



SPECIAL REPORT

Management of Influence in Democracies

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AUTHORS

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1. INTRODUCTION

For decades, the debate regarding transitions to democracy, mainly in Latin America but also in other regions, understandably focused on the implementation and consolidation of reliable electoral systems that minimized illegal campaigns' manipulation and post-election uncertainty. Despite setbacks such as the Venezuelan case, it is undeniable that there have been significant developments with regard to the situation that prevailed during the Cold War. Nowadays, Latin American nations tend to vote regularly and changes of government take place in a peaceful manner. Recent events such as the confusing dismissal of heads of government in Honduras and Paraguay and actions to ensure indefinite reelection, as has been the case in Nicaragua, have become the exception to the rule.

However, it can be argued that many of these democracies are similar to what Guillermo O'Donnell called "delegative democracies", in which constituents simply vote to leave the management of public affairs in the hands of political elites with an almost nonexistent social participation or in which the electoral process entails a scheme of corporate social and client-directed involvement. In this kind of regimes, the influence of social actors depends completely on personal access to power networks, usually through corruption. Actually, "management of influence" as we know it, is not required in these systems, since networks are automatically activated as soon as there is an opportunity of distributing political and economic benefits between allies of the regime.

On the contrary, the management of influence, especially when professionalized, plays a key role in the development of political systems towards a true polyarchy, a term coined by the recently deceased Robert Dahl, in order to describe a system in which power is distributed among various actors in such a way that negotiation between them and their constituents is absolutely crucial to take public policy decisions.

“The management of influence is a key factor of functional and truly representative democracies”

2. MANAGEMENT OF INFLUENCE

The management of influence refers to the articulation and presentation of the arguments and positions of a particular social group to the public authorities, based on verifiable information. These groups usually propose, reject or seek the modification of a specific public policy measure. **The management of influence is a key factor of functional and truly representative democracies**, provided that two critical conditions are met:

- Prohibition and effective punishment of any type of corruption between private and public actors; and
- Transparency in regard to the identity of the represented parties, the representatives, the concerned public policy measures, the information used for this purpose and the nature of the aforementioned relationships.

Given these circumstances, the management of influence becomes the cornerstone of a healthy and dynamic democracy, in which the various groups that shape complex contemporary societies have real voice and power to develop the legal and regulatory framework that governs social life: the permanent and public exchange of proposals and arguments improves the chances of taking solid public decisions and that the people responsible for taking

these decisions (and those who have influenced the process) take responsibility for them.

3. CHALLENGES FOR THE MANAGEMENT OF INFLUENCE

Management of influence in contemporary societies faces at least three major challenges:

- **Complexity of legal and regulatory systems.** The huge number and diversity of rules governing the operation of enterprises and organizations; the interrelation between local, national, regional and international rules; the relation between private and public rules (i.e., internal policies of global enterprises vs national legal frameworks); and the proliferation of sources of information make it imperative to seek the assistance from consulting companies specialized in the field of Public Affairs which, just like any tax and accounting or productivity counsellor, help the companies and organizations identify and manage their legitimate and democratic influence within their public policies' sphere.
- **Social inequality.** Particularly in regions such as Latin America, although it also applies for the rest of the world, social inequality translates into inequitable access to information and influence, which also strengthens the negative



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trend. While authorities play a key role in the reduction of this gap, private organizations should also contribute to this expansion to make sure that no social groups are ignored in the public political arena. Consulting businesses specialized in the management of influence also bear part of this responsibility; the challenge is to find ways in order to create social alliances that make profitable the representation of all voices, without prejudice to nongovernmental and philanthropic organizations.

- **Communication dispersion.** Internet and social networks present both a major opportunity and challenge: how should the millions of opinions expressed every day in the social networks be articulated and shaped? The good news is that there are ways to achieve this goal; the bad news is that social groups can be broken down into scattered individuals who, at best, form ad hoc, ephemeral coalitions. These communicational networks are the cause and effect of the decline of political parties, churches and community associations. But they still are and will continue being present, and the challenge for public life is to find the way in which to translate these concerns and demands into coherent platforms of public proposals

that can be implemented in a functional way within the institutional framework.

Consulting companies specialized in the field of public affairs are a key ally, both to public and private sector and civil society, since they help to improve the quality and transparency of the information within the political system, enhancing productivity and competitiveness by promoting an economic regulation that advocates for investment, production and trade with high-level environmental and social standards, therefore playing a mediating role between private and public entities.

But, how should the management of influence be regulated? There are several models and none can satisfy all the concerns regarding disparities in access to information or public authorities. Some systems, such as the American model, have a very specific regulation, for example, in relation to the definition of who should be considered a lobbyist: “any individual employed or retained by a client to engage in lobbying (contacts, preparation of meetings, research) in exchange for compensation, who also devotes 20% of his time to such activities¹.”

