal Election Commission" provide very interesting information about how the activity of lobbying is conducted. They can also learn how policymakers behave with this multidimensional phenomenon. These sources of information are usually exploited by public interest groups such as Common cause, the Center for Public Integrity or Citizen Group. These latter rely on this important source of data to unveil an abnormal governmental behaviour due to a possible pervasive lobbying action. They can also use it to assess the weight of financial lobbying contributions used to advertise or to develop friendly links with policy makers. Once collected, this data is, then, made available in their respective websites.

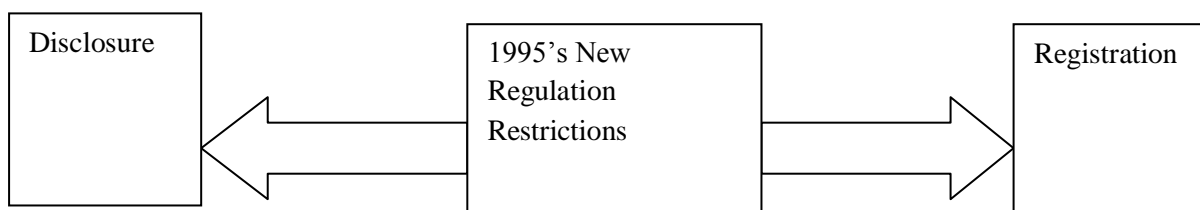
Therefore, thanks to the fact that different elements of the lobbying actions are disclosed and known by the public opinion, different non-profit entities have started to carry out studies to understand and to contest some unscrupulous situations. These negative cases can do harm to the democratic process in the country and can easily reduce public's trust in their governing political class. For instance, there was a study, made by the famous public interest organization, "Public Citizen", which revealed, thanks to the disclosed information, the extent to which some powerful lobbies can be so influential when dealing with their political counterparts ("Rep. Tom," 2005). It revealed the kind of advantages obtained by the powerful oil lobby thanks to their relationships with notorious policymakers. The oil companies had succeeded to rely on and use public financial means, nearly a billion dollars, to finance their activities of research and extraction. According to that public interest group, such mining operations should have been funded by their own financial means instead of having recourse to governmental financial resources.

Furthermore, the same study revealed that it was thanks to a Clinton administration official that these oil companies succeeded to obtain several financial resources, a part of which served to finance Representative Tom Delay's electoral campaign. Subsequently, the same lobby achieved a final legislative victory thanks to an aggressive lobbying which worked to add an advantageous amendment to the Energy Bill (Lathem, 2006). This set of information was possible to obtain thanks to a Disclosure process that is the result of many regulating acts. In fact, it has contributed to guaranteeing more transparency in the field of advocacy.

However, one of the main objectives and principal aspects of Disclosure can be the ability to disclose any kind of financial information linked to a particular lobbying initiative. Money plays a crucial role in the relationships between advocates and policymakers during electoral times. Consequently, ethical and regulating efforts have been made to avoid possible abuses. This could threaten the equality between the different groups at the moment of trying to convince a decision maker about the vital side of their claims.

Accordingly, the ability to disclose financial operations related to lobbying can improve in a significant way the level of transparency in such a complex field. Besides, thanks to this kind of disclosure, different categories of people such as journalists, citizen groups and the whole political class could have an idea about the source of political financing. It has also revealed the amount of money used by lobbyists for every kind of policy that concern different industrial branches. Thus, this important part of disclosure gives information about financial resources invested by interest groups. It also reveals the identity of clients they represent who can play a decisive role in important political events such as electoral campaigns.

In addition, financial disclosure gives hints and important information about how money is spent by lobbyists to help politicians to practice their governmental functions. Such a disclosure system, for example, helped in 2006 to investigate the Jack Abramoff case, which represents to this date one of the most resounding lobbying scandals in the modern history of the United States. Thanks to that system of control it was possible to identify the different protagonists of the scandal, their respective interests and the way every one behaved to secure his advantages. This important source of information was available as a consequence of a series of revelations about the “ins and outs” of particular lobbying efforts. These latter turned to be a serious attempt to cheat the law and to try to conceal vital elements of one of the most important scheme of the history of the United States. Fortunately, some regulating bases, which are provided by the LDA, contributed to reduce such corrupting effects as illustrated by the following diagram:



**Diagram 4.1: LDA's New Regulation Restrictions**

- **The 1995 Lobbying Disclosure Act's new restrictions, among them the obligation to register and to disclose any kind of lobbying activity**

## **4.6 The 1995 Lobbying Disclosure Act**

Historically speaking, the Federal Regulation of Lobbying Act of 1946 was the first major attempt to efficiently organise this activity. This latter is constitutionally able to get in touch with policymakers to defend their rights and mainly to voice their concerns. However, the different drawbacks that resulted from that act pushed the U.S. authorities to look for a more efficient legislative text that can be able to respond to a potential unethical political advocacy. That reformatting initiative took nearly fifty (50) years to see the production of a new legislative text supposed to regulate this controversial field. In fact, The 1995 Lobbying Disclosure Act was an attempt to cure problems provoked by pressure groups. It adopted drastic measures, supposed to impose both registration and disclosure, two efficient actions that can moralise the relationships between the different stakeholders.

It is worth mentioning here that this major act was created during the Bill Clinton first presidential mandate. In fact, on June 11, 1995 during a formal meeting between former American president, Bill Clinton and Newt Gingrich, former Speaker of the House of Representatives, both agreed to reform the activity. They negotiated the creation of a major Act that can deeply impact the field of political advocacy. Thus, they efficiently contributed to the passage of the famous Lobbying Disclosure Act of 1995. Since then, there were different amendments, but the LDA remains a reference in matter of regulation. It is still the most effective legislative text that can force professionals of the field to reveal their identity and the financial efforts consented by American pressure groups in Washington, the city of every kind of advocacy.

It is to be noted that this act obliges individuals to register to both the Clerk of the House of Representatives and the Secretary of the Senate's Office of Public Records (SOPR) by filling Quarterly Activity Reports (QAR). That procedure has become obligatory whenever the objective of a particular lobbyist consists in legislatively getting in touch with and influencing any policymaker. Such a registration is supposed to increase the level of accountability of a field which significantly suffers from a bad reputation.

Moreover, that legislative innovation, which took effect on January 1996, had succeeded to create a new spirit in the field. It even proposed a new definition of the activity as it is mentioned below:

**The Lobbying Disclosure Act defines lobbying contacts as oral or written contacts by an employee/lobbyist with members of Congress and their staffs, *and* with senior-level Executive Branch officials, concerning: (a) influencing federal legislation; (b) influencing federal rules and regulations, executive orders, another policy positions; (c) negotiation, award or administration of federal programs, policies, contracts, grants, loans, permits, or licenses; and (d) nominations subject to Senate confirmation.**

**(The Lobbying Disclosure Act, 1995)**

By closely observing both the 1946 Federal Regulation of Lobbying Act and the Lobbying Disclosure Act of 1995, it might be noticed that the main differences between both acts remain in the kind and the number of provisions provided by the LDA. In fact, these provisions consist in clear instructions that every lobbyist should rigorously follow to avoid any kind of confusion that can lead to a disrespect of the law. The following are the six provisions that oblige a lobbyist to register:

-Anyone who spends more than twenty percent (20%) of his professional time lobbying different legislative and executive authorities should register and disclose his activities.

-Former US representatives are not allowed to be hired as lobbyists for foreign interest groups,

-Non- Profit groups which receive financial aides from the Federal Government are not allowed to lobby the Congress,

-Every six months, lobbyists are obliged to report the legislative texts where they have practiced their lobbying activities, the amount of money invested in such actions and mainly the governmental spheres with whom they collaborated,

-Lawyers, hired by foreign companies or by U.S. divisions owned by foreign firms, are obliged to disclose their activities and to register with the Congress,

-Grassroots advocacy and those lobbyists, who earn less than five thousand (5000) Dollars every six months, are not obliged to accomplish the LDA registration procedures.

One of the innovations of this new law has been the fact that policymakers mainly members of the Congress, are obliged to declare the different gifts received from lobbyists. They are also forced to report every trip they make, its purpose and how that official is going to finance it. Thus, this amount of information is rationally exploited by different interested people and different entities such as the website [Opensecrets.org](http://Opensecrets.org). This online source seeks to find every element related to the activity of lobbying mainly those related to campaign financing. They also study the conditions of recruitment of former Congressmen by a particular lobbying firm to take profit from its legislative experience.

Consequently, people started to discover the first effects of that law. Indeed, the number of special advocates doubled immediately and the number of companies practicing lobbying has reached in 1999 the number of 9000 entities, nearly 70% of them belong to the (FIRE) industry, i.e. finance, insurance and real estate companies (Igan, Mishra & Tressel, 2009). In addition, such a regulating legal framework has, thanks to disclosed information, helped to give a precise idea about the extent to which foreign lobbying has become so important. In fact, the LDA had contributed to



congressionally investigating the fact that the Chinese government tried to influence the U.S. administration during the Clinton Presidency (Ragone, 2004).

In 1995 American politicians succeeded to produce a major law that had the intention to moralise lobbying actions by imposing new restrictions that were not provided by the former Federal Regulation of Lobbying Act of 1946. The objective of the LDA was then, to study all the elements and aspects of the profession. It was also intended to avoid negative criticism from associations and groups which considered this constitutional right as a pervasive part of the American political scene as well as a source of corruption and demoralisation of the democratic process.

Unfortunately for the initiators of that act, lobbyists have always had a solid ability of adaptation to a particular legislative environment. This contributed to detect some loopholes in the LDA, something which reflects the fact that it contains imperfections.

Consequently, different acts have been passed, amending the LDA in order to improve its efficiency. For instance, in 1998, the Congress first amended it by passing the Lobbying Disclosure Technical Amendments Act of 1998. Subsequently, and as a reaction to different shocking events provoked by immoral political and lobbying conducts, there were other acts especially made to fight apparent loopholes. In 2006, for example, the Congress passed The Lobbying Transparency and Accountability Act. That act was designed to modify the way the Senate should behave towards the activity of private advocacy. Many observers considered it as a logical consequence of the Jack Abramoff scandal. That case inspired and mainly obliged the U.S. competent authorities to impose hard restrictions on many aspects of the relationship that link policymakers to professionals of private advocacy. In fact, stricter controls have been imposed on the way gifts, such as meals and other trips, are paid by lobbyists to Congressmen. The contacts of these latter with interest groups have become meticulously monitored as it is put forward below:

**The Senate bill barred lobbyists themselves from buying gifts and meals for legislators, but left a loophole in which firms and organizations represented by those lobbyists could still dole out gifts and perks; allowed privately funded trips if lawmakers got prior approval from a commissioned ethics committee; required lobbyists to file frequent and detailed activity reports and have them posted publicly. The bill was approved in 2006 by a 90-8 vote. (Burger, 2006, p.11)**

Then, in 2007 the Congress passed The Honest Leadership and Open Government Act of 2007. The objective of that bill consisted in reforming both the lobbying activity and the ethical practices directly or indirectly linked to it. In sum, different additional steps have been taken in order to cope with that skilful ability of adaptation that interest groups have always had. In fact, these latter show a natural tendency to control and possibly influence policymakers by convincing them to serve their strictly narrow interests. Besides, the legislative efforts that led to the creation of that act were initiated by the Illinois' senator, Barack Obama. He worked to produce a law that would fight conflict of interests and make more transparent the different lobbying practices.

