# FROM LOBBYING TO CORRUPTION: THE STRATEGIES OF INTEREST GROUPS TO INFLUENCE THE LAW-MAKING PROCESS

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**Abstract:** There is a widespread view that interest groups are key features of contemporary democracies. Through those political participation channels, citizens articulate their political preferences and interests, express their support and demands to the government, and seek to influence the public decision-making process.
Interest groups with ambitions to influence public policy can choose from a wide range of strategies to accomplish this aim. Therefore, the purpose of this article is threefold. On the one hand, to shed some light on the strategies used by interest groups to influence the democratic law-making processes. On the other hand, to offer useful insights into the relationship and differences between lobbying, political financing, and corruption. Finally, to offer some brief comments on the measures proposed by the OECD to prevent undue and corrupt influence on decisionmakers.
The article is based on three main assumptions. First, private organized interests seeking to influence the policy-making process is part of the complex political game. Second, lobbying is deemed as an intrinsically legitimate political action, even though it shall be carefully regulated by legislation for the sake of transparency, openness, and accountability. Three, corruption is defined as the abuse of entrusted power for private gain and the criminal offences included in this concept range from bribery to trading in influence.

**Keywords:** political participation, interest groups, lobbying, political financing, political corruption, OECD recommendations.

## 1. INTRODUCTORY REMARKS

Every democratic political system has some ways for citizens to participate in the political life. The electoral process enables the most common forms of involvement in the political process. During elections, citizens may run for political office, seek to convince others how to vote, attend political debates and rallies, contribute to campaigns, express their opinion to pollsters, and turn out to cast their ballots for partisan candidates.[1]

[1] ALMOND, Gabriel Abraham; POWELL, G. Bingham; DALTON, Russel J.; STRØM, Kaare. *Comparative politics today: a world view*. 9. ed. actual. Nueva York: Longman, 2010, p. 60-62. About the political role of the people between elections, see, PRZEWORSKI, Adam. *Democracy and the limits of*

The democratic political participation, however, extend far beyond elections. In fact, it usually involves a wide range of individual and collective actions, including the participation in protests and demonstrations, the partaking in political discussions and debates, the communication with elected representatives, the affiliation with political parties, and, finally, the involvement with civil society organizations, such as social movements and interest groups.[2] Hence, it is not an overstatement to say that interest groups are key features of contemporary democracies. Through these political participation channels, citizens can articulate their political values, preferences and interests, express their support and demands to the government, and seek to influence the public policy. Since democratic politics is a process in which several political actors compete with one another for political access and influence, the methods and strategies used by interest groups to reach the political agenda gain crucial relevance.

Interest groups with ambitions to influence public decision making-process can use different strategies - or a combination of them - to accomplish this aim. Broadly speaking, their standard repertoire includes *indirect strategies* based on public appeals through the media and the mobilization of group members and citizens to *direct strategies* targeting bureaucrats, parliamentarians, and political parties. In this particular context, a distinction has been made between legitimate methods, such as lobbying and political funding, and illegitimate tactics, such as influence peddling and bribery.

Against this background, the aim of this article is threefold: to shed some light on the strategies used by interest groups to influence the democratic law-making processes, to provide useful insights into the connections and differences between lobbying, political financing, and political corruption, and to offer some brief comments on the measures proposed by the OECD to prevent undue and corrupt influence on decisionmakers.

In order to achieve these purposes, the paper is structured as follows:

I first provide a concept of interest groups. This analysis is followed by a summary of the main strategies used by organized special interest to exert influence on policymakers. Then, I sketch some general thoughts about lobbying, political financing, and political corruption. Essentially, three central theoretical assumptions anchor these epigraphs. First, private organized interests seeking political access and influence is inherent to the complex political game. In fact, I assume that policies are typically the

*self-government.* Cambridge: Cambridge University Press, 2010, p. 111-117.

[2] DIAMOND, Larry, MORLINO, Leonardo. Introduction. In: DIAMOND, Larry, MORLINO, Leonardo. *Assessing the quality of democracy*. Baltimore: The Johns Hopkins University Press, 2005, pp. xvi-xvii.

outcome of a political process that might involve both representatives and non-elected political actors, notably mass media and interest groups. Second, lobbying is deemed as an intrinsically legitimate political action, even though it shall be carefully regulated by legislation for the sake of transparency, openness, and accountability. Finally, political corruption is defined as the abuse of entrusted political power for private gain and the criminal offences included in this concept range from bribery to trading in influence.

## 2. ON THE CONCEPT OF INTEREST GROUPS

Interest group is any voluntary association of social actors "who manifest conscious desires concerning the authoritative allocation of values".[3] In pluralistic political systems, it consists in a set of individuals and organizations that, having their activity totally or partially oriented to influence the outcome of public proceedings, engage in activities related to the aggregation and articulation of special preferences and interests, the promotion of issues on the social and political agenda, and the mobilization of citizens on public policy matters.[4]

In the political field, interest groups differ from social movements inasmuch as they are institutionalized and formalized collective political actors, have relatively stable organizational structures, advocate for a more specific issues or policies, and are able to build and maintain group cohesiveness in order to achieve their policy purpose and scope.[5] Hence, to a certain extent, interest groups resemble political parties: both have formal organizational capacity. Nevertheless, unlike political parties, interest groups do not seek to conquer the political power by nominating candidates and winning general elections, do not represent or promote general interests, nor are their members subject to group discipline or electoral accountability. In this sense, interest groups share common features with social movements: both political participation channels represent special

[3] LAPALOMBARA, Joseph. *Interest groups in Italian politics*. Princeton: Princeton University Press, 2015, p. 18.

[4] About the concept of interest groups, see ALMOND, G. A., POWELL, G. B., DALTON, R. J., STRØM, K., *Comparative politics today…*, op. cit., pp. 64-68; BINDERKRANTZ, Anne. Interest group strategies: navigating between privileged access and strategies of pressure. Political studies, 53, pp. 694–715, 2005, p. 699; EISING, Rainer. Interest groups in EU policy-making. *Living Reviews in European Governance*, 4, pp. 04-32, 2008, p. 05; JORDANA, Jacint. Asociaciones de interés y acción colectiva. In: CAMINAL BADIA, Miquel, TORRENS, Xavier (ed.). *Manual de ciencia política*. 4. ed. Madrid: Tecnos, 2015 (versión Kindle).

[5] For a definition of *collective political actor*, see MITNICK, Barry M. Political contestability. In: MITNICK, Barry M. (ed.). Corporate political agency: the construction of competition in public affairs. Newbury Park, California: Sage Publications, 1993, p. 12.

interests and seek to influence, and not to get control of, the political decision-making process.[6]

Contemporary democracies are marked by steadily growing number and diversity of interest groups.[7] Generally, these best-organized components of civil society share some crucial characteristics: they are independent of the State, have stablished some formal organizational capacity, hold the ability to mobilize resources and act collectively, and aspire to defend and advance one or multiple special interests.[8] Among the main functions performed by interests groups in order to consolidate the democratic political systems, the following stand out: the representation of social pluralism, the articulation and aggregation of special interests, as well as the political socialization, integration, and participation.[9]

Operating in the same society, it is possible to identify two broad categories of interest groups: the institutional and the associational groups. On one side, the *institutional groups* are public and private organizations that, despite formed to achieve broader goals, be they social, economic, professional, or cultural, pursue to exert influence on decision-making proceedings involving specific issues or single results, such as the passage of one bill or the reverse of a particular executive ruling. Included in this category are business corporations, churches, bureaucracies, armies, and the legislative, executive, and judicial branches, either as institutional bodies or as smaller groups within them.[10] *Associational interest groups*, on the other side, are created explicitly to articulate, represent, and promote common interests, preferences, beliefs or ideologies. Indeed, trade unions, chambers of commerce, professional bodies, and others advocacy groups,

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[6] About the differences and similarities between political parties, interest groups and social movements, see, SCHATTSCHNEIDER, Elmer Eric. *Party government: American government in action*. New York: Routledge, 2017, p. 187-205; IBARRA, Pedro, LETAMEDA, Francisco. Movimientos sociales. In: M. CAMINAL BADIA, Miquel, TORRENS, Xavier. *Manual de ciencia política.* 4. ed. Madrid: Tecnos, 2015 (versión Kindle).