Who should check and how should it be analyzed whether a person devotes 20% of his time to these activities? It seems obvious that the people

¹ Elías Galaviz, Efrén, El Cabildeo Legislativo y su Regulación [online], Mexico, Legal Research institute, 2006. Available in: <http://biblio.juridicas.unam.mx/libros/libro.htm?l=2316>

“The regulation in the United Kingdom focuses on what MPs can and cannot do and accept”

who should do it are those who offer their services for such activities, but no explanation is given as to why it is 20% of their time and not a different figure. Another similar part reads: “Organizations that hire lobbyist must register themselves if their expenses exceed USD 11,500 quarterly”². Both rules seem arbitrary and leave the way open to simulations.

Other measures appear to be very restrictive, but are innocuous. Colombia, for example, prohibits the entry of lobbyists to plenary sessions³. How should it be determined who, among the people accessing these sessions, are lobbyists and how should the rule prevent or restrict that lobbying is conducted? Lobbying during plenary sessions is certainly a last resort measure, with a low success rate and high risk of public exposure.

The regulation in the United Kingdom focuses on what MPs can and cannot do and accept. These measures include the obligation of submitting an annual financial statement, which must include all their sources of income and the income restriction deriving from private contracts, presentations and speeches, as

well as the amount of gifts they can receive (GBP 300)⁴.

However, none of these rules seems to be really effective in order to prevent the harmful effects of influence peddling. The reason behind this is that there are two main problems, closely related.

The first problem is the definition of lobbying or lobby. There are many different versions, each with its advantages and limitations and endless pointless discussions both inside and outside the lobbying scene. One thing seems clear: there are millions of ways to influence the process of decision making regarding legislation and public policy. No journalist or editor considers himself a lobbyist, yet they are one of the main actors influencing the decision-making process. Their reasons might be legitimate or not, but the fact is that they seek to influence the procedure and often manage to do so.

The same can be said of social organizations. Even though they are not supported by lobbying companies, these organizations exert their influence in many ways, such as the submission of documents or the organization

² Idem.

³ Posada Duque, José Iván, La Cámara regula el cabildeo en plenarias [online], Colombia, El Colombiano. Available in: http://www.elcolombiano.com/BancoConocimiento/L/la_camara_regula_el_cabildeo_en_plenarias/la_camara_regula_el_cabildeo_en_plenarias.asp

⁴ Elías Galaviz, Efrén, El Cabildeo Legislativo y su Regulación [online], Mexico, Legal Research Institute 2006. Available in: <http://biblio.juridicas.unam.mx/libros/libro.htm?l=2316> and Ángeles Sistac, Diego, Lobbying: más de 200 años de historia sobre el cabildeo [online], 2012, ADN Político - Grupo Expansión. Available in: <http://www.adnpolitico.com/congreso/2012/11/03/analisis-la-historia-del-cabildeo-yregulacion>

“In a democracy, the Constitution establishes that all citizens and foreigners residing in the country have the right to petition, hearing, free expression of ideas and free exercise of trades and professions”

of forums, marches and demonstrations. Unions, peasant organizations, trade groups, religious associations and many others, carry out activities on a daily basis focused on influencing public affairs decisions.

The second element comes now into the picture: in a democracy, the Constitution establishes that all citizens and foreigners residing in the country have the right to petition, hearing, free expression of ideas and free exercise of trades and professions. Paying a person to help people exercise their rights in a more professional way does not seem illegal or subject to special regulations.

Yet, the problem is real and must be addressed, at the risk of perpetuating and strengthening the inequality that inevitably, to a greater or lesser extent, affects society. British regulation, with its usual common sense, seems to be pointing in the right direction: the first point that needs to be regulated and supervised is the performance of elected representatives and public officials. It is an identifiable and small universe, which entails serious responsibilities and must therefore abide by special rules to supervise its integrity. The idea, relatively recent in many cases, of elected representatives receiving a salary and certain privileges, actually seeks to relieve them from the need to obtain revenue unrelated to public services. The acquisition of material goods from the private sphere should therefore be prohibited, limited or punished where appropriate.

The second identifiable group that should be regulated is the one involving people and organizations that dedicate themselves professionally to the representation of third parties before public authorities. Certainly, “lobbying” misunderstood as the exchange of favors, positions of power and private economic profit, simply put, influence peddling, is harmful to the economy and quality of democracy. However, it is important to stress that an agile and strict regulation regarding lobbying can promote a rich environment and open exchange of useful information in order to make reasoned decisions that actually maximize the social performance of public policies in an effective way. New media, mainly social networks, can play an important informal accounting role (despite the fact that the large number and dispersion of information can generate poor or malicious opinions, but it is a price worth paying in exchange for this social opening), which should complement but never replace the complex public regulatory network that must inevitably exist in contemporary societies, but which can be improved to be more rational and efficient than it usually is.