The resulting reform has reflected a clear tendency towards more regulation of any kind of gifts received from private entities. It also indicated a more public involvement in controlling and supervising different lobbying issues such as campaign financing. That governmental determination has also taken into account the objectives and areas of interests that these pressure groups keep in mind when undertaking advocacy efforts.

In addition, one of this reform's objectives was to solve the problem of the Revolving Door. It intended to reduce damages that can be the consequence of connivances that exist between former members of the Congress and the present ones. Indeed, according to the Honest Leadership and Open Government Act (HLOGA) of 2007, former senior Senate staff and officers are not allowed to lobby the Congress for a period of time of two (02) years. Equally, former Senior House staffs do not have the

right to lobby their former committee or office during one year after the end of his Congressional mission.

Accordingly, Democrat Senator Barack Obama was one of the major architects of the act mentioned above. He had already started to display a form of vehemence towards the role that the U.S. interest groups can play during their usual contacts with policymakers, particularly Congressmen. Subsequently, he adopted the same attitude during the promising 2008 presidential campaign to elect a president to replace George Walker Bush. In fact, this latter's two mandates witnessed many lobbying scandals like the American Indian Jack Abramoff scandal, already mentioned above.

At that time, both candidates, i.e. Barak Obama and the Republican John Mc Cain had decided to choose the reform of the lobbying projects, as their principal electoral theme. Both were also aware of the disastrous effect that this activity can generate, if it is not firmly and methodically monitored. Besides, they showed their determination to fight the undue lobbying intrusion in public and political spheres, by banning Federal registered lobbyists to play a role in organising their respective electoral campaigns. Subsequently, and with the victory of the Democrat candidate, reforming the lobbying profession remained as one of Obama's great governmental priorities in order to bring more ethical behaviours in the practice of politics in Washington.

#### **4.7 Obama's Regulating Attempts**

The election of the first Black American president, Barack Obama, had generated a great level of optimism among Americans and other populations of the world. They, in fact, considered his election as an excellent opportunity to restore the image of the United States in the World after the two negative mandates of President George Walker Bush. It is worth reminding that American interventionism in the World has caused too much harm to the American diplomacy at an international level. Furthermore, at a local level, the liberal economic measures of the former Republican president had a disastrous effect on the different sectors of the U.S. economy. They

created a terrible crisis which was the consequence of a demoralisation of the American economic and political life, generating the famous Sub-primes crisis.

Thus, there was a great optimism about the election of Obama for the reasons mentioned above. He also succeeded to attract people with interesting themes evoked during his electoral campaign. He tried to explain the importance of the moralisation of American politics and economy. In fact, one of the themes, which created a lively debate in America, was his intentions to regulate and limit the growing influence of lobbyists. Thus, themes closely related to advocacy took a central part in the electoral discussions during the 2008 presidential electoral campaign. That electoral battle witnessed a competition between Barack Obama and the Republican candidate John Mc Cain.

Both candidates had been two senatorial leading figures, who tried to bring more ethics and transparency in the way American politicians should deal with professionals of private advocacy. Both significantly took part in the elaboration and the conception of one of the most significant acts since the LDA, i.e. the HLOGA. That legislative piece came as a response to some scandals that made Americans doubt about the honesty of both politicians and interest groups.

During the 2008 presidential campaign, Obama did not abandon this field and continued his crusade against a supposed undue influence of private organisations. According to him, these entities use their important financial means to shape, in the wrong way, a substantial part of the American political practices. He clearly affirmed, throughout the campaign, that he would put an end to this reliance on private funds, as he promised it in one of his historical campaign speeches:

**I intend to tell the corporate lobbyists that their days of setting the agenda in Washington are over, that they had not funded my campaigns, and from my first day as president, I will launch the most sweeping ethics reform in U.S. history. We will make government more open, more accountable and more responsive to the problems of the American people. We will not take a dime from Washington lobbyists —We are going to change how Washington works. They will not run our party. They will not run our White House. They will not drown out the views of the American people.**

**(Candidate Barack Obama, 2008)**

Subsequently, after being elected, he devoted considerable governmental efforts to legislate against well-known loopholes that threatened the democratic practices in the United States. He considered transparency in political interactions as the cornerstone of every governmental initiative, as he explained in a speech, few days after he took oath of office:

**Transparency promotes accountability and provides information for citizens about what their Government is doing. My Administration will take appropriate action, consistent with law and policy, to disclose information rapidly in forms that the public can readily find and use.**

**(President Barack Obama, 2009)**

Thus, the beginning of his first presidential mandate was characterised by a particular tendency towards criticising lobbies. He strategically considered that it is one of the themes that can easily generate public support. His attacks on lobbyists had, as a main objective, to reflect a determination to moralise the political activity in Washington. Indeed, during his first State of the Union speech, he declared that:

**We've excluded lobbyists from policymaking jobs or seats on federal boards and commissions. But we cannot stop there. It's time to require lobbyists to disclose each contact they make on behalf of a client with my administration or Congress.**

**(President Barack Obama, 2009)**

On January 2009, president Obama signed an executive order called: “Ethics Commitments by Executive Branch Personnel”. It was supposed to preserve political integrity and transparency. It was his first executive order, showing that he kept his word concerning the creation of a new regulatory and transparent framework that would preserve U.S. politics from any kind of demoralisations. That act affected directly one of the advocacy aspects, so dear to lobbyists, which is the Revolving Door, which consists in attracting policymakers with lucrative lobbying careers once their mandate is finished. American lobbies considerably took advantage from that way of establishing close links with governmental spheres. It was for them a way to exert their pressure on policymakers. These decision makers are supposed to regulate them. However, they are constantly invited to accept lucrative offers from very powerful lobbies, which promise legislators to earn high salaries within the practice of a future new professional career. That measure showed the extent to which Obama’s determination -when he was only candidate- did not change when he became president.

Thus, Barack Obama was determined through his executive order to close the door of his administration to former lobbyists. Meanwhile, he considered that people who will leave U.S. public affairs would not be allowed to register in a lobbying firm. He, in fact, wanted to assure ethical conducts for governmental issues that, according to him, should be as much transparent as possible.

The American president promised U.S. citizens a maximum of accountability and transparency. This latter could be achieved by encouraging people to consult many details concerning contacts between lobbyists and officials of the executive branch. Every three months, people would have the ability to discover the reports of such interactions, thanks to reliable sources that can regularly help discover the maximum of disclosed details.

Then, on May 2009, he carried on establishing new rules designed to reform the lobbies' function. That concerned the way the stimulus funds were distributed thanks to the American Recovery and Reinvestment Act of 2009 (Recovery Act). These legislative innovations have been considered as very important measures. They were made just few months after being elected. This, in fact, showed that Obama's determination corresponded to a tendency which tried to make things change in a so critical field. His ambition was to considerably reduce the influence of lobbyists' money in public affairs as he put it forward below:

**A lot of folks see the amounts of money that are being spent and the special interests that dominate and the lobbyists that always have access, and they say to themselves, maybe I don't count,"**

**(President Barack Obama, 2009)**

Moreover, the act mentioned above served to provide restriction on the way lobbyists and members of the executive branch can communicate with each other through oral or written exchanges. These members of the Obama administration were supposed to display a high level of transparency and accountability. They were also banned from any kind of oral communication with lobbyists, interested in getting advantage from the financial bail-out the U.S. government provided to help the economy recover from the disastrous consequences of the 2008 financial crisis. By doing so, they must report their oral communication in a recorded material that should be sent to the officials' website.

Consequently, there have been many reactions towards this reckless initiative to reduce the influence of lobbyists and monitor their complex activities. In fact, the public interest groups and other non-profit organisations were satisfied by such presidential legislative efforts to moralise the political life in the United States. There was a first reaction from a group composed of four prominent organisations: Common Cause, Democracy 21, the League of Women Voters and U.S. Public Interest Research Group. They wrote a common report where they highlighted Obama's measures (Eggen, 2010). According to them, things should absolutely change in the way lobbying business should function in Washington. They also praised his continuous

efforts towards a more transparent mode of operation. They believed that ancient practices should be banned in order to help citizens trust again the main actors of the political field, as they clearly mentioned it in a common report:

**The cumulative effect of the Administration's actions has been to adopt the strongest and most comprehensive lobbying, ethics and transparency rules and policies ever established by an Administration to govern its own activities. "The new rules and policies have begun the difficult process of changing the way business is done in Washington."**

(As cited in Altaffer, 2008, p. 15)

Moreover, the group started evaluating Obama's actions by giving an "A" for his efforts to firmly reform the "Revolving Door". Meanwhile, they considered that his attempts to reduce communication between executive officials and lobbyists pretending to take advantage from the 2009 financial bailout, deserve a "B", to show that other efforts should be made in this field (Eggen, 2010) .

On the other hand, such measures also provoked a reaction from the different lobbying organisations which expressed their fears concerning that new presidential tendency to control and reduce interest groups' activities. They put forward the Constitutional right which gives the right to petition the governmental and legislative spheres, allowing people to practice freely the activity of lobbying.

In fact, there was an organised opposition against the new presidential policies. That movement was composed of four hundred fifty (450) groups including the U.S. Chamber of Commerce and the National Association of Realtors (Schouten, 2011). They used the technique of the letter writing campaign. The objective of these initiatives was to condemn restrictions that were supposed to be disastrous for a profession which, according to them, can play an important role in the development of the American democratic life. For example, Lobbyist Karl Petterson expressed his fears through a letter addressed to President Obama, stating:



**Since your announcement to seek the Presidency you have consistently attacked the honourable profession of lobbying. Lobbyists play an important role in the legislative process, serving as educators to elected officials. Our ability to access and navigate the legislative process and push issues forward through a bureaucratic cluster is a vital service to the nation.**

**(As cited in Peterson, 2009, p. 17)**

It is worth noting that in his attempt to regulate lobbying activities and to bring more transparency and ethics to such a controversial profession, the newly elected American president failed to take into account some elements. This fact generated, as usual, some loopholes intelligently exploited by specialists of private advocacy. These latter knew how to overcome those difficulties in order to carry on exerting their influence. However, they started to cope with more restrictions than before.