[7] Indeed, SCHATTSCHNEIDER, E. E., *Party government…,* op. cit., p. 27 asserts that the prodigious growth of interest groups associations is one of the principal distinguishing marks of a democratic regime. "Nothing could be more mistaken that to suppose that the parties monopolize the impulse to organize politically; the parties do not operate in an organizational vacuum".

[8] DIAMOND, Larry. *The spirit of democracy: the struggles to build free societies throughout the world.* New York: Henry Holt and Company, 2008, p. 164; SCHATTSCHNEIDER, E. E., *Party government…*, op. cit., p. 30-31.

[9] DIAMOND, L. *The spirit of democracy…*, op. cit., p. 164-168. More about the roles and importance of interest groups to the consolidation of democracy, see, STRAßNER, Alexander. Funktionen von Verbänden in der modernen Gesellschaft. Aus Politik und Zeitgeschichte, 15-16, pp. 10-17, 2006, pp. 11-16.

[10] In a similar vein, see, ALMOND, G. A., POWELL, G. B., DALTON, R. J., STRØM, K., *Comparative politics today…*, op. cit., p. 66-67. According to EISING, R., Interest groups in EU policy-making, op. cit., p. 05, it makes sense to conceive such actors as *interest organizations* that are equivalent to interest groups, even though their raison d'être is usually not the aggregation and representation of some constituency preferences and interests.

including international non-profit organizations, fall within this category.[11] Usually, these organizations tend to pursue policies rewards that serve their own needs or the needs of their members. Nevertheless, a special subset of associational groups struggles to bring about broader issues and collective outcomes, such as human rights, social justice, environmental quality, empowerment of women, and consumer protection.[12]

It is noteworthy that, despite the similarities between these groups, significant asymmetries arise from differences in terms of social and economic clout, financial means, constituency size, overall solidity of organizational structures, internal workings, resource mobilization efforts, media presence, and logics of action.[13] Ultimately, the intrinsic characteristics of the groups themselves can play a central role in improving their capacity to achieve members' commitment, to reach crucial policy information, to appropriately express their interests and concerns to the pivotal decisionmakers, and to gain enough legislative support. As we know, these attributes are fundamental for increasing the likelihood of being heard and so for attaining their desired policy outcome.[14]

## 3. THE ORGANIZED SPECIAL INTEREST STRATEGIES TO INFLUENCE DECISION MAKING-PROCESS

Considering that a greater range of organized special interests are now directly making demands on policymakers, the understanding of the dynamic and implications of the strategic choices used by these competing groups become significantly more relevant.

Studies on the political behavior of interest groups has pointed out the systematic variation in the strategies interest groups typically engage in to exert influence on public policies. According to BINDERKRANTZ, interest groups with ambitions to influence public

[11] About see ALMOND, G. A., POWELL, G. B., DALTON, R. J., STRØM, K., *Comparative politics today…*, op. cit., p. 67; VON ALEMANN, Ulrich; ECKERT, Florian. Lobbyismus als Schattenpolitik. *Aus Politik und Zeitgeschichte*, 15-16, pp. 03-10, 2006, p. 04-05.

[12] In this sense, see, ALMOND, G. A., POWELL, G. B., DALTON, R. J., STRØM, K., *Comparative politics today…*, op. cit., pp. 66-67. DIAMOND, L., *The spirit of democracy*…, op. cit., p. 157.

[13] ALMOND, G. A., POWELL, G. B., DALTON, R. J., STRØM, K., *Comparative politics today*, op. cit., p. 67; JORDANA, J., Asociaciones de interés y acción colectiva, op. cit.

[14] In a similar vein, ALMOND, G. A., POWELL, G. B., DALTON, R. J., STRØM, K., *Comparative politics today…*, op. cit., p. 67. Regarding this point, SCHATTSCHNEIDER, E. E. *The semisovereign people: a realist's view of democracy in America*. New York: Holt, Rinehart and Winston, 1960, p. 20-43 point out the biases of the pluralistic pressure systems. For the author, "the flaw in the plurasit heaven is that the heavenly chorus signs with a strong upper-class accent. Probably about 90 per cent of the people cannot get into the pressure system" (p. 35).

decision making process can use a wide range of indirect and direct strategies as part of their action repertoire to accomplish this aim.[15] The *indirect strategies* are based on public appeals by means of the mass media or the mobilization of group membership and citizens. Thus, on the one hand, interest groups might influence political processes by shaping the manner in which issues are perceived and debated in the public space, either through massive propaganda campaign or advocacy advertisements via mass and social media.[16] On the other hand, they might pressure policymaking institutions by mobilizing group membership and citizens through activities such as online petitions, social protests, legal demonstrations, general strikes, and civil disobedience.[17] In turn, *direct strategies* are associated to actions targeting parliamentarians, government officials, and political party leaders. In attempting to wield influence and power over politicians and decisionmakers, interest groups could employ both legitimate and illegitimate strategies. While legitimate strategies are linked with regular political financing and a great deal of lobbying and counter-lobbying activities, the illegitimate strategies, otherwise, are related to activities seeking corrupt and undue political influence, amongst which highlight illegal political campaign financing, influence peddling, and bribery.[18]

Given the close relationship between the direct strategies that could be used by groups to advance their special interests, it is worth to clarify any misunderstanding surrounding them. Hence, in the next sections, I seek to provide useful insights about the connections between lobbying, political financing, and political corruption.

## 3.1 LOBBYING

[15] BINDERKRANTZ, A., Interest group strategies…, op. cit., p. 695-696. Following this author, in this essay I avoid the usual connotations of the words *insider* and *outsider* as well as the assumption that outsider strategies are inferior to the insider strategies. Rather, I preferred to distinguish between *direct strategies*, whereby interest groups approach public decision-makers, and *indirect strategies*, whereby influence on public policy is sought in more indirect ways. About the strategies interest groups tend to employ in order to influence EU institutions and processes, see EISING, R., Interest groups in EU policy-making, op. cit., p. 16-18.

[16] SCHATTSCHNEIDER, E. E. *Party government…*, op. cit., p. 188. For the author, the method of propaganda distinguishes from the method of pressure. According to him, "propaganda and pressure can be combined by powerful organized interests and minorities, but they should not be confused. The distinguish mark of pressure tactics is not merely that *it does not seek to win elections* but that in addition *it does not attempt to persuade a majority*. A pressure group is not a minority becoming a majority. (…) Pressure politics is a method of short-circuiting a majority" (p. 189).

[17] BINDERKRANTZ, A., Interest group strategies…, op. cit., p. 696.

[18] For an overview of the strategies used by interest groups to gain political access, see, ALMOND, G. A., POWELL, G. B., DALTON, R. J., STRØM, K., *Comparative politics today…*, op. cit., pp. 70-74; BINDERKRANTZ, A., Interest group strategies…, op. cit., p. 694-699, 710-711.

