Lobbying in Brazil: A Communication Channel 
Between Civil Society and State?

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A paper prepared for delivery at the meeting of the World Congress of Political Science, 2009.

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Abstract

As a result of a doctoral thesis that evaluated the lobbying activity performed in Brazil, this paper aims to discuss their opportunities to improve the democratic institutions, having examined the work of lobbyists in order to look into their relationship with the Legislative and Executive powers, their clients, and above all, the strategies of action used to achieve their objectives. A qualitative research combining bibliographic and documental research from an ethnographic perspective was carried out. As the lobbying activity has many ways of operation, we divide it into four types: public lobbying, institutional lobbying, class lobbying, and private lobbying. The full development of lobbying in Brazil was made possible only with the strengthening of legislative power, which resulted from the process of decompression of the country. However, the present predominance of executive power over legislative makes the focus of lobbying in Brazil be aimed at both powers. Therefore, the focus of the lobbyist depends on the interest to be defended and who proposed the issue which interests them. The strategies of action which are common among the four types of lobbying are legislative and politics supervision, development of technical studies which subsidize the information that provides decision makers, and the debate which consists of making an argument in order to convince. Lobbying carried on in Brazil is reactive since in a country where the Executive power proposes 85% of the bills of law and rules several areas which affect the operation of the private initiative, it would be difficult to present a propositive action. Established on an effective regulation, lobbying activity would be able to contribute to the public policy decision making process, transparency, and the wrongful notion of illegality would also come to an end. Lobbying is needed so that a communication channel is created between civil society represented by interest groups and state. This communication channel is a two-way street for it improves this link increasing and invigorating the exchange of ideas and information with the interest groups, which will subsidize state decision-making process and will make the groups qualified state interlocutors.

Key words: lobbying, interest groups, representation of interests, decision making process, democracy.
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Introduction

Interest group operations are often discussed in the Brazilian media, but few academic studies are available. Those that have been produced are mostly case studies of specific interests, and do not explain or theorize the general context and operation of interest group activity. It is the goal of this article to provide such a general, theoretical context by discussing lobbying strategies and tactics used by interest groups in the Brazilian Legislature.

A new era of interest representation began with the strengthening of the legislature, as a result of the return to democracy in 1985 and the process of decompression of the political system. Although the pluralism was re-established and the executive began to share power with the legislature, the corporatism model did not disappear. By corporatism model we understand concentration or centralization of interests and the “state-acknowledged” or awarded monopoly of representation (WERNECK VIANNA, 1995). Consequently, there is a mixture of pluralism and corporatism in terms of interest articulation and it affected the development of the interest groups.

It is important to point out that the Brazilian political system is not based on an interest group system, distinctively from that of established liberal democracies long associated with the role of interest groups. The interest groups that operate here are less institutionalized than those from advanced liberal democracies.

Brazil is a federative republic with 26 provinces and a federal district in Brasilia. The head of state is an elected president, who controls the budget and is able to
legislate by editing provisional measures\textsuperscript{1}. The president, who is elected for a term of four years and eligible for a second successive term, chooses a cabinet to be headed by him. The legislature consists of a bicameral national Congress composed by a House of Deputies (513 members directly elected by citizens for a term of four years) and a Senate (81 members directly elected by citizens for a term of eight years) with representatives of 26 states, plus the federal district of Brasilia.

The Executive branch controls the flow of resources from the central government to the provinces, which strengthens it. It also centralizes the decision-making process because of its extensive regulatory power (FIGUEIREDO & LIMONGI, 1999). When the constitution of 1988 came into force, legislators were concerned about establishing a welfare state to deal with the nation’s extensive poverty. So, to ensure this, the legislature granted the executive considerable regulatory authority. Almost all policies (including, commercial, financial and industrial development) in Brazil are regulated by federal laws and controlled by federal agencies.

In addition to that, Brazilian Executive branch has the ability to propose legislation by provisional measures. Eighty-five percent of the bills put forward come from the Executive branch. The legislature in Brazil operates to some degree as agents of the executive. PEREIRA & MUELLER (2004) present interesting data and create “The Theory of Executive Dominance” to explain this phenomenon. For this reason, lobbying in Brazil, and particularly in regard to the legislature, is largely reactive to executive actions.