Many have got the impression that few things have changed in comparison to the past. There still existed people who did not have the status of lobbyists but who can share the same objectives, defend the same interests and mainly behave by adopting the same strategies. For instance, if Washington was full of lobbyists before the arrival of Obama, these professionals of advocacy were replaced by experimented advocates who try to influence policymakers using the same techniques.

In fact, measures which were supposed to bring more transparency, have been paradoxically producing less openness and less transparency. This is principally due to the fact that there was an important wave of de-registration. Lobbyists were meant to simply abandon their lobbyist status to become an advocate, a non-registered lobbyist. This has resulted in less transparent political relationships which witnessed many complex issues, such as the role of a particular lobbying effort and the financial means used to achieve it. That was the case of Barack Obama's campaign bundlers, those who raised money for his campaign. Obama was not morally supposed to refuse their money for the simple reason that they were not officially registered as lobbyists in Washington. For example, fifteen (15) of those who were actively involved in raising money for the candidate Obama had very tight links with the lobbying body. They

succeeded to raise nearly five (05) million dollars (Mattingly & Johns, 2008). He did not hesitate to have recourse to them, even if it was difficult to distinguish them from real lobbyists.

Moreover, Barack Obama's fierce battle against the Revolving Door, and the ability of former policymakers to lobby the government, has not resulted in the fact that they have completely stopped any kind of communication and partnerships with the executive branch. In fact, according to the White House's website log visitors, there have been many proofs that former Congressmen and officials in general, have had easy and frequent access with the Obama administration (Heidt, 2011). That source mentions the name of former Senator Tom Daschle, who played a very important role in the negotiations that the Democrat President had had with powerful corporations during the preparation of the Health Care Reform. Tom Daschle had also taken advantage from the fact that he was not a registered lobbyist and recognized that he considered himself, in an interview given to the New York Times, as a "neutral resource". He did not, for example, find any obstacle to be paid by insurers (Farell, 2009).

Other figures like Senator John Podesta or lobbyist Andy Stern did not have any difficulty to visit the executive branches' offices, when trying to deal with some issues related to their own businesses. Even worse, former lobbyists like Eric Holder and Tom Vilsack have occupied, during the first Obama mandate, the function of Attorney General and Agriculture Secretary respectively (Malkin, 2010).

Besides, when trying to deal with one of his most important projects during his first mandate, which is the reform of the health care service, President Obama shocked many observers. In fact, he and his close advisers frequently worked with many lobbying organisations. The Sunlight Foundation, for example, discovered when consulting the White House visitor logs, a list of names of famous lobbying participants such as the pharmaceutical industry unions, the AARP, the American Medical Association, the American Hospital Association, and the American automobile companies, which intervened in the conception of the reform mentioned

above. The same foundation also discovered that in 2009, some lobbies that were closely interested in health care reform, spent important sums of money in electoral campaigns. It was a fact which contradicted the spirit of the regulating laws, put forward by the U.S. president (Thurber, 2011).

Moreover, the American people live now in what is commonly called a digital era, where Internet and other technological means of communication are easily accessible in a developed country like the United States. However, The Sunlight Foundation has showed perplexity towards the fact that these new technologies have not been used to better improve the process of disclosure. In fact, according to them, thanks to a sophisticated means like Internet, it would have been possible to develop a reliable database with a possibility to get instant information thanks to an online disclosure. Nevertheless, according to that same association the new rules on lobbying conceived by the Treasury Department over Troubled Asset Relief Program (TARP) did not use such a technological help to show how lobbying groups should ethically behave (Bauman, 2010). Indeed, using such formidable means would have contributed to a much more efficient system of transparency. This can give clues about the real intentions of President Barack Obama to reform such a financial monster which is lobbying.

#### **4.8 Ethics**

Lobbying is an important tool that can foster democratic debate and contribute to social emancipation. The U.S. Constitution puts forward the fact that it must be considered as an unavoidable recourse for ordinary citizens to improve their conditions of life and to see their claims satisfied. However, tight controls should be constantly imposed. This could lead to minimising its harmful effects and to avoid cases where people can think of an unfair situation that creates injustice and inequality in the way all the citizens were treated. Monitoring this activity, thus, must be obligatory and every lobbying effort should be made inside the framework of legality and fairness.

Accordingly, the late 90's and the beginning of the 2000 years witnessed many initiatives that tended to moralise the profession of lobbying. The objective has been to make it adopt a pedagogical posture to teach how advocacy could be a fair task where everyone can enjoy the right to compete freely. Thus, a whole tendency has been created to inspire ethical attitudes that can improve the quality of interactions between the different stakeholders of the lobbying world. Paradoxically, it is the fact that the country has witnessed many lobbying scandals which provoked the creation of a regulating legislation. With more or less efficiency, an ethical lobbying spirit has emerged to counterattack abusive monopolistic situations. Many Congressmen have adhered to this wave of moralisation that could have endangered their status of representatives of U.S. citizens. A moralistic climate has encouraged policy makers to avoid confusing and doubtful relationships with representatives of public interests as it is explained by a former politician:

**A few decades ago, I served on a committee in Congress that handled foreign aid. One day, I argued in a public hearing for helping one of our allies; after I left and got back to my office, I found lobbyists from that country waiting for me. They wanted to thank me for my support with an honorarium of several thousand dollars, a trip to their country, and an honorary degree from one of their universities. I declined. What's interesting about this exchange is not my virtue, but the fact that in the 1970s this type of thing was legal and went on all the time. Now it would be prohibited. The ethical climate today is far ahead of where it once was, and most Members of Congress take such matters seriously.**

**(As cited in Baumgartner 1998, p. 198)**

It is worth noting here that lobbying has become badly reputed due to its bad exploitation by some ill-intentioned agents, who have been using their huge financial resources to serve their closest interests. However, whether at Federal level or a State one, different initiatives have been created to impose ethics in the profession and to put barriers to immoral actions, as it is explained below:

**At the federal level and in most states we have laws against bribery, extortion, and gratuities; we have ethics rules governing elected officials; we have ethics committees or commissions; and, perhaps as important as our laws and official overseers, we have a vigilant media fixed on exposing public wrongdoing. States and the federal government also have laws and rules governing lobbyists, including registration, disclosure, and routine reporting.**

**(Correa, 2001, p.14)**

Accordingly, US legislators have started to take into consideration the vital side of regulating the field. By doing so, they have been trying to condemn illegal behaviours and promote ethical ones.

#### **4.8.1 Different Ethical Initiatives**

The last two decades have witnessed different major initiatives in order to make lobbying groups respect ethical morals. They have organised campaigns at a national level to spread ethical principles that, according to them, can guarantee a better functioning of the democratic and political system. In fact, there have been at least three important actions made by the CLPI (The Center for Lobbying in the Public Interest), the Woodstock Theological Center and the (AAL) American League for Lobbyists respectively, to implement good moral codes and practices.

## 4.8.2 The Center for Lobbying in the Public Interest Principles

In 2007, the CLPI organised in the “Rockefeller Brothers’ Fund” a conference entitled “the National Summit on Smart and Ethical Principles and Practices for Public Interest Lobbying”. Its objective was to lay the foundations of a whole ethical process. It was a period of time where the Abramoff scandal was still fresh in the minds. They had eventually selected and presented the following principles as the bases of their future actions:

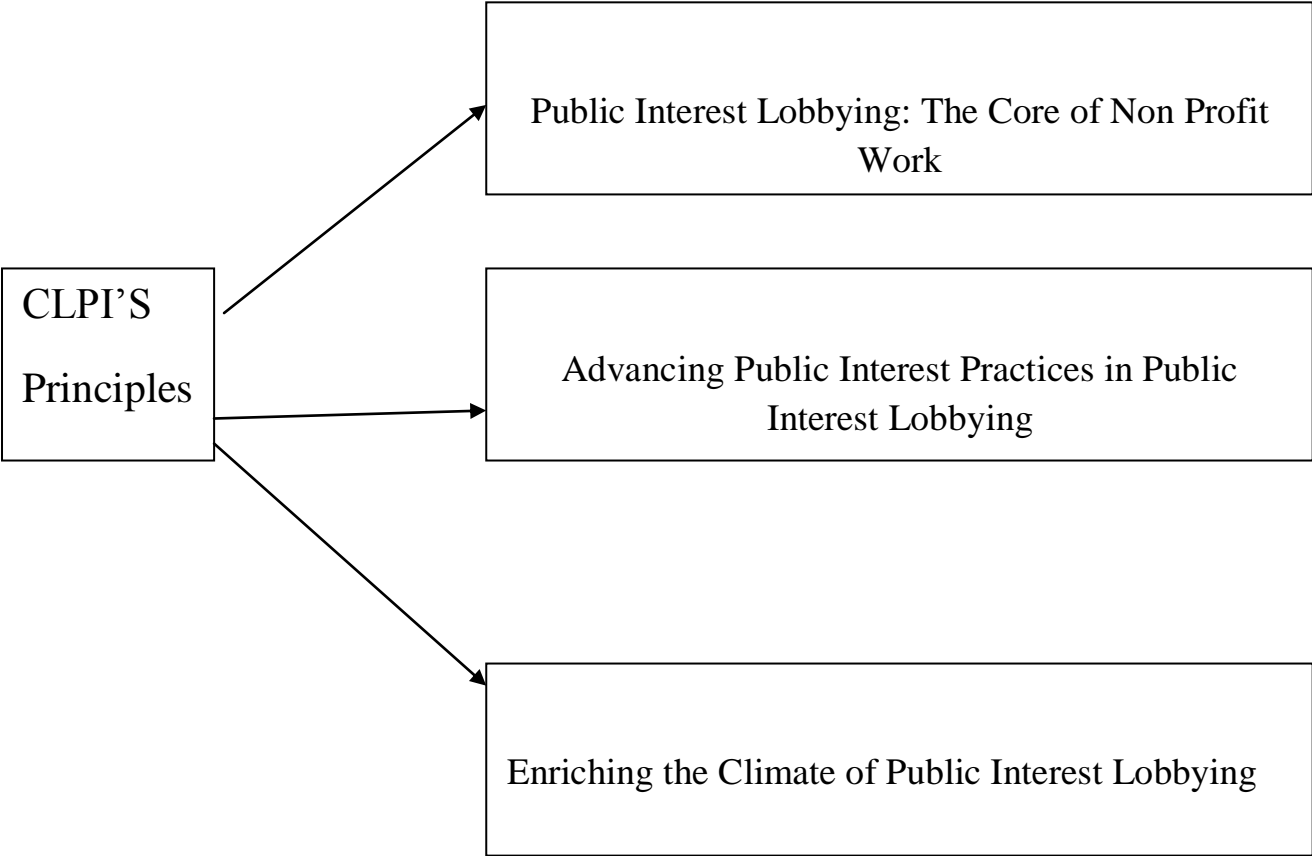
- To define and lift up “public interest lobbying” as core to non-profit work,
- To identify and advance smart and ethical practices in public interest lobbying,
- To Strengthen the CLPI Action Network to enrich the climate for public interest lobbying.