Interest groups engage in lobbying decision-makers in order to achieve policy outcomes that are close to their specific policy preferences.[19] Deemed a legitimate and useful element of democratic political systems, lobbying encompasses efforts to exert direct influence on public policy-making process and is based on both the right to petition government and the right to be heard before decisionmakers in situations that affect special interests.[20]

In the law-making proceedings, lobbying can embrace any legal attempt to influence the acts or votes of legislators, government officials, or staff members on behalf of or against a proposed or pending legislation. The advocacy activities included in such an attempt can range from contacting with public officials who participate in the formulation of specific legislation to attending public hearings or committee meetings, providing technical information, advice or assistance to lawmakers, helping to draft legal acts, inciting group supporters to write letters to representatives, and, in countries as United States, making monetary contribution or raising funds to political campaign.[21]

Lobbying activities can be fulfilled directly by employees of the interest group (*in-house lobbyist*), or rather by intermediaries specially hired for that purpose, that is, by individuals or organizations, whose primary line of business is lobbying (*professional* or *consultant lobbyist*).[22] In any case, some qualitative studies support the conclusion that an effective and successful lobbyist require a range of personal qualities and professional competences, including among them aptitudes such as persistence, patience, politeness, self-confidence and credibility, high capacity for information-gathering, communication, and negotiation, ability to form and develop direct and solid relationships with key political players, keen knowledge of legislative processes, procedures and – both formal

[19] KLÜVER, Heike. The contextual nature of lobbying: explaining lobbying success in the European Union. *European Union Politics*, 12(4), pp. 483–506, 2011, p. 483; BENNEDSEN, Morten, FELDMANN, Sven E. Lobbying legislatures. *Journal of Political Economy*, v. 110, n. 04, pp. 919-946, 2002, p. 919.

[20] In this sense, OECD. *Lobbyists, governments and public trust: volume 02*. Promoting integrity through self-regulation. Paris: OECD Publishing, 2012, p. 23. About the distinctions between the right to be heard and the pressure tactics see, SCHATTSCHNEIDER, E. E., *Party government*…, op. cit., p. 203-204.

[21] Indeed, according to MILBRATH, Lester W. The political party activity of Washington lobbyists. *The Journal of Politics*, 20(2), pp. 339-352, 1958, p. 339, "the lobby process is fundamentally a communication process". In this sense, see OECD. *Lobbyists, governments, and public trust: volume 01*. Increasing transparency through legislation. OECD Publishing, 2009, pp. 18. For further information about lobbying practices, see, THOMAS, Clive. S., HREBENAR, Ronald J. Understanding interest groups, lobbying and lobbyists in developing democracies. *Journal of Public Affairs*, 8, pp.1-14, 2008, p. 04; NOWNES, Anthony J.; FREEMAN, Patricia. Interest group activity in the states. *The Journal of Politics*, 60 (1), pp. 86-112, 1998, p. 91; RIDAO, Joan. Los grupos de presión: análisis de la regulación del lobby en la UE y España. Valencia: Tirant lo Blanch, 2017, p. 21-22.

[22] See ÁLVAREZ VÉLEZ, María Isabel; DE MONTALVO JÄÄSKELÄINEN, Frederico. Los lobbies en el marco de la Unión Europea: una reflexión a propósito de su regulación en España. *UNED. Teoría y Realidad Constitucional*, n. 33, pp. 353-376, 2014.

and informal – political rules, and, finally, significant expertise on issues related to his or her advocacy mandate.[23] Despite a lack of qualitative empirical evidence in favor of this approach, these studies claim that all these personal and professional skills enable lobbyists to more easily access the political arena and to more effectively communicate the perspectives and concerns of their employers or clients to public officials and political representatives, both in the intermediate and upper echelons of legislative and government branches.[24]

On the basis of the foregoing considerations, it can be concluded that, unlike influence peddling and bribery, lobbying activity is not inherently illegal. Rather, lobbying is a form of political action that could guarantee the communicative conditions of an inclusive political process of opinion- and will-formation, since it potentially enables a truly balance and conciliation of all competing interests, preferences and values at stake.[25] It should not be forgotten that, according to HABERMAS, these are precisely the conditions under which democratic procedures of deliberation and decision-making could be presumed to generate reasonable and legitimate collectively binding decisions.[26] In the same vein, it is important to bear in mind that, since decision-makers increasingly lack the resources and technical background to delve into the detailed implications of a policy under consideration, lobbyists could be seen as political actors who could provide them useful advices on complex technical issues as well as information about the state of public opinion regarding policy measures. Providing such valuable insights and data, lobbyists can contribute to a more informed decision-making process and, hence, to a more

[23] In this sense, see MCGRATH, Conor. The ideal lobbyist: personal characteristics of effective lobbyists. *Journal of Communication Management*, 10 (1), pp. 67-79, 2006, p. 69-78. Other studies claim that lobbying effectiveness also depends on other factors. BENNEDSEN, M., FELDMANN, S. E., Lobbying legislatures, op. cit., p. 942, for instance, affirm that lobbying effectiveness depend on the legislative structure in which the interest group operates. In the other side, KLÜVER, H., The contextual nature of lobbying: explaining lobbying success in the European Union, op. cit., p. 484-486, 502 claims that its successful depends on the strength and size of lobbying coalition and on the characteristics of the policy issue at stake.

[24] BERTRAND, Marianne; BOMBARDINI, Matilde; TREBBI, Francesco. Is it whom you know or what you know? An empirical assessment of the lobbying process. *American Economic Review*, 104(12), pp. 3885–3920, 2014, pp. 3887-3888. With regard to this point, argue VON ALEMANN, U., ECKERT, F., Lobbyismus als Schattenpolitik, op. cit., p. 05, that although the original target of lobbying was the parliamentarians, nowadays the preferred target of lobbying activities are the government and the corresponding ministerial bureaucracy, given the undeniable prominence of government regarding to legislative initiative and policy implementation.

[25] In a similar vein, see MCGRATH, C., The ideal lobbyist…, op. cit., p. 69; FELLI, Leonardo; Merlo, Antonio. Endogenous lobbying. *Journal of the European Economic Association*, 4(1), pp. 180-215, 2006, p. 181.

[26] See HABERMAS, Jürgen. Three normative models of democracy. *Constellations*, v. I, n. 01, 1994, p. 03.

effective public policy, improving the performance of democratic political systems.[27]

Notwithstanding their undeniable relevance, lobbying and lobbyists continue to work under the weight of public suspicion and even outright distrusts.[28] Broadly speaking, the reasons for this unfavorable picture are twofold. Firstly, there is a huge misunderstanding surrounding the very concepts of lobbying and lobbyist. Indeed, lobbying is commonly mistaken with the exploitation of personal and long-standing connections to exert corrupt or undue influence on public officials, while the lobbyist is wrongly viewed - and framed in mass media reports – as a "fixer" or as a "middleman", that is to say, as a person who is able to resolve "issues" for clients through corrupt means.[29] Secondly, lobbying activities are usually carried out in an opaque, permissive and unaccountable political environment, which may lead to unfair advantages for vocal vested interests at the expense of the wishes of the whole community or, at least, at the cost of the interests of less organized groups, who struggle to have their voices heard in policy development circles, whether in the Parliament or in the Administration.[30] In the worst case scenario, this environment increase the likelihood that lobbying activities cross the line of legality and legitimacy, becoming an intent to exert illicit influence on public decision-making through corrupt means. Certainly, these circumstances counteract the potential positive effects of lobbying activities and, ultimately, deny the very legitimacy of interest groups dynamics.

