



THEORETICAL ASPECTS OF THE CORRELATION BETWEEN LOBBYING AND CORRUPTION

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Abstract: The article substantiates the thesis that at the sectoral level, legislation on lobbying and anti-corruption legislation have different subject matter and method of legal regulation. The subject of legal regulation of lobbying activities is public relations arising from the promotion of private interests in public authorities in order to reflect these interests in the adopted political and legal decision. The main difference between lobbying and corruption is as follows: both lobbyists and bribe-takers can promote legitimate interests, but if lobbying is the promotion of legitimate interests by legal means, then corrupt methods are always qualified as illegal.

Keywords: promotion of interests, lobbying, corruption, protectionism, localism, bribery, blackmail.

Аннотация: В статье обосновывается тезис о том, что на отраслевом уровне законодательство о лоббировании и антикоррупционное законодательство имеют разные предмет и метод правового регулирования. Предметом правового регулирования лоббистской деятельности являются общественные отношения, возникающие по поводу продвижения частных интересов в органах публичной власти с целью отражения этих интересов в принимаемом политико-правовом решении. Основное отличие между лоббизмом и коррупцией состоит в следующем: и лоббисты, и взяточдатели могут продвигать законные интересы, но если лоббирование - это продвижение законных интересов легальными способами, то коррупционные методы всегда квалифицируются как незаконные.

Ключевые слова: продвижение интересов, лоббистская деятельность, коррупция, протекционизм, местничество, взяточничество, шантаж.

All over the world, the promotion of the interests of various social groups is an integral part of the system of representative democracy and an element of a strong civil society, it is closely related to such categories of legal science as the rule of law, the promotion of interests, the legal system, the highest state authorities and management, effective public administration, the legislative process, etc.





As foreign experts reasonably believe, since society is in a state of continuous movement, the search for the optimal model of legal regulation of the relevant group of public relations must be carried out in unity with the interests of the rule of law, its governing influence.

The experience of a number of foreign countries shows that along with the well-established system of promoting the interests of various social groups, specific forms of influence on the decision-making process on a national scale are included in practice. In the legal and political sciences, these forms of promoting interests are referred to as lobbying activities.

In recent years, there has been an increase in the number of international recommendations and standards in the field of legal regulation of lobbying activities. As an example, we can cite the Recommendation Lobbying in Europe - Hidden Influence, Special Access, 2015. Transparency International, Recommendation of the Parliamentary Assembly of the Council of Europe 1908 (2010) on lobbying activities in a Democratic Society, Resolution of the Parliamentary Assembly of the Council of Europe 1744 (2010) "On Non-institutional participants in the Democratic System", Report of the Venice Commission CDL-DEM (2011) 002 "On the Regulatory Framework regulatory bases for lobbying activities in the member States of the Council of Europe, as well as the Report CDL-AD (2013) 011 "On the role of non-institutional participants in the democratic system (lobbying)", etc.

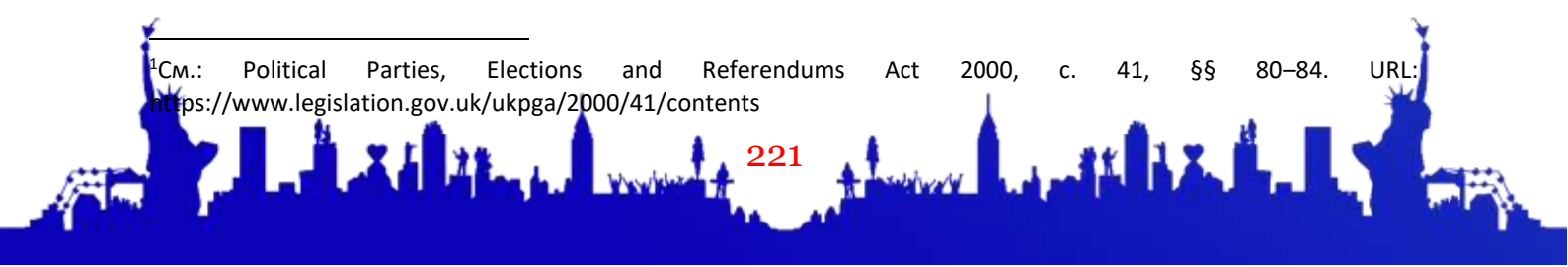
As of 2022, special laws on lobbying at the national level are in force in more than 20 countries around the world. The scope of application and their content of the relevant acts varies from maximum support to complete disregard¹.