Besides, the CLPI has thoroughly encouraged the actions of Non-profit organisations. They consider them essential for the development of the democratic process and the emancipation of U.S. citizens, as it is explained below:

**CLPI promotes, supports, and protects 501(c)(3) nonprofit advocacy and lobbying to strengthen participation in our democratic society and advance the missions of charitable organizations.**

**(Brasher, 2013, p. 181)**

Non-profit associations could secure, thus, beneficial effects. Their promotion belongs to one of the CLPI's principles, as it is explained by the following diagram:



**Diagram 4.2: CLPI'S Principles**

\* The principles put forward by the CLPI to promote Common Good.

**4.8.3 The Woodstock Principles for the Ethical Conduct of Lobbying**

On October 24th, 2002 the Woodstock Theological Center succeeded in organising a Forum on how lobbying should ethically behave. This forum coincided with the publication of their famous book “The Ethics of Lobbying: Organized Interests, Political Power, and the Common Good”. That event witnessed many debates where famous political and intellectual personalities were present, such as the philosopher Michael H. McCarthy, lawyer-lobbyist Thomas M. Susman, and public

interest advocate Joan B. Claybrook (“The Ethics of,” 2002) . Moderating the forum was the task of the Rev. Thomas J. Reese, S.J., a political scientist.

The cornerstone of these discussions was the real role that lobbyists should have in the political and democratic field. The objective was to explain the fact that they should not only put forward their clients’ interests but also preserve a so important notion, such as the Common Good. This latter is essential for both the general welfare and the social emancipation of ordinary citizens. In fact, the constituents need to be efficiently defended and their opinions should be vigorously taken into account during public debates.

Their founding principles, that are meant to promote ethical lobbying, are the following:

1. Lobbying and the common good,
2. Lobbyist - client relationships,
3. Lobbyist - policymaker relationships,
4. Lobbyists and shapers of public opinion,
5. Conflicts of interest,
6. Lobbying strategies and tactics,
7. The integrity of the lobbying profession,

This can be illustrated as follows, on the following diagram:



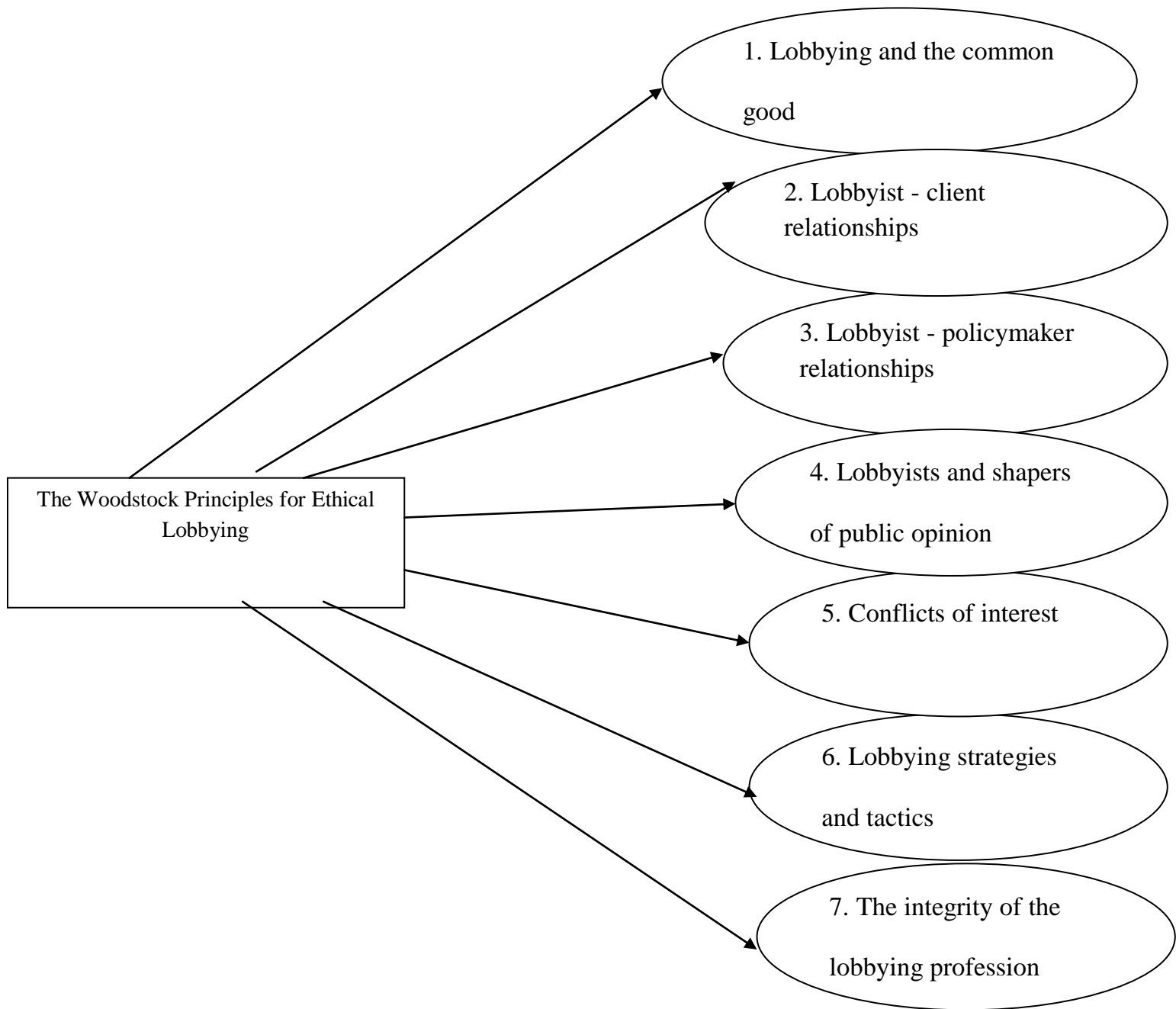


Diagram 4.3: The Woodstock Principles for Ethical Lobbying

**\* The Woodstock Center implements principles supposed to bring ethics to the activity of lobbying**

#### **4.8.4 The American Association for Lobbying**

This association initiated another project which has been working for the respect of moral values in the American political field. It has strived to show how lobbyists' conduct should reflect honest attitudes and actions. The resulting paper is according to Pat Roberts, former chairman of the Senate Select Committee on ethics, an important document which encourages the implementation of ethical behaviours in the US advocacy ("Code of", 2010). It includes different articles that are supposed to help lobbying to change its negative image and to moralise the profession to avoid any kind of undue influences.

Accordingly, America initiated a campaign to moralise the activity of lobbying. Authorities of the country have made efforts to organise effectively a field, in which regulating attempts can face the complexity of its multidimensional aspects.

#### **4.9. A Difficult Mission**

The U.S. authorities have tried to impose some restrictive rules to organise and regulate the activity of lobbying. This profession reflects, according to many people, the ability to behave wrongly, by doing harm to the majority of citizens. Its practices could threaten the democratic foundations of the country. And although there were many initiatives to regulate the profession, specificities of America, as a country and its lobbying world, can make difficult any kind of moralising mission.

##### **4.9.1 Shadows and Lights of Regulation**

The different regulating initiatives, undertaken by the successive U.S. governments during more than one century, all have worked to increase transparency, ethics and rigorous control. They have tried to organise a profession that has been gaining more importance and a remarkable force throughout decades. The objective has been to make these advocates adopt fair attitudes during the practice of their profession. However, the same legislators have always feared to conceive inefficient

laws that produce loopholes. In fact, the efficiency of such laws has never been something easy to reach.

It is fair to say that the different regulating measures have brought order to the advocacy environment. Since the creation of the LDA, lobbyists have become more cautious about the kind of risks that they can take when contacting and trying to convince policymakers. Many things have changed in comparison to the context preceding 1995. Efforts have been made to force the maximum of lobbyists to register and to openly declare their complex activities. The different regulation acts have led to reducing the secrecy that was exploited by professionals of advocacy. These latter used to hide the suspicious side of their 'Modus operandi' and to veil attempts to use what is commonly called "Soft Money", it means substantial financial contributions provided by different organisms to help policymakers and future candidate cope with electoral campaigns' high cost. In fact, openness has become more and more looked for, thanks to the legislative framework that incites people to disclose the nature of their activities and the amount of money they spend to try to influence politicians.

Moreover, these regulating initiatives have also had a positive effect on clients who have started to worry about the way they are represented and about individuals who plead their causes. These changes were the results of positions adopted as a reaction to the lobbying scandals, specially the Abramoff one. This case revealed that a lobbyist's clients can be victims of a very complex scheme. It was accurately studied and prepared to cheat them and to profit from their large financial resources. In fact, even clients have started to demand more fairness and ethics in the way their interests are advocated. This new spirit would guarantee a better and more efficient defence of their claims and rights.

Accordingly, credibility and a tendency towards honesty have become priorities of both authorities and lobbying clients. These latter have learnt that the period of meals, trips and other gifts offered to policymakers is over, and transparency should be the referential governing criterion. It has reached a high level thanks to agencies and electronic websites. These new technological means have become very important in fighting undue influences and misconducts. They guarantee the availability of

information concerning the lobbying projects. This information has become possible to obtain thanks to the process of accountability that allows ordinary Americans to supervise elements of advocacy of the most powerful corporations.

On the other hand, these legislative efforts made to reorganise the profession of lobbying have reflected different drawbacks. On several occasions, legislation has been unable to effectively put an end to abusive behaviours, as it was intended by the policymakers who conceived these laws. Generally speaking, specialists of the field evoke the complexity of the American legislative system. This latter's strategic importance has shifted, throughout decades, from the State to the Federal level where the majority of laws are being made. This has complicated the citizens' ability to control the legislative process.