In view of the significant downside risks of lobbying and given that some lobbyists are proving exceptionally creative in circumventing the rules of the democratic political game, it is more than justified the widespread claim that lobbying activities must be object of legal regulation for the sake of transparency, fairness, integrity, and accountability in the law-making process.[31] In fact, as long as all potential affected groups and interested

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[27] For more information about this assumption, see KLÜVER, H., The contextual nature of lobbying: explaining lobbying success in the European Union, op. cit., p. 487-488.

[28] MCGRATH, Conor. The development and regulation of lobbying in the new member states of the European Union. Journal of Public Affairs, 8(32), 15-32, 2008, p. 20.

[29] About the cases of Poland and Hungary, see, MCGRATH, C., The development and regulation of lobbying in the new member states of the European Union, op. cit., p. 17, 19-20.

[30] RIDAO, Joan. *Los grupos de presión: análisis de la regulación del lobby en la UE y España*. Valencia: Tirant lo Blanch, 2017, p. 23. Accordingly, VON ALEMANN, U., ECKERT, F., Lobbyismus als Schattenpolitik, op. cit., p. 07-09 put into question the black and white approach to lobbying, since misrepresent the real problem involving lobbying activities: the intermediate zone between these two extremes, which is characterized by the fact that they do not encompass criminal offense, but rather forms of behavior constituting misconduct.

[31] For further information, see TRANSPARENCY INTERNATIONAL. *Lobbying in Europe: hidden influence, privileged access*. Berlin: Transparency International Publishing, 2015. Available online in: https://www.transparency.org/whatwedo/publication/lobbying_in_europe; TRANSPARENCY INTERNATIONAL. Defining lobbyists and regulation lobbying in Europe. *Anti-Corruption Helpdesk*.

parties are granted with fair and equitable access to the development and implementation of public policies, the legitimacy of lobbying and, consequently, of interest groups shall not be seriously challenged.

In order to help States to achieve this aim, the OECD address a series of interrelated issues that might logically guide the development of a framework for legislation or government regulation on lobbying. According to the organization, this framework requires to consider five key building blocks.

The first building block brings the development of an appropriate framework into focus. This set of recommendations draw attention to the fact that a framework for fostering trust in public decision-making while preserving the benefits of the free flow of information to decision-makers by lobbyists should begin with clarifying and better understanding the nature of public concerns, especially those related to issues such as the accessibility to decision makers, the integrity of political decision-making proceedings, and the perceived conduct in lobbying. Additionally, regulations and legislative provisions related to lobbying must respect and conform to the prevailing political culture, the established democratic practices, the constitutional tradition, and the administrative context in each jurisdiction. In any case, those standards and rules should be consistent with the wider regulatory framework that promotes good governance across the public and private sectors, which must include, inter alia, provisions criminalizing undue influencing of public decision-making, such as influence trafficking, bribery and other corruption offences, clear norms of conduct and ethical standards for public officials when contacted by lobbyists, as well as measures that prevent the "revolving door" phenomenon.[32]

The second building block puts emphasis on the importance of clearly defining the scope of policy or regulation on lobbying. In particular, it is regarded that public authorities must strive to clarify what actors and activities are deemed to be lobbyists and lobbying and, moreover, to provide proper descriptions of reasonable exclusions and exemptions. According to the recommendations, to generate a level playing field for all interest groups intending to influence political decisions, lobbying activities should be broadly and inclusively defined and the specificities of the competing interest groups

Transparency International Publishing, 2017. Available online in: https://knowledgehub.transparency.org/assets/uploads/helpdesk/Defining_lobbyists_and_regulating_lobbying_in_Europe_2016.pdf.

[32] For further information, see, OECD. *Lobbyists, governments, and public trust*: *volume 1*. Increasing transparency through legislation. OECD Publishing, 2009, pp. 21-25.

should be taken into account. Besides, definitions can be refined by specifying that certain classes of actors or activities are excluded from the policies or regulations. For instance, communication that is already on public record, such as formal presentations to legislative committees, and representatives of other governments as they act in their official capacity could be excluded from the definitions.[33]

The third building block examines the necessity to establish clear and suitable standards, rules, and procedures for collecting and disclosing pertinent but parsimonious information on key aspects of lobbying, such as its intent, beneficiaries and targets. For the OECD, effective disclosure system should provide officials and citizens with sufficient information to clearly identify lobbying activities and objectives as well as the interests being represented. For that purpose, efforts must be made to establish policy or regulation in order to disclose information on who is trying to influence public decisions, which may include lobbyist registration and periodical reporting of lobbying activities. In addition, it is necessary to set up supportive transparency measures and mechanisms that enable public scrutiny without implying an indiscriminate openness or an excessive demand for information.[34]

The fourth building block deals with the standards of conduct for lobbyists to foster a culture of integrity in lobbying. The recommendations encourage self-regulation in the form of professional codes to be developed by associations of lobbyists or professional bodies. Professional codes would state ground rules for lobbyists in their relations with public officials, with other lobbyists, with their clients, and with the public, as well as the sanctions that could be applied in the case of failure to conform to these rules. However, when the perceived conduct of lobbyists raises significant public concern, maintaining trust in government decision-making process would require public authorities to set professional and ethical standards of conduct for lobbyists. The goal of such standards of conduct is to promote principles of good governance, more particularly, integrity, honesty, transparency, accuracy of information, and avoiding conflict of interest. [35]

Finally, the fifth building block revolves around the enforcement mechanisms that secure compliance with standards and rules. According to the OECD, putting regulation into effect necessitates the involvement of all key actors, in particular public officials and lobbyists, to establish a common understanding of expected standards in daily practice.

[33] For further information, see, OECD. *Lobbyists, governments, and public trust…*, op. cit., pp. 25-26.
[34] For further information, see, OECD. *Lobbyists, governments, and public trust…*, op. cit., pp. 26-29.
[35] For further information, see, OECD. *Lobbyists, governments, and public trust…*, op. cit., pp. 29-30.

Additionally, ensuring both voluntary and mandatory compliance entails the design and application of carefully balanced incentives and sanctions in a coherent spectrum of strategies and practices for supporting implementation through communication, education, formal reporting, leadership, managerial directives, incentives, sanction and co-ordination. Lastly, effective enforcement of lobbying policy or regulation entails dissuasive and proportional sanctions, depends on the cooperation of the public officials who are lobbied, as well as requires States to provide administrators of policy or regulation on lobbying with independence, operational competence, and sufficient resources to effectively carry out their responsibilities.[36]

### 3.2 POLITICAL FINANCING

The financing of political parties and electoral campaigns is another legitimate mechanism of political participation that is used by interest groups to exert influence over public policies.

As we know, political party is a political organization, which is formed for the purpose of winning elections in order to get general control of the government.[37] Since political parties play a crucial role in the performance of democratic political functions and since they need appropriate funding in order to carry out their core activities, it is of particular relevance inquiring into their sources of revenue.[38]

Certainly, money matters a great deal in party politics.[39] Beyond political campaigns, political parties spend their resources in maintaining permanent offices and staff, engaging in political mobilization, socialization and integration, organizing rallies and other events, carrying out policy research, and promoting political propaganda.[40]

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[36] OECD. *Lobbyists, governments, and public trust…*, op. cit., pp. 30-34.
[37] SCHATTSCHNEIDER, E. E. *Party government…*, op. cit., 187. For other definitions of political parties, see ALMOND, G. A., POWELL, G. B., DALTON, R. J., STRØM, K., Comparative politics today, op. cit., p. 81-82; LAPALOMBARA, J., Reflections on political parties and political development four decades later, op. cit., 2007, p. 144; STRØM, Kaare. A behavioral theory of competitive political parties. *American Journal of Political Science*, v. 34, n. 2, pp. 565-598, 1990, p. 574; KING, Antony. Political parties in western democracies: some sceptical reflections. *Polity*, 2(2), 1969, p. 113-117; KATZ, Richard S., MAIR, Peter. Changing models of party organization and party democracy: the emergence of the cartel party. Party Politics, 1(5), pp. 05-28, 1999, p. 21-22.
[38] DIAMOND, L., MORLINO, L., Introduction, op. cit., p. xviii.
[39] DIAMOND, L., MORLINO, L., Introduction, op. cit., p. xviii.
[40] In this sense, see, PINTO-DUSCHINSKY, Michael. Financing politics: a global view. *Journal of Democracy*, 4, pp. 69-86, 2002, p. 70; KOOLE, Ruud. Dilemmas of regulating political finance, with special reference to the Dutch case. In: BIEZEN, Ingrid van; NAPEL, Hans-Martien ten. *Regulating political parties: European democracies in comparative perspective*. Leiden: Leiden University Press, 2014, pp. 45-47.