It is generally recognized that illegal lobbying activity undermines the foundations of a democratic state, replacing proven forms of representation of interests with informal practices of influencing state institutions, generates political corruption, and contributes to the stagnation of democratic transformations.

Uzbekistan's entry into a new stage of comprehensive socio-economic and democratic reforms determines the intensive development of the main institutions of a democratic rule of law state and the development of all institutions of representative democracy.

Currently, Uzbekistan has made a significant step in the formation of truly democratic institutions and political pluralism. Parliamentarism has become an

¹Cm.: Political Parties, Elections and Referendums Act 2000, c. 41, §§ 80–84. URL: <https://www.legislation.gov.uk/ukpga/2000/41/contents>





integral factor of legal life in Uzbekistan, the legal foundations of multiparty system have been created, constitutional and legal reform of both political institutions and legal acts ensuring their functioning is being carried out. At the same time, the issue of strengthening the institutions of representative democracy has been put on the agenda through the implementation of the most important principle of the model of modernization of the country we have chosen – "Transition from a strong state to a strong civil society".

In foreign law enforcement practice, lobbying in a negative sense is associatively equated with such phenomena as political corruption, protectionism, localism, bribery, blackmail, etc.

It is impossible to determine the scale of lobbying activity in the modern world, because, despite the strong constitutional and legal foundations, it remains unsettled, which is determined by the opacity of the decision-making process.

However, according to experts, domestic lobbying is not inferior to foreign lobbying in terms of the pressure exerted on officials, the number of persons involved in the process, as well as the amount of expenses and income. The lack of reliable data on the prevalence of lobbying in the administrative and managerial environment is also associated with the inertia of society and the media. Apparently, the public naively believes that the absence of legal regulation of lobbying activity means the absence of lobbying itself.

As for the constitutional and legal foundations of lobbying, three fundamental political rights are traditionally called as such: the right to appeal to state and local self-government bodies with proposals to adjust the legal regulation of a certain sphere of public relations, the right to unite on the basis of common interests, the implementation of which involves an appeal to the authorities, and the right to manage affairs states as directly, and indirectly, since lobbying activities play a complementary role in relation to parliamentary representation; the purpose of such an addition is to ensure that all interests are taken into account when making a political and legal decision, especially the interests of a minority.

It is also important that lobbying is entirely related to the private sector. This means that lobbyists and their customers are interested in power only as an object of influence, as a means of satisfying a political and legal need, and not by itself (this is due to a number of objective factors).

That is why political parties cannot be considered interest groups in the classical sense. The situation when the government exerts influence on the government





should be qualified as the use by an official of his official position for selfish purposes.

The definition of corruption is much more complicated. For some researchers, corruption is "an obstacle to the implementation of socio-economic reforms related to neglected social ailments that constrain the creative energy of the country and hinder its overall modernization,"² for others - "a public institution characterized by the presence of regular and long-term social practices (roles) supported by social norms that are important significance in the structure of society"³, for the third - this is "a phenomenon that has struck the public administration apparatus and is expressed in the decomposition of power, the deliberate use by state and municipal employees, other persons authorized to perform state functions, of their official position, status and authority of their position for selfish purposes for personal enrichment or in group interests."⁴ It is obvious that, firstly, none of the above definitions is universal, revealing the essence of corruption, and secondly, none of the proposed interpretations of the phenomenon under consideration can be used for the purposes of this study, i.e. to compare corruption and lobbying.

The Law of Uzbekistan "On Combating Corruption" defines corruption as acts (abuse of official position, giving a bribe, receiving a bribe, abuse of authority, commercial bribery or other illegal use by an individual of his official position) directed against the legitimate interests of society and the state, committed for selfish purposes (obtaining benefits in the form of money, valuables, other property or services of a property nature, other property rights for themselves or for third parties or the illegal provision of such benefits to the specified person by other individuals), as well as the commission of these acts on behalf of or in the interests of a legal entity. In other words, from the point of view of the legislator, corruption is bribery-corruption of officials, as well as persons performing executive and administrative functions in commercial organizations. At the sectoral level, legislation on lobbying and anti-corruption legislation have different subject matter and method of legal regulation. The subject of legal regulation of lobbying activities is public relations arising from the promotion of private interests in public authorities in order to reflect these interests in the adopted political and legal decision. At the same time, a dispositive method is

² Handbook for Lobbyist and Lobbying in Arizona. An Election Services Division Publication, 2013; Lobbyist Handbook. Minnesota Campaign Finance and Public Disclosure Board, 2014.