The lack of lobbying regulation in Brazil causes the media to generally focus on unlawful means of interest representation, such as corruption and influence peddling where social players offer money, or others benefits to the decision makers in order to have a favorable decision. Notwithstanding, our focus falls on lawful lobbying operation that aims to inform decision makers or the government

\textsuperscript{1} The provisional measure is an instrument created by Brazil’s 1998 Federal Constitution, which replaced the decree-law and allows the president to legislate in urgent cases. Legislature then must ratify or reject the measure in the next 60 days.
about propositions that might be put forward as persuasion mechanisms. For us, lobbying must be taken as available and reliable information to promptly assist decision makers (OLIVEIRA, 2004).

Thus, we believe the lobbying activity is essential in democratic societies. The decision makers are confronted with a complex variety of interests and the technical information that the lobbyists take to them is of vital importance, because it subsidizes their actions. The lobbying process becomes a two-way street for it supplies impartial, reliable and proved information to the decision makers, and as a consequence, develops an important communication channel between pressure groups and the State. When the state agents consider opportune, they demand information from the pressure groups and invite them to participate in the decision making process. This communication channel improves the company’s image as well as enables the exchange of ideas and information with the public in general, which will subsidize their decision-making process, and will make the company or entity a qualified state interlocutor.

In regard to methodology, we use neo institutionalism as a theoretical reference. The qualitative methodology includes bibliographic research, analyses of documents and materials, as well as in-depth interviews.

The article is divided into two parts. First, we discuss how lobbying works in Brazil and finally, we discuss interest groups strategies and tactics.

**How lobbying works in Brazil**

Lobbying in Brazil can be divided into four broad categories: public lobbying; institutional lobbying; class lobbying and private lobbying (OLIVEIRA, 2004). Unlike in the USA, where public lobbying means several groups articulating the wider interests of the society like the environment or tobacco, in Brazil we assume public lobbying as that performed by several governmental bodies, such as Ministries, State Companies, Autarchies and Regulatory Bodies when they try to influence
their own decisions in the executive and legislative branches, to secure their rights and attributions or acquire new ones.

All the state bodies possess Departments of Parliamentary Consultation with the intention of influencing the decision makers on what is better for the State itself. This happens because the government bodies look to defend several and conflicting interests, acting as pressure groups in the dispute for budgets or competences.

Public lobbying, in general, is particularistic. However, in the lobbying undertaken by the Ministries, that characteristic increases, creating a series of conflicts among them.

Institutional lobbying refers to the performance of the corporate or institutional departments of private companies, devoted to the relationships with the different spheres and government levels. Due to the fact that some of these companies have already had some experience abroad, multinational companies were the first ones to use institutional lobbying in Brazil. Their corporate or institutional affairs departments already acted during the military dictatorship. With the “distention period” from 1974 to 1978 and the de-compression starting in 1985, that performance was reinforced (LOPES, 2003).

Democratic consolidation brought about some interesting results for institutional lobbying. National and multinational companies began to recognize the importance of maintaining a communication channel with the State, creating corporate or institutional departments.

Class lobbying refers to the performance of federations of national labor or industrial unions, i.e. of class entities, like CNI (National Industry Confederation) and DIAP (Parliamentary Consulting Inter-union Department). Their performance aims to press and influence the Executive and Legislative branches in order to defend the interests of their affiliates. When representing unions and federations, class entities cover a wide range of different and more often than not, conflicting interests. That is why they are limited to defending the consensual and majority interest of their affiliates.
Private lobbying refers to lobbying made by consultants, in general attorneys, political consultants and public affairs officers who are hired to represent their clients in order to defend their particularistic interests. As the lobbying activity is not regulated and because of the stigma that lobbying carries, these professionals do not see themselves as lobbyists; therefore, it is difficult for researchers to properly assess their role and influence. The first offices were open in the mid 1970s; however, the activity of these offices was intensified with the de-compression process. Since the activity is not regulated and due to the delinquency stigma that lobbying carries, publicity agencies, communication agencies, public affairs agencies, law firms and political analysts act in the section, but they do not see themselves as lobbyists making it difficult for researchers to find them.

In the 20th century, Brazil vacillated between civilian-led democracy and both civil and military-led authoritarian government. From the late 1960s to the late 1980s a military dictatorship took place. It was highly centralized in the executive branch and the only major lobbying organizations were those representing the largest financial and industrial organizations. The executive branch would chose interest groups who were able to influence the decision making process in a traditional corporatism mold.

Thus, distinctively from established liberal democracies where interest groups attempts to influence the Legislative power, in Brazil their action is focuses on the Executive power too.