Hence, Western political systems have struggled to provide sources of private and public funding for political parties that enhance democratic values on decision-making process without encouraging the sale of officeholders and political parties to wealthy interest groups and individuals.[41] Among the main sources of income are regular membership and affiliation fees, profit of party-owned business and investments, such as the sale of party literature and newspaper, funds from the government budget in the form of public subsidies, public non-financial resources, and donations from individuals and organizations.[42]

Although private and societal contributions were originally the main sources of income for political parties and candidates, a set of specific social, cultural and political conditions, mainly the general decline in the levels of political participation and the increase in the costs of party permanent and electoral activities, lead political parties to move away from civil society towards the State, using their control of the centers of political decision-making to provide themselves with all necessary resources to survive and prosper in the political arena.[43]

Thus, as PICCIO y VAN BIEZEN pointed out, the public funding of the political process in the form of State subsidies have gradually become a widespread phenomenon, being Hungary and Spain among the countries that contribute most resources to political parties and electoral campaigns.[44] Broadly speaking, public funding encompass the allocation of direct and indirect subsidies to political parties. While *direct public funding* includes pecuniary benefits, often in the form of State subventions, *indirect public*

[41] ROSE-ACKERMAN, Susan; PALIFKA, Bonnie J. Corruption and government: causes, consequences, and reform. 2. ed. New York: Cambridge University Press, 2016 (e-book), p. 356.

[42] Regarding this point, see RODRÍGUEZ TERUEL, Juan. Dinero público y ciudadanos ausentes: la financiación de los partidos en España. En: LLERA RAMO, Francisco José. *Desafección política y regeneración democrática en la España actual: diagnósticos y propuestas*. Madrid: Centro de Estudios Políticos y Constitucionales, 2016, p. 136-137; MENDILOW, Jonathan. Introduction: the party funding paradox and attempts at solutions. In: MENDILOW, Jonathan; PHÉLIPPEAU, Eric (ed.) Handbook of political party funding. Northampton: Edward Elgar Publishing, 2018, p. 01-03.

[43] KATZ, R. S., MAIR, P. Changing models of party organization and party democracy…, op. cit., p. 15-16; RODRÍGUEZ TERUEL, Juan. Dinero público y ciudadanos ausentes… op. cit., p. 136-137.

[44] Drawing on empirical evidence, PICCIO, Daniela R.; VAN BIEZEN, Ingrid. Political finance and the cartel party thesis. In: MENDILOW, Jonathan, PHÉLIPPEAU, Eric (ed.) Handbook of political party funding. Northampton: Edward Elgar Publishing, 2018, p. 70 observe that "the relative importance of state subsidies as a source of party income is considerable: across European democracies, the state contributes on average nearly 60 per cent of total party income. There is variation between countries of course. The state reportedly provides only around 30 per cent of total party income in Germany and the Netherlands, for example, against nearly 80 percent in Hungary and Spain. The UK is situated at the lowest end of the scale, with the state contributing to a mere 10 per cent of party income (amongst others in the form of so-called policy development grants)". In this sense, see SAWER, Marian; GAUJA, Anika. Party rules: Promises and pitfalls. In: GAUJA, Anika; SAWER, Marian. *Party Rules? Dilemmas of political party regulation in Australia*. Australia: ANU Press, 2016, p. 06-07.

*funding* refers to resources with a monetary value that the States provide to political parties, including tax exemptions, free political broadcasts on the media, access to public buildings, provisions of goods, and so on.[45]

In the literature on political parties, public financing is usually justified by the following arguments. First, it potentially strengthens political pluralism, ensuring broader levels of ideological diversity and more equitable conditions in electoral competitions. Secondly, it is essential to the sound functioning of democracies, providing political parties with the necessary financial resources to bear the increasing costs of their permanent and electoral activities. Third, it guarantees the independence and the impartiality of candidates and political parties, meaningfully reducing the influence of wealthy donors and powerful interest groups on public policy and legislative outcomes. Forth, it can be used to promote gender equality in politics, linking up the allocation of public aid to the enforcement of electoral quotas and the nomination of women as candidates. Finally, it fosters the institutionalization of legal mechanisms to advance party transparency and accountability, since the allocation of public resources usually requires more strict regulations and rules to prevent fraud, corruption and other illegal activities in the political fundraising and spending.[46]

Notwithstanding the foregoing, under the surface public funding systems often work rather differently from the democratic values of equity, inclusiveness, and fair play. Indeed, some studies indicate that the steady increase in the State subventions to political parties and candidates is linked with the emergence of a new type of political party: *a cartel party*. According to KATZ and MAIR, the cartel party is characterized by a close symbiosis between parties and State, by a high level of party reliance on public resources, and also by a pattern of collusion and cooperation between all, or almost all, relevant political parties.[47] In this configuration, the political parties gradually become agents of the State, securing themselves large amounts of money and resources and, at the same time, posing some important barriers for minority parties and newly organized political alternatives that struggle to participate fully in electoral competitions. In this sense, the State "becomes an institutionalized structure of support, sustaining insiders while

[45] OECD. Financing democracy: funding of political parties and election campaigns and the risk of policy capture. *OECD Public Governance Reviews*, Paris: OECD Publishing, 2016, p. 44-45.
[46] For further information, see, OECD. Financing democracy…, op. cit., p. 43-44; SAWER, M., GAUJA, A. Party rules…, op. cit., p. 06-07.
[47] KATZ, R. S., MAIR, P. Changing models of party organization and party democracy…, op. cit., p. 16.

excluding outsiders". [48]

In short, the rent-seeking relationship of political parties with the State can be as much a concern as the reliance of political parties on private money: both might be detrimental to political equality and thus to the general public good. On the one hand, empirical research suggests that, under some circumstances, public financing could completely determine the dominant parties in the long run, despite the preferences of interest groups or society. One important caveat is that the effect of public financing depends strongly on the amount of the State aid. If it is too small, its long-run effect will be insignificant. Otherwise, if it is high enough, it may entirely jeopardize long-term electoral competition.[49] In the other hand, an exclusive reliance on private-sector funds can have a direct influence on the way public policies and legislative regulations are conceived, enacted, and implemented, negatively impacting the performance of political systems and the distribution of power in democracies.

On this matter, empirical analysis reveals that electoral donations and contributions to political parties and candidates are usually used by wealthy donors to build long-term relationships with key political leaders and, as a result, to receive preferential treatment and benefits in terms of favorable regulations, awards of government contracts, fewer controls, and favorable administrative decisions.[50] In fact, according to OFFE, in several developed countries, political donations are commonly granted by powerful economic agents to the two largest and powerful political parties. In doing so, these political actors increase the likelihood of their interests being duly considered by political decision-makers and, in addition, guarantee themselves the power to "sanction" candidates and political parties who fail to reciprocate by simply discontinuing his donations.[51] Thus, even entirely legal contributions from wealthy interests are a source of concern, since money is often given in the expectation that it will in some way be reciprocated.[52]

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[48] KATZ, R. S., MAIR, P., Changing models of party organization and party democracy…, op. cit., p. 15-16.