³ Лахман А. Г. Коррупция и противодействие коррупции: проблемы правопонимания // Власть и управление на востоке России. 2013. № 1. С. 130.

⁴ Власенко М. А. Политико-правовые аспекты противодействия коррупции в России // Каспийский регион: политика, экономика, культура. 2010. № 1. С. 67.





used - it is allowed to promote private interests by all means and methods not prohibited by law. The subject of legal regulation of anti-corruption is public relations arising in connection with the performance of official duties by an official (the procedure for carrying out state or municipal service). In this case, an imperative method is used - interaction of officials with representatives of interests is allowed only in the forms prescribed by law.

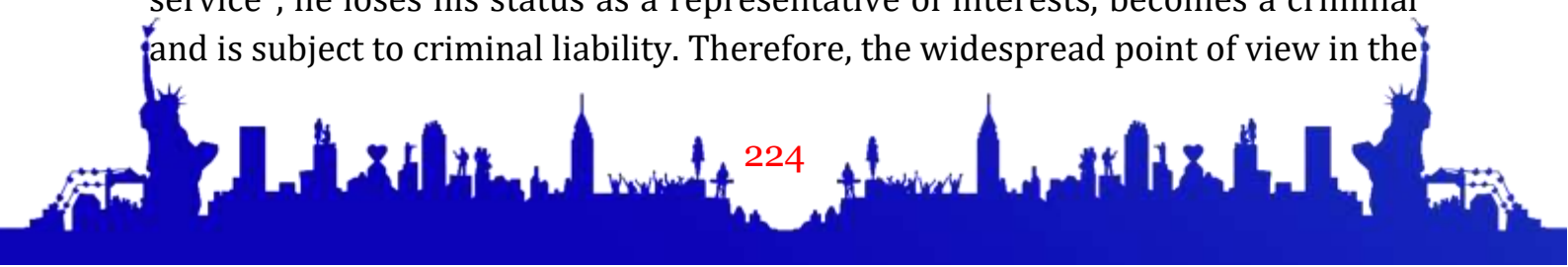
Apparently, the main difference between lobbying and corruption is as follows: both lobbyists and bribe-takers can promote legitimate interests, but if lobbying is the promotion of legitimate interests by legal means, then corrupt methods are always qualified as illegal. In other words, lobbying is distinguished from corruption by the legality of the techniques and methods used when interacting with government representatives. Of course, the legality of methods of promoting private interests in public authorities is entirely determined by the legislator, for example, when setting the permissible value of gifts given to officials, or the maximum limits of contributions to election campaigns, or, for example, when disclosing the concept of "bribe" or introducing a ban on officials carrying out other paid activities, etc.

In addition to the highlighted criteria for distinguishing lobbying and corruption-bribery, professionalism and morality of activity can serve. But since these criteria, firstly, are non-legal in nature, and secondly, they are no less relative than, for example, the object of lobbying and corruption relations, they are not of particular interest to us.

Summing up the research, I would like to note the following fundamentally important provisions:

- 1) there are three conceptual approaches to the relationship between lobbying and corruption:
 - a) lobbying is the bribery of public officials, therefore - lobbying is identical to corruption;
 - b) bribery is a method of lobbying; therefore, lobbying is a condition that contributes to the commission of corruption crimes, or even their cause;
 - c) lobbying and corruption are different forms of promoting private interests in public authorities.

Accordingly, it can be concluded that the activity is lobbying as long as the person carrying it out does not resort to illegal methods of influencing a public official. As soon as a lobbyist offers money to an official in exchange for a "public service", he loses his status as a representative of interests, becomes a criminal and is subject to criminal liability. Therefore, the widespread point of view in the





mass consciousness, according to which lobbying is another name for corruption, and the legalization of lobbying activity means legalizing corrupt relations, is a misconception based on a misunderstanding of lobbying, its essence and social purpose.