Legislative initiatives meant to cure the negative sides of lobbying are frontally confronted to an apparent skilful ability that lobbyists have to avoid regulation and to escape through loopholes. The problem lies, thus, in their capacity to cope with changes. They are also known for their ability to find solutions to different restrictions supposed to limit their overwhelming influence. According to a report made to study this phenomenon, lobbyists have frequently known how to deal with new regulating codes, in order to preserve their interests (Nowness & DeAlejandro, 2011)

Besides, this difficulty, shown by Washington policy makers to effectively control interest groups, is closely related to their financial over dependence on these groups. Being inevitable during the political career of a decision maker, the financial assistance received from professionals of advocacy can push them to tolerate immoral and unfair behaviours. A kind of conflict of interests is established due to the fact that the same person is supposed to regulate others protagonists. However, paradoxically, he receives from them financial subventions, which are essential for the development of his political itinerary. Consequently, things, sometimes, are easy to be circumvented as it is explained by the famous lobbyists Jack Abramoff, who was found guilty for being the major responsible of a dreadful lobbying scheme with victims in many camps:

**You can't take a congressman to lunch for \$25 and buy him a hamburger or a steak or something like that ... But you can take him to a fund-raising lunch and not only buy him that steak, but give him \$25,000 extra and call it a fund-raiser -- and have all the same access and all the same interactions with that congressman.**

**(Abramoff, 2011, p.186)**

Moreover, in addition to their legendary capacity to adapt to different regulating systems, special advocates have been exploiting, during the last two decades, a very efficient legal technique. It consists in deregistering or simply avoiding the process of registering. In fact, registration can be recognised as an efficient way to control any kind of lobbying effort, thanks to the frequent disclosures of some advocating goals and financial means devoted to achieve them. However, some categories of people which work in the field of political advocacy have been continuously striving to avoid to register or to literally deregister. This means that a lobbyist can declare that he is no longer an actor of such a complex arena, as it is explained by a declaration of the sixteen (16) Industry Trade Advisory Committee chairmen. This latter complained about the then-newly elected president Barack Obama's ever first measures related to a too restrictive regulation of lobbying activities:

**Because the policy focuses on registered lobbyists, it actually incentivizes individuals who desire to remain on the committee...to recalculate or reconfigure their time so that they can de-register and remain compliant under the LDA.**

**(As cited in Straus, 2011, p. 73)**

Different categories of people, who can have a great influence over the political debate in the United States, have been exempted from the regulation process. Grassroots organisations, advocates, media participants and modern media stakeholders are examples of entities which are not obliged to register. They have the possibility to reach out politicians, and to ideologically influence them, without being obliged to follow the different registration procedures. They are very active and they spend an important part of the week trying to convey political messages. However, they cannot be controlled because of the regulating loopholes that can be detected in a law like the Lobbying Disclosure Act of 1995. The fact of being able to avoid the legal threshold to register has given them an enormous possibility to avoid a constraining process.

Accordingly, the process of deregistering has become a real phenomenon in the world of politics. In only three months, one thousand four hundred eighteen (1418) registered lobbyists made a formal request to deregister in order to avoid to be controlled as required by the LDA of 1995 (Levinthal, 2009). Many of them have embraced the career of advisor that can protect them from too many restrictions. They are, at the same time, able to keep on influencing the political class as they did in the past when they were lobbyists. Others declare themselves as part-time lobbyists. They take advantage from another loophole, which can help them not to register, significantly reducing the level of transparency in a profession which highly needs rigorous control.

#### **4.9.2 Difficulties of distinction**

Former English Prime Minister Winston Churchill said in 1947: "**Democracy is the worst form of government, except for all those other forms that have been tried from time to time**" ("Democracy: Democracy," 2003). This quotation reflects the fact that there is no perfect way to govern people. However, according to that famous British leader, even if it displays imperfections, Democracy remains the only system that can allow an ability to manage things taking into account people's priorities. In fact, it makes people able to have a say in the management of their own

affairs, whether through “Representative Democracy” or “Participatory” one. This latter is gaining ground among those who look after the civil rights in many developed countries.

The same thing can be said about lobbying. This phenomenon can help people to achieve their objectives, thanks to the ability to get in touch with the persons that govern them, by explaining and exposing their claims and requests. But at the same time, because of the complexity of the American political system and its reliance on interest groups’ financial means, some entities can have an undue influence and their actions can lead to biased situations.

American citizens are torn between the importance of lobbying as a force that, in many cases, can lead them to reach social emancipation, and the fact that scandals and cases of corruption are blackening its image. This paradoxical situation reflects and explains the intense debate that is taking place in America concerning the pertinent role that advocacy can play at a political and democratic level.

Consequently, the task of imposing a regulating legislation that can propose a well balanced system is very difficult. The failure of the many regulating laws can be explained by the fact that legislators have usually failed to identify the good lobbying practices that are essential for a more involvement of ordinary citizens. They did not succeed, too, to determine what can be considered as bad lobbying. In fact, this negative aspect of advocacy has led to allow some individuals to enjoy advantageous situations thanks to a multitude of efficient means.

In this quest for a better distinction between healthy and toxic lobbying, journalist Karl Schriftgiesser has tried to establish a parallel between, on the one hand, both aspects of lobbying (i.e. the bad and the good one), and on the other hand, the difference that existed in the past between the advocacy proposed by the Founding Fathers, and the Old fashioned “pressure Boy” (As cited in Susman, 2008). The former was a tendency based on a fair conception of interactions between what were called factions and the governing bodies. They also recommended a transparent competition between the different factions a fact, that according to them, could guarantee a neutralisation supposed to be beneficial for the democratic health. Nevertheless, the

second conception was considered as an unfair one, because the final objective consists in achieving private narrow interests at the expense of the general welfare.

The description of the differences that exist between the two contrasting dimensions of this phenomenon can also be explained below:

**The basic test of the goodness of lobbying is truth. . . . Lobbying that is not for truth is bad . . . [while] lobbying on behalf of the rights of all men as individuals under fair competition to choose, to earn, to own, is ethical. Lobbying against such rights is bad. Anyone should be free to teach, preach, or lobby for objective truth, including established American ideals. But lobbying for special advantages for laborers, farmers, businessmen, races, or religious sects, as classes, is antisocial, radical, and bad.**

**(Ruark, 2008, p. 139)**

Accordingly, truth and honesty can guarantee a sane future for the activity of lobbying. An ethical approach should, thus, rely on such cardinal conditions.

#### **4.10 Conclusion**

Being confronted to an active campaign of criticism, both the U.S. authorities and the lobbying groups were obliged to make efforts to change the reputation that the profession has got among U.S. citizens. Scandals have obliged them to undertake a series of actions to restore its image. In fact, that period witnessed the creation of a major regulation act, the LDA, which came to impose many restrictions by forcing people to register and to disclose the nature and the importance of their activities. The same period also witnessed the election of the first Black American president. He was really determined to impose more restrictions to a profession whose unethical side could put in danger the bases of the American democratic system. However, as it has been the case for other regulating acts, many drawbacks characterised his attempts.

In addition, there has been an important campaign organised by different public interest groups to guarantee more ethics and transparency. In fact, initiatives, such as the Wood Stock Ethical Principles or the one organised by the CLPI, contributed to



raising awareness about the necessity of encouraging fairer and more ethical lobbying practices.

## **General Conclusion**

## General Conclusion

The United States of America is still considered as the leading country in the world due to its multidimensional power and its ability to efficiently exploit its strengths in different fields. In fact, politically speaking, this country has always displayed a significant sophisticated system. It is based, paradoxically, on the complexity of its mechanisms such as the ability to cooperate with a powerful corporation represented by the U.S. lobbies.

It is precisely that relationship which has always generated curiosity and created an interest for political analysts and observers. Their objective has always been to accurately determine the negative or the positive sides of this controversial connection. The fact that elected people usually work with private entities like interest groups, in the conception of important laws, has pushed people to have a close eye on the interactions that exist between both environments.

Accordingly, the objective of this research has been the consequence of a curiosity and a deep interest in defining the main aspects of the lobbying activity and the degree and nature of its influence on ordinary people's economic, social and societal aspirations. The main goal has consisted in observing the difference between the benefits that can be brought about by this phenomenon and the insidious negative actions that it can engender.

Historically speaking, the Founding Fathers of the New American nation had already anticipated a coming emergence of groups of individuals looking for the realisation of their basic claims. That fear obliged them to include, in what was going to be the chief legislative source of inspiration for the American political system, i.e. the American Constitution, a primordial act. The latter was issued to help people have the ability to contact members of the political class in order to express their needs and to defend their opinions in different aspects of life. Thus, originally, the principle of lobbying policy makers was a noble one. It was supposed to guarantee a continuous popular emancipation for the majority of U.S. citizens.

Nevertheless, it is quite difficult to conceive that a profession, which is based on a theoretically progressive constitutional act, has always generated scepticism about the fair side of their activities. In fact, generally speaking, interest groups have always suffered from an extremely negative reputation. Thus, the researcher has been working

to determine the extent to which such a reputation relies on solid arguments. He has also tried to discover whether it can display positive aspects that are usually neglected, when trying to study the main elements of this purely American specificity.

One of the outstanding findings of this research work has been the fact that initially, this ability to have access to the most important political personalities, to redress grievances, was a noble and ethical aspect of the U.S. political and social scenes. The Founding Fathers did insist on this possibility to help people to take a substantial part in the legislative process. According to them, it was a priceless opportunity to involve ordinary citizens in the way their public life was conducted. It was an avant-garde version of a modern concept that recently politicians have tried to implement, which is Participative Democracy. This concept could supplement the traditional one which is Representative Democracy. Unfortunately, the complexity and the degree of development, that a country like the United States has reached, have perverted this ethical advantage, since some people have always been using it to serve their narrowest interests and, where only the richest could aspire to efficiently achieve their objectives.

Moreover, the research has tried, by exploiting different sources of information, to tackle in the best way the four questions that have been raised to efficiently develop that topic. In fact, it has revealed the extent to which lobbying in the United States is quite particular and displays special characteristics. These features mainly reflect the fact that interest groups enjoy an outstanding financial power due to the sums of money devoted to such an activity. This power is incomparable with the other groups' one in the other regions of the world. Being the country of gigantic multinationals, the United States is home to very strong lobbies representing and defending the interests of wealthy companies.