[49] CUOCO PORTUGAL, Adriana, BUGARIN, Mauricio, DAL BÓ, Ernesto. Electoral campaign financing: the role of public contributions and party ideology (with comments). *Economia*, 8(1), pp. 143-177, 2007, p. 148-149, 169-170.

[50] EVERTSSON, Nubia. Corporate contributions to electoral campaigns: the current state of affairs. In: MENDILOW, Jonathan; PHÉLIPPEAU, Eric (ed.) *Handbook of political party funding*. Northampton: Edward Elgar Publishing, 2018, p. 50-51.

[51] OFFE, Claus. Political corruption: conceptual and practical issues. In: KORNAI, János, ROSE-ACKERMAN, Susan (eds.). Building a trustworthy state in post-socialist transition. New York: Palgrave Macmillan, 2004, p. 89.

[52] In this sense, see MENDILOW, J., Introduction…, op. cit., p. 03; ROSE-ACKERMAN, S., PALIFKA, B. J. Corruption and government…, op. cit., p. 357 and PETERS, John G., WELCH, Susan. Gradients of corruption in perceptions of public American life. In: HEIDENHEIMER, Arnold J.; JOHNSTON, Michael.

Given the significance of political parties and the role that money plays in politics, there is a broadly shared and long-standing consensus that political financing must be subject of a strong legal and regulatory framework. However, despite efforts taken over the years, the increasing number of scandals concerning corruption and illegal campaign contributions and expenditures is an indication that States have largely failed to develop optimal and sustainable models of political financing. Hardly a month goes by without a political party being accused of corruption or some political financing malpractices across the globe.[53] Some of these accusations encompass corporations and interest groups spending a lot of resources in an effort to exert undue influence on political leaders and to assure preferential treatment in the distribution of public resources at the expense of the general public. Many others, however, involve claims of illegal expenditure, secret slush funds, and contributions from disreputable sources, activities disobeying political finance regulations, allegations of corrupt dealings related to political financing, including voters buying, as well as cases of fraud, embezzlement, misappropriation or improper use of party and campaign funds.[54]

According to OECD, the political financing framework might be built on four main pillars: the promotion of a level playing field, the assurance of transparency and accountability, the creation and consolidation of a culture of integrity, and the guarantee of compliance and review.[55]

To promote a level playing field, States should guarantee a regulation of political finance that focus on the whole electoral cycle, including the pre-campaign phase, the campaigning period itself, and the period once the elected official take office. Against this background, it is absolutely necessary measures to guarantee the balance between direct and indirect public contributions, to limit privileged access to State resources by ruling parties and candidates, to impose clear limits on political contributions and spending, and to forbid certain types of private contributions, in particular contributions from foreign donors, from anonymous sources, and from corporations with government contracts or partial government ownership. In addition, it is important to consider that certain shortcomings in the regulations are particularly vulnerable to exploitation by

*Political corruption: concepts & contexts*. 3. ed. New Brunswick, New Jersey: Transaction Publishers, 2009, p. 159-160.

[53] For a sampling of campaign finance scandals, see, ROSE-ACKERMAN, S., PALIFKA, B. J. Corruption and government…, op. cit., p. 356-359.

[54] For further information, see PINTO-DUSCHINSKY, M., Financing politics…, op. cit., p. 69-74.

[55] OECD. Financing democracy…, op. cit., p. 27.

powerful special interests. Loans, membership fees and third-party funding, for instance, can be used to circumvent the regulations of private funding.[56]

Besides that, to assure transparency and accountability, States should require for political parties and candidates to disclose information about how they raise and spend money, since such information can facilitate better informed voter decisions as well as effective oversight of political finance. Comprehensive disclosure of financial information contributes to greater transparency and accountability, serving as a deterrent measure to minimize the impact of undue influence. No oversight mechanism, however, is complete without civil society and media scrutiny. Hence, the political finance information must be organized in an intelligible and user-friendly way, submitted and published in a standardized, machine-readable format, and made publicly available for their analysis. Only then civil society and media will be able to play their watchdog role, ensuring effective electoral and social accountability.[57]

In the same token, to foster a culture of integrity among political parties, public officials and donors, States should promote a comprehensive approach to integrity and good governance, including issues such as the adoption of enforceable codes of conduct, conflict of interest policies for high-risk categories of public officials, disclosure of selected private interests (assets, liabilities, income source and amount, paid and un-paid outside positions, gifts and previous employment) and public availability of such information, legal regulation of lobbying practices, including the disclosure of lobbyist contributions to political campaigns, structured approach to risk assessment, and the introductions of whistleblower protection mechanisms. Promoting a culture of integrity in the public sector, however, is only part of the equation. In order to mitigate the risks of money in politics, a culture of integrity can and should also be promoted among the private donors. Hence, it is of great importance design policy instruments to promote responsible lobbying and business practices, including measures to prevent corruption and cartel formation.[58]

Finally, to safeguard compliance and review, States should ensure independent and efficient oversight over political finance. For this purpose, States may choose from a variety of non-exclusive institutional arrangements. They can either stablish an independent oversight body tasked with the supervision of political finance or allocate

[56] OECD. Financing democracy…, op. cit., p. 27-28, 30, 35-64.
[57] OECD. Financing democracy…, op. cit., p. 28, 30, 65-77.
[58] OECD. Financing democracy…, op. cit., p. 28-29, 79-93.

the responsibilities for monitoring and enforcing political financing regulations among different government bodies and agencies. In order to strengthen investigatory capacity, some countries can also advance closely cooperation between enforcement bodies, while others can promote internal auditing within their structure. In any case, the proper functioning of supervisory bodies must consider the following factors: i) independent appointment of its members (independence from both political parties and the executive at the same time) and security of their tenure; ii) independent budget providing sufficient resources; iii) specialized expertise of personnel and methodologies to discover illegal funding of political parties and candidates; iv) clear mandate and legal power to conduct investigations, refer cases for prosecution, and impose dissuasive and enforceable sanctions; v) educational and training support programs for political parties to encourage compliance with the legal regulation.[59]

### 3.3 POLITICAL CORRUPTION

Political corruption is one of the major challenges that contemporary democracies are facing today.[60] Cross-national studies support the argument that corruption leads to adverse consequences for economic performance and growth by perverting competitive bidding procedures, improving delay in the distribution of permits and licenses, generating anti-competitive market distortions, reducing incentives to private investment in strategic sectors, particularly, foreign direct investment, and increasing the inefficiency in the allocation and flow of public goods and services.[61] Likewise, the available data suggests that corruption and, notably, political corruption, is a determining factor for the low rates of human development and welfare. This is largely due to the fact that predatory behavior by corrupt politicians distorts the composition of government expenditure, being education and health spending adversely affected by this sort of malfeasance. Furthermore, corruption is associated to poverty and unequal distribution of income and wealth, to ineffective tax collection and administration, as well as to low quality and slow