Pork barrel, corruption and influence peddling are usual strategies of action of the interest groups that are looking for easy access and results.

In addition to that, Brazilian interest groups have the necessity to act in both the Executive and Legislative branches. The executive dominance forces interest groups to try to influence not only the Legislature but also the Executive branch too. Their legislative and political monitoring tends to be harder and larger and the variables to be controlled tend to be duplicated.

This means monitoring the activities of over 500 deputies and senators, as well as governors, state deputies, mayors and councilors, thousands of Executive branch
Ministries bureaucrats and hundreds of local authorities, foundations, public companies and other bodies of indirect administration, in the three levels of government (ARAGÃO, 1994).

Interest groups who have tried to influence permanently the decision making process took advantage of the invigoration of the Legislative branch as a decision making center (ARAGÃO, 1994).

Related to this are the debates of the 1988 Constitution - started in 1985 - brought the pressure groups back to the National Congress. According to FARHAT (2007), there were more lobbyists than members of the Congress during the debates and we had 383 pressure groups and active entities registered in order to defend their interests.

There was a new way to influence the decision making process and a lot of agents who were not prepared to operate in these new channels of representation of interests lost visibility and importance.

In spite of a great deal of agreements and pacts among the groups, there were individual and fragmented interests competing to participate in this new decision making process (WERNECK VIANNA, 1995).

**Interest groups strategies and tactics**

The formulation of lobbying strategies and tactics involve, among other decisions, how to; present a proposition, bill or amendment; designing a communication strategy involving scheduling appointments with decision makers, taking them to educational events or to the interest group's facilities for a visit; presenting impartial and reliable information based on academic studies and technical opinions; and, in particular, ways of exerting pressure on decision-makers. Pressure tactics involve acquiring political allies and convincing those opposed to a position to support their cause, or at least be neutral.
In regard to the legislative monitoring, it is possible to obtain information on all aspects of the subject that interests the group. By analyzing, adapting and supplying this information to the decision makers, legislative monitoring subsidizes the convincing process, i.e., the pressure moment.

In order to convince the decision makers there are some characteristics that are essential to any lobbyists such as good communication skills, interpersonal interaction and an empathy with the decision maker. The lobbyist is, above all, a good communicator, since his objective is, more often than not, to change the opinion and the attitudes of the decision maker on the subject that is being discussed.

The lobbyist involves and seduces the decision-makers in an almost affectionate process. Thus, not only the arguments that privilege the defense of the public interest are used, but also, emotional arguments are more effective than the technical ones.

It is during the pressure moment that the lobbyist exploits his relationship with the decision maker, and this relationship is not disinterested. To show the political benefits for the decision makers’ career and to implement actions to compete for that end is essential to reach the desired objectives.

In an attempt to influence the decision makers, the lobbyists supply information which is proven to be reliable, based on sound arguments which are well structured.

The following table summarizes common lobbying strategies of action in Brazil.
Table 1 – Lobbying strategies of action by lobbying types. São Paulo, Brazil, 2004.

<table>
<thead>
<tr>
<th>Lobbying Types</th>
<th>Main Characteristics</th>
<th>Strategies of action</th>
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<tr>
<td><strong>Public lobbying</strong></td>
<td>Performed by ministries, state companies, autarchies, regulatory bodies and other state bodies. They press the Executive and the Legislative powers aiming to assure their rights or secure new ones.</td>
<td>1) Provide qualified information about issues that involve the state body interests; 2) Legislative and political monitoring; 3) Look for allies; 4) Pressure to influence the designation of the person who will analyze and make a report about the bill in the committees.</td>
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<tr>
<td><strong>Institutional Lobbying</strong></td>
<td>Performed by private companies' public affairs department devoted to the relationship with the different spheres and government levels.</td>
<td>1) Provide qualified information based on academic studies; 2) Legislative and political monitoring; 3) Look for allies; 4) Improve the company’s image as well as enable the exchange of ideas and information with the public in general.</td>
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<tr>
<td><strong>Class Lobbying</strong></td>
<td>Performed by class entities. Their objective is to press and influence the Executive and Legislative powers in order to defend the consensual and majority interests of their affiliates.</td>
<td>1) Provide qualified information based on strong and well structured arguments; 2) Legislative tracking; 3) Look for allies; 4) Mobilize their hundreds of affiliated entities to assure public visibility; 5) Propose bills and popular initiative; 6) Produce publications that are sources of information for the government and for their affiliates and gaining great legitimacy.</td>
</tr>
<tr>
<td><strong>Private Lobbying</strong></td>
<td>Performed by lobbying and consulting offices. Publicity agencies, communication Agencies, public affairs agencies, Law firms and political analysts act in the section representing particularistic interests.</td>
<td>1) Identification of the problem and the customer's objective; 2) Legislative tracking; 3) Political tracking; 4) Tracking analyses; 5) Strategy of action formulation - identify how to solve the client's problem, presenting a proposition, bill or an amendment; to draw a communication strategy, making appointments with the decision makers, taking the decision</td>
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To provide information targeted and socially, politically and economically attractive to the decision makers, interest groups are aiming to provoke some type of action or omission.