The uniqueness of the U.S. lobbying can be explained by different factors that are related to this corporation. As it has been already mentioned, these groups do rely on a constitutional factor, which is the right to petition the government, in order to exercise their profession. It is a constitutional base which is quite original and does not exist elsewhere in the world. Other factors also strengthen the specific side of the U.S. lobbying. Indeed, political Bipartism contributes to the development and the expansion of lobbies. Being able to concentrate only on two parties does facilitate the task of

pressure groups, whose task would consist only in betting on the best one in order to strategically take profit from that pertinent choice. Besides, the size of the government and the continuous process of making laws, also contribute to increasing the dimension of interest groups. The latter do profit from the fact that the government cannot handle alone all the legislative issues and does need lobbies to provide valuable information about particular subjects and fields.

In addition, the results of this research have demonstrated that contrary to what the majority of people would think about lobbying, this activity does display many positive aspects that show that there exist a progressive side in this profession. In fact, it is known that the activity of public interest groups and their continuous search for the Common Good is essential for the emancipation and the empowerment of different sectors of the U.S. society. Their mobilisation has helped to achieve many goals that initially seemed quite difficult to reach. Powerful groups have been working to help ordinary people to cope with the difficulties of life and to propose social, economic and societal projects that can serve millions of Americans. Not forgetting that new tendency which is Responsible Lobbying, where some powerful financial groups have been lobbying to create projects that actively contribute to the achievement of the general welfare of many Americans.

Nevertheless, people's fears about a powerful influence of interest groups thanks to their financial capacities, can also be justified. In fact, the strong reliance of politicians on private money to manage their political activities endangers the democratic context in this country. Their electoral campaigns also require huge financial investments that can be satisfied by the crucial role played by the PACs. The latter financially participate in the organization of candidates and future policy makers' campaigns. Thus, these close relationships have been normally achieved by the possibility of the "Revolving Door". This element can provide the ability for politicians to become very well-paid lobbyists just after the end of their mandate.

Besides, these connections have also generated many cases of corruption, where both politicians and lobbyists have failed to behave ethically, neglecting the noble spirit of the First Amendment of the American Constitution.

Consequently, in order to moralise the profession, different attempts have been made. Two major initiatives can be pointed out in the last two decades, which are the

LDA and Obama's determination to eliminate lobbying excesses. Two attempts that have succeeded to bring new regulating procedures but which also generated some drawbacks. That failure is essentially due to the complexity of the different structures of the American nation. Fortunately for the U.S. citizens, a significant movement seeking ethical behaviours has been initiated in order to include morals in this so controversial activity.

Thus, the complexity and the dimension of a country like the United States provoke many contradictions in the field of lobbying. For instance, alliances are encouraged in order to make small and less endowed associations triumph and have their say in Washington. Nevertheless, the same principle of alliances can also be exploited by powerful multinationals in order to constitute an overwhelming union that can easily rival with the so powerful American government. Besides, the same president Obama, who pledged for a moralisation of the profession, strongly relied on private financial resources during his first presidential campaign. He has also worked with famous lobbyists to deal with critical issues such as the Health Care Reform. Ethnic lobbies are also an example of the contradictions generated by the exercise of this profession. Indeed, initially, the creation of such groups was supposed to protect minorities from being politically marginalized. However, subsequently, some of these groups have been working to serve the interests of their countries of origin, pushing the U.S. government to issue policies that have endangered the security of the United States.

The researcher's main conclusion relies on the assumption that any kind of Manichaeism could be avoided in the treatment of this topic. Indeed, it is not recommended to adopt a simplistic position towards this complex phenomenon, in such a complex country like the United States. Possibly, in the future, other elements would provide more insights about the way that this phenomenon can be fairly studied.

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## Glossary

**Advocacy:** pleading the cause of a particular group of people.

**The Business Round Table:** The group of the most powerful lobbies

**Common Good:** The notion of a general interest that concern all the U.S. population.

**Constituents:** The U.S. citizens who have the right to vote and express their opinions through democratic elections.

**Disclosure:** It consists in revealing pertinent details and numbers about the any kind of lobbying action.

**Direct lobbying:** It consists in getting in touch directly with policymakers.

**Ethnic lobbying:** Lobbying groups formed essentially to defend the rights and provide advantages for the members of the same community.

**Elitist theory:** It is a theory which puts forward the predominance of groups belonging to the business and political elites and which dominate the field of advocacy.

**Grassroots lobbying:** The opposite of Direct Lobbying, their methods rely on more popular mobilisations, for example through media campaigns.

**Interest groups:** Groups of persons practicing the activity of lobbying.

**Lobbying:** An activity which consists in pleading the cause and defending the interest of a particular group of U.S. citizens

**Lobbying Coalitions:** The ability to form unions of different lobbying entities usually pleading the same cause

**Lobbying Disclosure Act:** One of the major lobbying regulating text, which is still considered as an unavoidable reference.

**Lobbying for Good:** Devoting considerable lobbying efforts to fight inequalities and promote the common interest

**Loopholes:** Some legislative failures revealed by a given text, and keenly exploited by some unscrupulous groups.

**Pluralist Theory:** It incites all the sectors of the U.S. society to lobby the government.

**Political Action Committees:** Entities that belong to lobbies and which have the responsibility to provide financial means for the candidates.

**Pressure groups:** Another name given to interest groups, mainly those which exert a great political pressure.

**Public Interest Groups:** Lobbies searching the general welfare.

**Regulation:** The fact to impose restrictions and more controls on the lobbying activity.

**Registration:** The act of applying for the right to practice the activity of lobbying. It has become compulsory since 1995.

**Responsible Lobbying:** The readiness that some major financial corporate to devote time and efforts for Common Good projects.

**Revolving Door:** The ability that has a policymaker to chose a future lobbyist career.

# Appendix

## 1. Lobbying Disclosure Act

**Source:** [www.gpo.gov/fdsys/pkg/.../PLAW-104publ65.htm](http://www.gpo.gov/fdsys/pkg/.../PLAW-104publ65.htm)

PUBLIC LAW 104-65-DEC. 19,1995 109 STAT. 691

Public Law 104-65 104th Congress

109 STAT. 691

An Act

To provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Lobbying Disclosure Act of 1995".

### SEC. 2. FINDINGS.

The Congress finds that-

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak administrative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

Dec. 19, 1995

[S. 10601]

Lobbying Disclosure Act of 1995.

Public information.

USC 1601 . note.

2 USC 1602.

### SEC. 3. DEFINITIONS.



As used in this Act:

(1) AGENCY.-The term "agency" has the meaning given that term in section 551(l) of title 5, United States Code.

(2) CLIENT.-The term "client" means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(3) COVERED EXECUTIVE BRANCH OFFICIAL.-The term "covered executive branch official" means-

(A) the President;

(B) the Vice President;

109 STAT. 692 PUBLIC LAW 104-65-DEC. 19, 1995

(C) any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President;

(D) any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order;

(E) any member of the uniformed services whose pay grade is at or above 0-7 under section 201 of title 37, United States Code; and

(F) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policyadvocating character described in section 7511(b)(2) of title 5, United States Code.

(4) COVERED LEGISLATIVE BRANCH OFFICIAL.-The term "covered legislative branch official" means-

(A) a Member of Congress;

(B) an elected officer of either House of Congress;

(C) any employee of, or any other individual functioning in the capacity of an employee of-

(i) a Member of Congress;

(ii) a committee of either House of Congress;

(iii) the leadership staff of the House of Representatives or the leadership staff of the Senate;

(iv) a joint committee of Congress; and

(v) a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and

(D) any other legislative branch employee serving in a position described under section 109 (13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(5) EMPLOYEE.-The term "employee" means any individual who is an officer, employee, partner, director, or proprietor of a person or entity, but does not include-

(A) independent contractors; or

(B) volunteers who receive no financial or other compensation from the person or entity for their services.

(6) FOREIGN ENTITY.-The term "foreign entity" means a foreign principal (as defined in section l(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)).

(7) LOBBYING ACTIVITIES.-The term "lobbying activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.

(8) LOBBYING CONTACT.-

(A) DEFINITION.-The term "lobbying contact" means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to-

(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government;

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(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

(B) EXCEPTIONS.-The term "lobbying contact" does not include a communication that is-

(i) made by a public official acting in the public official's official capacity;

(ii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication or other material that is distributed and made available to the public, or through radio, television, cable television, or other medium of mass communication;

(iv) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(v) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive branch official or a covered legislative branch official;

(vi) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

(vii) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

(viii) information provided in writing in response to an oral or written request by a covered executive branch official or a covered legislative branch official for specific information;

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency;

(x) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to an official in an agency with regard to-

(I) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding; or

(II) a filing or proceeding that the Government is specifically required by statute or regulation to maintain or conduct on a confidential basis,

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if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing;

(xiii) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

(xiv) a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(xv) a petition for agency action made in writing and required to be a matter of public record pursuant to established agency procedures;

(xvi) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this clause does not apply to any communication with-

(I) a covered executive branch official, or

(II) a covered legislative branch official (other than the individual's elected Members of Congress or employees who work under such Members' direct supervision), with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

(xvii) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law;

(xviii) made by-

(I) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986, or

(II) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a); and (xix) between-

(I) officials of a self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act) that is registered with or established by the Securities and Exchange Commission as required by that Act or a similar organization that is designated by or registered with the Commodities Future Trading Commission as provided under the Commodity Exchange Act; and

(II) the Securities and Exchange Commission or the Commodities Future Trading Commission, respectively; relating to the regulatory responsibilities of such organization under that Act.

(9) LOBBYING FIRM.-The term "lobbying firm" means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity. The term also includes a self-employed individual who is a lobbyist.

PUBLIC LAW 104-65-DEC. 19, 1995 109 STAT. 695

(10) LOBBYIST.-The term "lobbyist" means any individual who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a six month period.

(11) MEDIA ORGANIZATION.-The term "media organization" means a person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.

(12) MEMBER OF CONGRESS.-The term "Member of Congress" means a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress.

(13) ORGANIZATION.-The term "organization" means a person or entity other than an individual.

(14) PERSON OR ENTITY.-The term "person or entity" means any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or State or local government.

(15) PUBLIC OFFICIAL.-The term "public official" means any elected official, appointed official, or employee of-

(A) a Federal State, or local unit of government in the United States other than-

(i) a college or university;

(ii) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974);

(iii) a public utility that provides gas, electricity, water, or communications;

(iv) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 10850)), including any affiliate of such an agency; or

(v) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

(B) a Government corporation (as defined in section 9101 of title 31, United States Code);

(C) an organization of State or local elected or appointed officials other than officials of an entity described in clause (i), (ii), (iii), (iv), or (v) of subparagraph (A);

(D) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(E) a national or State political party or any organizational unit thereof; or

(F) a national, regional, or local unit of any foreign government.