[59] OECD. Financing democracy…, op. cit., p. 30-31, 95-109.
[60] DÍEZ-PICAZO, L. M. *La criminalidad de los gobernantes*. Barcelona: Editorial Crítica, 2000, p. 20-21.
[61] For further information, see MAURO, PAOLO. Corruption and Growth. *The Quarterly Journal of Economics*, 110(3), pp. 681-712, 1995, p. 683, 695-706; BARDHAN. Pranab. Corruption and development: a review of issues. *Journal of Economic Literature*, 35(3), pp. 1320-1346, 1997, p. 1323-1329; ADES, Alberto, DI TELLA, Rafael. Rents, competition, and corruption. *American Economic Review*, 89(4), 982–993, 1999, p. 991-992; EMERSON, Patrick M. Corruption, competition and democracy. *Journal of Development Economics*, 81, 193– 212, 2006, p. 193-195, 211.

implementation of environmental policies.[62] Finally, strong empirical evidence shows that political corruption affect the fiduciary relationship between rulers and citizens, corroding the public trust in democratic institutions and political processes, undermining the rule of law, and ultimately, delegitimizing the State. As MACIEL and SOUSA highlight if "citizens are unable to see through the mechanisms of politics and understand how decisions are made, but have the feeling that these systematically serve a restricted group of powerful individuals and businesses, they tend to believe the democratic process has departed from its natural condition and evolved into something else that has little to do with the fostering of the public interest".[63]

Against this background, arises the question: *what is corruption?*

Corruption has been traditionally defined as the *abuse of public office for private gain*.[64] Not accidentally, the legal literature on corruption was restricted to the analysis of criminal offences against the public administration, encompassing theoretical debates on the delimitation of the protected legal good, on the meaning of the elements that constitutes the corruption offences, on the questions about the application of regulatory and legal acts, as well as on issues relating to investigation techniques, criminal evidence, and criminal procedures. Additionally, relevant theoretical and empirical studies in the field of political economy and political science shared a broad consensus that the better mechanisms for preventing and curbing corruption would be the aggravation of sanctions regarding corruption offences, the imposition of limits to the use of discretionary power, and the reduction of the State intervention in the economy through measures such as the privatization of public companies and the market deregulation.[65]

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[62] For further information see MAURO, Paolo. Corruption and the composition of government expenditure. *Journal of Public Economics*, 69, pp. 263-279, 1998, p. 263-267, 277-278; BAUGHN, Christopher; BODIE, Nancy L.; BUCHANAN, Mark A.; BIXBY, Michael B. Bribery in international business transactions. *Journal of Business Ethics*, v. 92, p. 15-32, 2010. p. 15; PELLEGRINI, Lorenzo; GERLAGH, Reyer. Corruption, democracy, and environmental policy: empirical contribution to the debate. *The Journal of Environment and Development*, 15, pp. 332-354, 2006, pp. 335-336, 348; TRANSPARENCY INTERNATIONAL. Literature review on costs of corruption for the poor. *U4 Expert Answer*, 382, 2013. Available online in: https://www.u4.no/publications/literature-review-on-costs-of-corruption-for-the-poor/.

[63] MACIEL, Gustavo Gouvêa, SOUSA, Luís de. Legal corruption and dissatisfaction with democracy in the European Union. *Social Indicators Research*, 140, pp. 653-674, 2018, p. 658.

[64] In this sense, TREISMAN, Daniel. What have we learned about the causes of corruption from then years of cross-national empirical research. *Annual Review of Political Science*, 10, pp. 211-244, 2007, p. 211; HEIDENHEIMER, Arnold J.; JOHNSTON, Michael; LE VINE, Victor. Terms, concepts, and definition: an introduction. In: HEIDENHEIMER, Arnold J.; JOHNSTON, Michael; LE VINE, Victor. *Political Corruption: A Handbook*. New Brunswick; New Jersey: Transaction Publishers, 1993. p. 3-13; FRIEDRICH, Carl J. Corruption concepts in historical perspective. In: HEIDENHEIMER, Arnold J.; JOHNSTON, Michael (ed.). *Political Corruption: concepts & contexts*. 3. ed. New Brunswick; New Jersey: Transaction Publishers, 2009. p. 15.

[65] For further information, see LAMBSDORFF, Johann Graf. The organization of anticorruption: getting

In spite of their previous significance, these assumptions have gradually been replaced by a more comprehensive and sophisticated notion of corruption. Thus, in the contemporary literature, we can distinguish between two principal meanings of the term.

In the first sense, corruption is defined as the *abuse or misuse of entrusted power for private gain*. As ROSE-ACKERMAN and PALIFKA pointed out, this definition captures the principal-agent problem at the root of all types of corruption, either in private or public realms.[66] Hence, in this sense, political corruption involves the violation of a normative system that delegates to representatives discretionary power, resources, capacity and information to pursue the tasks that are expressions of the interests of the sovereign people. The key term of this concept is *entrusted power*, which refers to the tasks one is expected to perform according to certain rules, regulations and procedures. If the representatives abuse entrusted power, those rules, regulations and procedures are broken, and the citizens' stated goals are subverted. Corruption, therefore, can entail the explicit exchange of money, gifts in kind, favors for rule breaking, or payment for benefits that should legally be costless. Likewise, it can imply the use of political position, influence in government, or connections with public authorities to obtain favors or preferential treatment for a third party in exchange of money or other valuable resources. Finally, in a broader sense, it can also implicate the misappropriation of entrusted public funds as well as the practice of nepotism or patronage in the political appointments.[67]

Instead, in the second sense, corruption is associated with more or less *complex networks of corrupt exchanges*, which are sustained by governance structures and enforcement mechanisms that regulate and coordinate corrupt transactions among different agents, overcoming their tendency to free ride and lowering the transaction costs of such illegal dealings.[68] In addressing this issue, DELLA PORTA y VANNUCCI stress that

incentives right! In: ROTBERG, Robert I. (ed.). *Corruption, global security, and world order*. Washington, DC: Brookings Institution Press, 2009, p. 389-392.

[66] ROSE-ACKERMAN, S., PALIFKA, B. J., *Corruption and government…*, op. cit., p. 06-08.

[67] In this sense, see ROSE-ACKERMAN, S., PALIFKA, B. J., *Corruption and government*…, op. cit., p. 06-08. Despite embracing the principal-agent approach, DELLA PORTA, Donatella; VANNUCCI, Alberto. *The hidden order of corruption: an institutional approach*. Surrey, England: Ashgate, 2012 (e-book), p. 07-12, claim that we can only speak of corruption "when a third actor enters into, and distort, the relations between agent and principal". So, in its elementary logic, corruption would be a three player-game. According to the authors, "the intervention of a client or a briber pushes the agent to sidestep the constrains and controls imposed by norms and procedures. The corrupter, by offering resources such as money or other utilities, succeed in obtaining favorable decisions, reserved information, or the broader protection of his interests" (p. 09).