However, interest group action can be considered successful not necessarily when the proposition elaborated by them is approved by the legislature. Depending on the interest to be accomplished rejection, withdrawal or shelving of such proposition which is not of interest to said group can be considered a successful action.

In Brazil, like in other countries, a successful interest group action must meet some requirements. Thus, without financial resources, a specialized team of lobbyists, physical presence in Brasilia and all the infra-structure needed to reach their goals, in addition to the ability to raise bases and good public visibility, the chances to influence the decision making process in Brazil are small.

**Conclusion**

By offering impartial and reliable information to decision makers, the interest groups achieve credibility, becoming sources of information to the decision makers. These groups are able to open an interlocution channel with the State, ensuring that their interests are heard by decision makers.

There are some peculiarities that must be pointed out in terms of the information supply in each of the four types of lobbying presented here.

In public lobbying the information provided by interest groups are official and, there is great trust between these players. Even so, the interest groups lobbyists are
particularly concerned about building a closer personal relationship with decision makers providing to them technical studies and participating in informal gatherings and social events. All this effort has a single objective: to maintain strong ties between interest groups and decision makers in the three governmental levels.

In institutional lobbying, like in private lobbying, we can see that in addition to the care to provide qualified information there is an emphasis on promoting seminars and lectures (educational events) designed to create an atmosphere of academic debate.

Class lobbying bets on its strong public visibility and credibility as representatives of large sectors of civil society and private initiative to been seen by decision makers as qualified interlocutors. To become interlocutors of decision makers, technical studies, the promotion of educational events, publications and public events such as parades and demonstrations are used.

There is no doubt that the correct use of the lobbying strengthens the democratic institutes. At a time when the interest groups provide reliable and verifiable information to decision makers - information that they allegedly don’t have -, the decision makers are responsible for transforming these interest groups in interlocutors, inviting them to express their views whenever necessary. Such information is essential for greater clarity on the issue and the lobbying plays an important role as a communication channel between State and civil society.

However, we need to highlight the partiality of the information supplied by interest groups. And further that it is the decision maker who interprets the interests and chooses what arguments are more compelling. As the lobbying is not regulated and thus, the lobbyists are not registered, how can the decision makers be sure with whom they are speaking to and if the interests presented are legitimate for that class or that group as a whole?

We believe that in order to reduce these difficulties the decision makers elect some specific interest groups who are more present and available. How can it be possible to all interest groups access the decision making process?
That is why, to become a qualified interlocutor, the interest group must have an organized presence in Brasilia in order to maintain a permanent contact with the decision makers always available. Only to fulfill this stage of the lobbying process, major resources are needed.

Ideally, any interest group may join others of the same type to submit the same demands and assemble a lobbying strategy in the Legislature, but this is not what happens in practice. When huge resources are needed, only major groups are able to maintain a physical presence in Brasilia. So, how can we affirm that there are equal conditions for all interest groups and that lobbying would strengthen the public interest?

The fact that only some segments of society are able to implement this type of action, leads to an imbalance in the sphere of interests representation. Thereby, it is undeniable that the lobbying activity carried out in Brazil presents a format of interest articulation which emphasizes the social divisions and favors the groups that have greater financial resources.

In addition to this, we noticed that the lobbying process in Brazil is reactive. Except for the formulation of the Popular Amendment on the Rights of the Workers for the 1988 Federal Constitution carried out by DIAP, interest groups rarely elaborate propositions close to ruling new issues and discussions in the National Congress and to the Executive power. The emphasis on the legislative monitoring is a consequence of that reactive behavior, because, usually the pressure groups just identify and accompany projects or regulatory proposals which are ratified by the Legislative and Executive power.
Bibliography