(16) STATE.-The term "State" means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

109 STAT. 696 PUBLIC LAW 104-65-DEC. 19, 1995

2 USC 1601.

#### SEC. 4. REGISTRATION OF LOBBYISTS.

##### (a) REGISTRATION.-

(1) GENERAL RULE.-No later than 45 days after a lobbyist first makes a lobbying contact or is employed or retained to make a lobbying contact, whichever is earlier, such lobbyist (or, as provided under paragraph (2), the organization employing such lobbyist), shall register with the Secretary of the Senate and the Clerk of the House of Representatives.

(2) EMPLOYER FILING.-Any organization that has 1 or more employees who are lobbyists shall file a single registration under this section on behalf of such employees for each client on whose behalf the employees act as lobbyists.

##### (3) EXEMPTION.-

(A) GENERAL RULE.-Notwithstanding paragraphs (1) and (2), a person or entity whose-

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed \$5,000; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed \$20,000, (as estimated under section 5) in the semiannual period described in section 5(a) during which the registration would be made is not required to register under subsection (a) with respect to such client.

(B) ADJUSTMENT.-The dollar amounts in subparagraph (A) shall be adjusted-

(i) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this Act; and

(ii) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period, rounded to the nearest \$500.

(b) CONTENTS OF REGISTRATION.-Each registration under this section shall contain-

(1) the name, address, business telephone number, and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name, address, and principal place of business of any organization, other than the client, that- (A) contributes more than \$10,000 toward the lobbying activities of the registrant in a semiannual period described in section 5(a); and (B) in whole or in major part plans, supervises, or controls such lobbying activities.

(4) the name, address, principal place of business, amount of any contribution of more than \$10,000 to the lobbying activities of the registrant, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that-

## **2. LOBBYING REFORM SUMMIT**

**Source:** [www.fincen.gov/news\\_room/speech/.../20140519.pdf](http://www.fincen.gov/news_room/speech/.../20140519.pdf)

TOPIC: Ethics & Lobbying Reform

January 26, 2006

Lobbying Reform Summit Lobbying Reform Summit

National Press Club Washington, DC

Complete Text

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Good morning. I want to start by thanking American University and the Committee for Economic Development for hosting this panel today. It's an honor to be here and an honor to be among such great company.

Over one hundred years ago, at the dawn of the last century, the Industrial Revolution was beginning to take hold of America, creating unimaginable wealth in sprawling metropolises all across the country.

As factories multiplied and profits grew, the winnings of the new economy became more and more concentrated in the hands of a few robber barons, railroad tycoons and oil magnates. In the cities, power was maintained by a corrupt system of political machines and ward bosses. And in the state of New York, there existed a young governor who was determined to give government back to the people.

In just his first year, he had already begun to antagonize the state's political machine by attacking its system of favors and corporate giveaways. He also signed a workers' compensation bill, and even fired the superintendent of insurance for taking money from the very industry he was supposed to be regulating.

None of this sat too well with New York's powerful party boss, who finally plotted to get rid of the reform-minded governor by making sure he was nominated for the Vice Presidency that year.

What no one could have expected is that soon after the election, when President William McKinley was assassinated, the greatest fears of the corrupt machine bosses and powerbrokers came true when that former governor became President of the United States and went on to bust trusts, break up monopolies, and return the government to its people.

His name, of course, was Theodore Roosevelt. He was a Republican. And throughout his public life, he demonstrated a willingness to put party and politics aside in order to battle corruption and give people an open, honest government that would fight for their interests and uphold their values.

Today, we face a similar crisis of corruption. And I believe that we deserve similar leadership from those in power as well.



The American people are tired of a Washington that's only open to those with the most cash and the right connections. They're tired of a political process where the vote you cast isn't as important as the favors you can do. And they're tired of trusting us with their tax dollars when they see them spent on frivolous pet projects and corporate giveaways.

It's not that the games that are played in this town are new or surprising to the public. People are not naive to the existence of corruption and they know it has worn the face of both Republicans and Democrats over the years.

Moreover, the underlying issue of how extensively money influences politics is the original sin of everyone who's ever run for office - myself included. In order to get elected, we need to raise vast sums of money by meeting and dealing with people who are disproportionately wealthy. This is a problem that predates George Bush or Jack Abramoff, and I believe that a serious, bipartisan conversation about campaign finance reform is one that this town would do well to have in the months to come.

Yet, while people are familiar with these problems and they encompass both parties, I do think it's fair to say that the scandals we've seen under the current White House and Congress - both legal and illegal - are far worse than most of us could have imagined.

Think about it. In the past several months, we've seen politicians resigning for taking millions of dollars in bribes. We've seen the head of the White House procurement office arrested. We've seen some of our most powerful leaders of both the House and the Senate under federal investigation. We've seen the number of registered lobbyists in Washington double since George Bush came into office. And of course, we've seen the indictment of Jack Abramoff and his cronies.

Now, there's an argument made that somehow this is a bipartisan scandal. And the defense here is that everybody does it. Well, not everybody does it. And people shouldn't lump together those of us who have to raise funds to run campaigns but do so in a legal and ethical way with those who invite lobbyists in to write bad legislation. Those aren't equivalent, and we're not being partisan by pointing that out.

The fact is, since this Republican leadership has come to power, this kind of scandal has been the regular order of business in this town. For years now, they have openly bragged about stocking K Street lobbying firms with former leadership staffers to increase their power in Washington.

And yet, what is truly offensive to the American people about all of this goes far beyond people like Jack Abramoff. It's bigger than how much time he'll spend in jail or how many Republicans he'll turn in. Bigger than the K Street project and golf junkets to Scotland and lavish gifts for lawmakers.

What's truly offensive about these scandals is that they don't just lead to morally offensive conduct on the part of politicians; they lead to morally offensive legislation that hurts hardworking Americans.

Because when big oil companies are invited into the White House for secret energy meetings, it's no wonder they end up with billions in tax breaks while Americans still struggle to fill up

their gas tanks and heat their homes.

When a Committee Chairman negotiates a Medicare bill at the same time he's negotiating for a job as the drug industry's lobbyist, it's hardly a surprise when that industry gets taxpayer-funded giveaways in the same bill that forbids seniors from bargaining for better drug prices.

When the people running Washington are accountable only to the special interests that fund their campaigns, of course they'll spend your tax dollars with reckless abandon; of course they'll load up bills with pet projects and drive us into deficit with the hope that no one will notice.

In 2004, over \$2.1 billion was spent lobbying Congress. That amounts to over \$4.8 million per Member of Congress. \$4.8 million per member so that oil companies can still run our energy policy and pharmaceutical companies can still raise our drug prices and special interests can still waste our tax dollars on pet projects.

How much do you think the American people were able to spend on their Senator or Representative last year? How much money could the folks who can't fill up their gas tanks spend? How much could the seniors forced to choose between their medications and their groceries spend?

Not \$4.8 million. Not even close.

This is the bigger story here, and this is why the recent scandals have shaken the American people's faith in a government that will look out for their interests and uphold their values.

The well-connected CEOs and hired guns on K Street who've helped write our laws have gotten what they paid for. They got all the tax breaks and loopholes and access they could ever want. But outside this city, the people who can't afford the high-priced lobbyists and don't want to break the law are wondering, "When is it our turn? When will someone in Washington stand up for me?"

We need to answer that call because let's face it - for the last few years, the people running Washington simply haven't. And while only some are to blame for the corruption that has plagued this city, all are responsible for fixing it.

Now, I've been asked by my caucus to take a role in lobbying reform - a role I'm proud to have. As many of you know I'm from Chicago - a city that hasn't always had the cleanest reputation when it comes to politics in this country. But during my first year in the Illinois State Senate, I helped lead the fight to pass Illinois' first ethics reform bill in twenty-five years. I hope we can do something like that here.

I realize there are many proposals floating around out there, and I also realize that our friends on the other side of the aisle have many of their own. I think that's commendable. In fact, I look forward to working in a bipartisan fashion to get a solid bill passed.

But this has to be a serious bill, and it has to go a long way toward correcting some of the most egregious offenses of the last few years. This is not a time for window-dressing or putting a band-aid on a problem just to score political points. This is a time for real reform, and I think the Democrats' Honest Leadership and Open Government Act does this by including

provisions that so far the Republican proposals do not.

Real reform means making sure that Members of Congress and the Administration tell us when they're negotiating for jobs with industries they're responsible for regulating. That way we don't have people writing a drug bill during the day and meeting with pharmaceutical companies about their future salary at night.

Real reform means giving the public access to now-secret conference committee meetings and posting all bills on the Internet 24 hours before they're voted on, so the public can scrutinize what's in them.

Real reform means passing a bill that eliminates all gifts and meals from lobbyists, not just the expensive ones. If we truly agree that having a lobbyist constantly pick up the tab for lunch can help influence legislation, then they'll have no problem changing their position so that the ban includes meals of any price.

Real reform means ending the no-bid contracts for well-connected contributors that have wasted millions of taxpayer dollars in both Iraq and the Gulf Coast. And it means ending the practice of appointing your political buddies to positions they are wholly unqualified for. It means no more Brownies.

Finally, I think that real reform must include real oversight and accountability. Our bill sets up an independent Office of Public Integrity to keep an eye on lobbyists and to make sure they comply with the rules.

Now, personally, I think that there's an opportunity for us to go even further than some of the proposals that have come from both parties. And that's why last week I introduced the CLEAN UP Act, which would build on the Democrats' reform bill by giving the American public a clearer view of what's going on here in Washington.

See, one of the reasons why lobbyists like Abramoff and their allies in Congress have been able to manipulate the system is because most of their backroom deals are done in secret. Just the other day, we heard that because of pressure from health care industry lobbyists, Republican negotiators met behind closed doors and changed a budget bill to provide a \$22 billion giveaway to HMOs -- \$22 billion that would come right out of the pockets of American taxpayers. But of course, no one knew about the change until much later, and no lawmaker would admit to making it.

This is an outrage, and my bill would change this by identifying secret provisions like these that weren't in the original bill, and it would let the public know who put them there, so that special interest giveaways couldn't be slipped in at the last minute. My bill also would shine the spotlight on those pet projects that lawmakers sneak into every spending bill by requiring that they earmarks be posted on the internet 72 hours before they're voted on. The watchdog group, Citizens for Responsibility and Ethics in Washington, recently endorsed this bill, and I hope that the Senate will take it up soon.

Let me close with one final point. Even if we pass a good bill and rid Washington of the Jack Abramoffs of the world, it's going to take much more than gift bans and lobbying reform to restore the public's faith in a government. It will take not simply a change in laws, but a change

in attitudes.