[68] DELLA PORTA, Donatella; VANNUCCI, Alberto. The governance mechanisms of corrupt transactions. In: LAMBSDORFF, Johann Graf; TAUBE, Markus; SCHRAMM, Mathias (ed.). *The new institutional economics of corruption*. London, New York: Routledge, 2005, p. 154-155; DELLA PORTA, D., VANNUCCI, A., *The hidden order of corruption*…, op. cit., p. 23.

transaction costs are higher in corruption than in ordinary markets, since the search of a counterpart, the gathering of relevant and reliable information, the negotiation and bargaining of corrupt agreements, the exchange of commodities and political rents, as well as the monitoring, implementation, and potential enforcement of corrupt dealings are extremely risky and costly in terms of time and money.[69] So, corrupt exchanges could only flourish and spread across different societies and environments if it is underpinned by a *hidden order*, that is to say, by a set of institutional arrangements that help such opaque, secret, and illegal dealings to become an acceptable, viable and profitable alternative for rational agents.[70] In fact, where political corruption is widespread, it is possible to observe the existence of internalized codes, practices and informal norms that neutralize the moral costs of illegal behaviors and favor corruption, preexisting networks based on reciprocity and trust, rational investments in increasing the reputation of honesty in illegal transactions, as well as the presence of brokers or middlemen that intervene to facilitate and enforce corrupt agreements.[71] All these mechanisms and institutions are components of a "complex organizational architecture that facilitates the implementation of corrupt exchanges, enforcing hidden agreements and reducing transaction costs".[72]

The reality of political corruption, therefore, can take several forms. Amongst others, it can embrace activities such as the acceptance of money in return for an unauthorized favor or the promise of a favor in the event of election to an office, the direct and secret purchase or sale of parliamentarian's vote on important pieces of legislation by a powerful entrepreneur or interest group, the use of social power and political connections to obtain favors or preferential treatment for third parties in return for a payment, the practice of revolving doors, or the use of political appointments based on familiar patronage.[73] However, corruption can also stratify, involving a complex network of politicians, government officials, political parties, interest groups, and brokers, as well as the exchange of (small and large) sums of money in order to secure favorable outcomes for few individuals and organizations or to get control over decision-making processes

[69] DELLA PORTA, D., VANNUCCI, A., The governance mechanisms of corrupt transactions, op. cit., p. 153.
[70] DELLA PORTA, D., VANNUCCI, A., The governance mechanisms of corrupt transactions, op. cit., p. 154-155; DELLA PORTA, D., VANNUCCI, A., *The hidden order of corruption*…, op. cit., p. 23.
[71] For further information, see DELLA PORTA, D., VANNUCCI, A., *The hidden order of corruption*…, op. cit., *passim.*
[72] DELLA PORTA, D., VANNUCCI, A., *The hidden order of corruption*…, op. cit., p. 34.
[73] In a similar vein, see PINTO-DUSCHINSKY, M., Financing politics…, op. cit., p. 71; MACIEL, G. G., SOUSA, L., Legal corruption and dissatisfaction with democracy in the European Union, op. cit., p. 655-659.

and public resources.[74]

Having said that, a distinction has been made between attempts of a single interest group to exert undue influence on legal, regulatory, and policy proceedings through corrupt activities and illegal political financing practices and a more comprehensive phenomenon known as *State capture*, a form of grand corruption which occurs when political elites and powerful interests conspire to distort and manipulate decision-making proceedings and the democratic rules of the game in order to secure themselves particular advantages from government policies or legislative and regulatory outcomes.[75] According to HELLMAN and KAUFFMAN, State capture may be defined as "the efforts of firms to shape the laws, policies, and regulations of the State to their own advantage by providing illicit private gains to public officials".[76] Thus, capture is the "opposite of inclusive and fair policy-making, and always undermines core democratic values".[77] In the legislative branch, this capture may involve a great deal of legal and illegal activities, including payments of bribes to representatives, informal lobbying, trading in influence, donations to political parties and prospective candidates, the use of slush funds, patronage appointments, and the practice of revolving doors.[78] All these activities can translate into mechanisms for buying political influence, jeopardizing the general performance and hence the very legitimacy of democratic political systems.[79]

On this matter, the OECD has elaborated a set of recommendations for policymakers to identify and mitigate State capture risks. Building on previous works on integrity, conflict of interest, lobbying and political financing, its report provides integrated and mutually reinforcing strategies based on transparency, stakeholder engagement, accountability, and organizational integrity. Amongst the principal

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[74] DELLA PORTA, D., VANNUCCI, A., *The hidden order of corruption*…, op. cit., p. 01-02.

[75] Therefore, while most types of corruption are directed toward changing how existing laws, rules, or regulations are implemented with respect to the bribe payer, state capture refers to corrupt efforts to influence how those laws, rules, and regulations are formed. Bribes to parliamentarians to "buy" their votes on important pieces of legislation, bribes to government officials to enact favorable regulations or decrees, bribes to judges to influence court decisions - these are the classic examples of grand corruption through which firms can encode advantages for themselves into the basic legal and regulatory structure of the economy.

[76] HELLMAN, Joel, KAUFMANN, Daniel. Confronting the challenge of state capture in transition economies. *Finance and Development*, 38(3), 2001. Available online in: https://www.imf.org/external/pubs/ft/fandd/2001/09/hellman.htm.

[77] For further information, see OECD. *Preventing policy capture: integrity in policy decision making*. Paris: OECD Publishing, 2017, p. 09-10, 13-27.

[78] MACIEL, G. G., SOUSA, L., Legal corruption and dissatisfaction with democracy in the European Union, op. cit., p. 667.

[79] TRANSPARENCY INTERNATIONAL. State capture: an overview. *Anti-Corruption Helpdesk*, 2014, p. 02. Available online in: https://www.transparency.org/files/content/corruptionqas/State_capture_an_overview_2014.pdf

measures are the regulation of lobbying activity and political financing, the setting up of accountability mechanisms, the conduction of compliance audits on political fundraising and spending, the creation of meaningful opportunities (including online) for the public to participate on the political decision-making proceedings, and the disclosure of relevant information relating to the financial assets, liabilities and interests of public officials and representatives.[80]

## 4. CONCLUDING REMARKS

Based on the above considerations, I shall draw the following conclusions:

1. Interest groups are key features of contemporary democracies. Through these political participation channels, citizens can articulate their political values, preferences and interests, express their support and demands to the government, and seek to influence the public policy.
2. Private interests seeking to influence public decision-making process through legal and legitimate means, such as lobbying or the financing of political parties and electoral campaigns, is part of the complex political game.
3. Lobbying is a form of political action that could guarantee the communicative conditions of an inclusive political process of opinion- and will-formation, since it potentially enables a truly balance and conciliation of all competing interests, preferences and values at stake.
4. The political financing is a legitimate mechanism of political participation that enables political parties to carry out their democratic functions.
5. Lobbying activities and the political financing practices shall be carefully regulated by legislation for the sake of transparency, openness, and accountability.
6. The legislation or government regulation regarding lobbying and political financing should be based on good governance principles, including integrity, honesty, transparency, accuracy of information, and avoiding conflict of interest.
7. In a narrow sense, corruption is defined as the abuse or misuse of entrusted power for private gain, encompassing offences such as bribery, fraud, embezzlement, misappropriation, and trading in influence.

[80] For further information, see OECD. *Preventing policy capture…*op. cit., p. 53-79.

8. Corruption is also associated with more or less complex networks of corrupt exchanges, which are sustained by governance structures and enforcement mechanisms that regulate and coordinate corrupt transactions among different agents, overcoming their tendency to free ride and lowering the transaction costs of such illegal dealings.
9. Finally, a distinction has been made between attempts of a single interest group to exert undue influence on legal, regulatory, and policy proceedings through corrupt activities and illegal political financing practices and a more comprehensive phenomenon known as *State capture*, a form of grand corruption which occurs when political elites and powerful interests conspire to distort and manipulate decision-making proceedings and the democratic rules of the game in order to secure themselves particular advantages from government policies or legislative and regulatory outcomes.
10. In the legislative branch, this capture may involve a great deal of legal and illegal activities, including payments of bribes to representatives, informal lobbying, trading in influence, donations to political parties and prospective candidates, the use of slush funds, patronage appointments, and the practice of revolving doors.
11. Efforts to prevent and curb the capture of the State must include integrated and mutually reinforcing strategies based on transparency, stakeholder engagement, accountability, and organizational integrity.

**ACKNOWLEDGEMENTS**

The author would like to thank José Luis Díez Ripollés, Heloísa Estellita and the … anonymous reviewers for their critical comments on earlier versions of this article.

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