To do this - to earn back that trust - to show people that we're working for them and looking out for their interests - we have to start acting like it.

That means instead of meeting with lobbyists, it's time to start meeting with some of the 45 million Americans with no health care.

Instead of finding cushy political jobs for unqualified buddies, it's time to start finding good-paying jobs for hardworking Americans trying to raise a family.

Instead of hitting up the big firms on K Street, it's time to start visiting the workers on Main Street who wonder how they'll send their kids to college or whether their pension will be around when they retire.

All these people have done to earn access and gain influence is cast their ballot. But in this democracy, it's all anyone should have to do.

A century ago, that young, reform-minded governor of New York who later became our twenty-sixth President gave us words about our country everyone in this town would do well to listen to today. Teddy Roosevelt said that,

"No republic can permanently endure when its politics are corrupt and base...we can afford to differ on the currency, the tariff, and foreign policy, but we cannot afford to differ on the question of honesty. There is a soul in the community, a soul in the nation, just exactly as there is a soul in the individual; and exactly as the individual hopelessly mars himself if he lets his conscience be dulled by the constant repetition of unworthy acts, so the nation will hopelessly blunt the popular conscience if it permits its public men continually to do acts which the nation in its heart of hearts knows are acts which cast discredit upon our whole public life."

I can only hope that in the weeks to come, the work we do here and in Congress will once again strengthen this nation's soul and bring credit back to our public life. Thank you.

### **3. Principles for the Ethical Conduct of Lobbying: "The Woodstock Principles"**

**Source:** *woodstock.georgetown.edu*

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## INTRODUCTION AND DEFINITIONS

**Source:** These Principles are the result of over three years of consultation with lobbyists, ethicists, and others familiar with and concerned about lobbying at the Federal level of government. Fuller documentation about their source and the many consultations involved in their development will be published in the Spring of 2002. Some further information about their origins is already available on this website.

**Purpose:** These Principles are intended to provide practical guidance to persons who engage in the process of lobbying. They reflect the essential considerations that a participant in this process should address and evaluate in order to perform the functions of a lobbyist with professional competence, personal integrity and civic responsibility. The Principles also address the decisions to be made by persons who retain lobbyists as well as by the persons whom the lobbyists seek to influence, so that lobbyists have a clear understanding of what is properly expected of them in their work as political agents.

Many of the Principles deal with the actual practice of lobbying. Others pertain to the contexts in which lobbying occurs and the consequences of lobbying for American democracy. These Principles rest on the belief that it is important for the lobbyist to remain ever mindful of an overarching issue: Does the present system of distributing and exercising political power in the United States satisfy the norms of justice and promote the general well being of our civil society?

Although we are acutely aware of the problem of money in American politics and of the role that fund raising, campaign contributions, and unregulated political expenditures play in securing access and influence with public officials, we do not directly address this critical issue in the Woodstock Principles. However, many of the principles articulated here may be relevant to the ongoing debate about money, as they address underlying concerns about the practice of lobbying today. Specific proposals to reform the financing of political campaigns are presently before the United States Congress. Our goal has been to complement these important efforts at political reform with a set of principles that address other significant aspects of the lobbyist's activity.

**Definition:** For the purposes of these Principles, "lobbying" means the deliberate attempt to influence political decisions through various forms of advocacy directed at policy makers on behalf of another person, organization or group.

**Participants:** These are the major actors and activities involved in lobbying.

**Clients** (including individual persons or organized interests such as business corporations, trade associations, labor unions and not-for-profit advocacy groups) retain,

**Lobbyists** (including those employed in the government relations function of the client organization as well as outside individuals or firms). The lobbyist then develops various methods, strategies and tactics (e.g., through design of a lobbying campaign) to accomplish the following:

- Gain access
- Inform

- Influence
- Pressure

These tactics are directed at **Policy Makers** (such as legislators or executive branch administrators and their staffs) who make policy decisions which affect the well being of:

- The client
- The American public
- The local, national and international communities, and
- Present and future generations of citizens.

**Means and Ends:** In the conduct of lobbying, the lobbyist uses various means such as

- Personal reputation
- Professional obligation
- Cultivated rapport, and
- Financial inducement.

These are used to achieve selected political goals, such as the gaining of trust, which in turn can lead to:

"Earned" access through which the lobbyist can share information and opinions that influence the formation of public policy, or "positional" influence that is based on one's standing in the public realm rather than "earned" through other means.

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## ORGANIZATION OF THE PRINCIPLES

The Principles are divided into seven sections dealing with the following aspects of lobbying:

- [1\) Lobbying and the Common Good](#)
- [2\) Lobbyist-Client Relationships](#)
- [3\) Lobbyist-Policy Maker Relationships](#)
- [4\) Lobbyists and Shapers of Public Opinion](#)
- [5\) Conflicts of Interest](#)
- [6\) Lobbying Strategies and Tactics](#)
- [7\) The Integrity of the Lobbying Profession](#)

*As the preamble to the U.S. Constitution makes clear, the American government is not a collective instrument for individual or group benefit, but a carefully balanced network of free institutions deliberately designed to secure the common good. The common good, the comprehensive and enduring well being of the political community as a whole, is the proper*

*goal of public deliberation and action. It comprises a broad range of human "goods" to which the people are jointly committed and for which they accept final responsibility. The founders articulate these "goods" in memorable terms: "to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity."*

In a democratic society, it is in and through the shared deliberative activity of the people and their representatives that the common good is discovered and enacted. Public policy formation is a fallible but self-correcting process in which ordinary citizens and their elected representatives seek to rise above private interests and desires in order to discern what is good for the country as a whole. This enlarged, public-spirited mentality is the hallmark of genuine political thinking. It is an essential part of civic virtue and a basic requirement of a sustainable democratic society.

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#### **4- Federalist number 10**

**Source:** [www.dailykos.com/.../-/Is-James-Madison-s-Federalist](http://www.dailykos.com/.../-/Is-James-Madison-s-Federalist)

**The Same Subject Continued**  
**The Union as a Safeguard Against Domestic Faction and Insurrection**  
**From the New York Packet. Friday, November 23, 1787.**  
**MADISON**

To the People of the State of New York:

AMONG the numerous advantages promised by a wellconstructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular governments never finds himself so much alarmed for their character and fate, as when he contemplates their propensity to this dangerous vice. He will not fail, therefore, to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it. The instability, injustice, and confusion introduced into the public councils, have, in truth, been the mortal diseases under which popular governments have everywhere perished; as they continue to be the favorite and fruitful topics from which the adversaries to liberty derive their most specious declamations. The valuable improvements made by the American constitutions on the popular models, both ancient and modern, cannot certainly be too much admired; but it would be an unwarrantable partiality, to contend that they have as effectually obviated the danger on this side, as was wished and expected. Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty, that our governments are too unstable, that the public good is disregarded in the conflicts of rival parties, and that measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority. However anxiously we may wish that these complaints had no foundation, the evidence, of known facts will not permit us to deny that they are in some degree true. It will be found, indeed, on a candid review of our situation, that some of the distresses under which we labor have been erroneously charged on the operation of our governments; but it will be found, at the same time, that other causes will not alone account for many of our heaviest misfortunes; and, particularly, for that prevailing and increasing distrust of public engagements, and alarm for private rights, which are echoed from one end of the continent to the other. These must be chiefly, if not wholly, effects of the unsteadiness and injustice with which a factious spirit has tainted our public administrations.

By a faction, I understand a number of citizens, whether amounting to a majority or a minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

There are two methods of curing the mischiefs of faction: the one, by removing its causes; the other, by controlling its effects.

There are again two methods of removing the causes of faction: the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.

It could never be more truly said than of the first remedy, that it was worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it



could not be less folly to abolish liberty, which is essential to political life, because it nourishes faction, than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.

The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good. So strong is this propensity of mankind to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts. But the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of the government.

No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation, but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? And what are the different classes of legislators but advocates and parties to the causes which they determine? Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are, and must be, themselves the judges; and the most numerous party, or, in other words, the most powerful faction must be expected to prevail. Shall domestic manufactures be encouraged, and in what degree, by restrictions on foreign manufactures? are questions which would be differently decided by the landed and the manufacturing classes, and probably by neither with a sole regard to justice and the public good. The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act in which

greater opportunity and temptation are given to a predominant party to trample on the rules of justice. Every shilling with which they overburden the inferior number, is a shilling saved to their own pockets.

It is in vain to say that enlightened statesmen will be able to adjust these clashing interests, and render them all subservient to the public good. Enlightened statesmen will not always be at the helm. Nor, in many cases, can such an adjustment be made at all without taking into view indirect and remote considerations, which will rarely prevail over the immediate interest which one party may find in disregarding the rights of another or the good of the whole.

The inference to which we are brought is, that the **CAUSES** of faction cannot be removed, and that relief is only to be sought in the means of controlling its **EFFECTS**.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the [Constitution](#). When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed. Let me add that it is the great desideratum by which this form of government can be rescued from the opprobrium under which it has so long labored, and be recommended to the esteem and adoption of mankind.

By what means is this object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority at the same time must be prevented, or the majority, having such coexistent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together, that is, in proportion as their efficacy becomes needful.

From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert result from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine

the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union.

The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.

The effect of the first difference is, on the one hand, to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may, by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests, of the people. The question resulting is, whether small or extensive republics are more favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter by two obvious considerations:

In the first place, it is to be remarked that, however small the republic may be, the representatives must be raised to a certain number, in order to guard against the cabals of a few; and that, however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude. Hence, the number of representatives in the two cases not being in proportion to that of the two constituents, and being proportionally greater in the small republic, it follows that, if the proportion of fit characters be not less in the large than in the small republic, the former will present a greater option, and consequently a greater probability of a fit choice.

In the next place, as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practice with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre in men who possess the most attractive merit and the most diffusive and established characters.

It must be confessed that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representatives too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the State legislatures.

The other point of difference is, the greater number of citizens and extent of territory which may be brought within the compass of republican than of democratic government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed,

the more easily will they concert and execute their plans of oppression. Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other. Besides other impediments, it may be remarked that, where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary.

Hence, it clearly appears, that the same advantage which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over a small republic,--is enjoyed by the Union over the States composing it. Does the advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union, increase this security. Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the Union gives it the most palpable advantage.

The influence of factious leaders may kindle a flame within their particular States, but will be unable to spread a general conflagration through the other States. A religious sect may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire face of it must secure the national councils against any danger from that source. A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it; in the same proportion as such a malady is more likely to taint a particular county or district, than an entire State.

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans, ought to be our zeal in cherishing the spirit and supporting the character of Federalists.

PUBLIUS.