It is in the best interest of serious businesses, professionals of public affairs and management of influence to take part in an inclusive process to establish a fair and modern regulation in their sector, focusing on transparency and equity of access to the system. Both the private and public sector have much to gain and social income

“Again, the best solution seems to be transparency”

from minimizing and punishing corruption and shady connivances would be more important than its economic benefits.

There is a third group, much broader and diffuse, which legitimately represents its own interests or those of various sectors of society, in many cases not directly benefiting from it, although they do profit from such activities.

Again, the best solution seems to be transparency, i.e., the public dissemination of information concerning the potential benefits, the identity of those who defend each interest and their sources of funding. The laws of countries who seek to be democratic must specify which conducts are deemed unacceptable, that is, illegal. All activity or interest that does not fulfill the aforementioned condition shall be lawful, without regard to its unpopularity or uncertainty. Since society as a whole benefits from knowing what those activities or interests are and how they are financed, this information should be public.

4. CONCLUSIONS

In conclusion:

- Public servants, in all branches and levels of government, should be banned from obtaining revenue, whether in cash or kind, from non-public activities, with the exception of academic enterprises. If they legally exercise a

profession or have a business or shares in a company, the revenues obtained from these sources and the origin of the assets must be public and they should not intervene in public affairs when doing so might yield them benefits.

- Professional influence managers must be publicly registered as such and must make public the identity of those who hire their services, the objectives of the project undertaken, the nature of the information used to achieve the aforementioned goals and the amount they receive for it.
- Trade associations, unions, professionals and non-governmental, philanthropic and “civil society” organizations must also make public their sources of funding as well as their objectives.
- Considering that the interests and activities not criminalized by legislation are lawful, there should be no reason to hide them. The essence of democracy is not the absence of social conflict, but its peaceful, public and explicit management. If anything, confidentiality should be reserved for very specific issues that may adversely affect national security or public safety, and in which case it should be specified in the Constitution and pertinent regulations. Every other case, in a democracy, must be made public.

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The example was set by groups that openly fought for gay rights and the legalization of certain drugs, formerly inadmissible thoughts that have now found their space thanks to courage, honesty and pursuit of more tolerant and open societies. Legitimate interests do not need to be negotiated in the dark: there is no public benefit

in doing so. Everybody has the right to defend what they consider valuable or beneficial, even if it is positive just for a minority: transparency yields substantial social benefits and enhances significantly the quality of public discussion and the continuous education of the society regarding the many, complex issues that affect them.

AUTHORS



Guillermo Maynez, Senior Director of Public Affairs in LLORENTE & CUENCA Mexico. Guillermo is graduated in International Relations in the Ibero-American University, and he completed a Master's Degree in International Studies in the Johns Hopkins University. He began his career in the Federal Government, in political negotiation with social actors such as Central American refugees (SEGOB), subversive groups like EZLN (SEGOB), foreign correspondents and diplomatic representations (PRI), trade unions and peasant organizations (SEDESOL) and the Congress of the Union. In the field of private initiative, he has been a Consultant of governmental relations (STRUCTURA), and later, he occupied the post of Director of Institutional Relations in Lala Group and Executive Chairman of the Consejo Mexicano de la Carne. He gives information analysis courses since 2004 in the Centro de Estudios del Ejército y la Fuerza Aérea. His work has been published in The Economist and Nexos and currently, he regularly writes articles on public politics in Este País. He is a partner of the Mexican Council on International Affairs (COMEXI).

gmaynez@llorenteycuenca.com



Roberto Velázquez, Assistant Consultant in LLORENTE & CUENCA Mexico. He is graduated in International Relations in the Monterrey Institute of Technological and Higher Studies (ITESM). He has a broad experience in working with foundations in projects undertaken in different fields, such as the creation of manuals on corporate image, public relations and crisis management for UPA! Cura Duchenne, logistic and research support for Mexicans and Americans Thinking Together (MATT) and software design and implementation for Mente en Forma. He also collaborated with the Ministry of the Environment and Natural Resources (SEMARNAT) in research projects related to climate change. He joined LLORENTE & CUENCA in 2012, where he has participated in the planning and implementation of communication strategies for clients such as Grupo Famsa, mabe, Starbucks and Kellogg's.

rvelazquez@llorenteycuenca.com

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Organisation

CORPORATE MANAGEMENT

José Antonio Llorente
Founding partner and Chairman
jalorente@llorenteycuenca.com

Enrique González
Partner and CFO
egonzalez@llorenteycuenca.com

Jorge Cachinero
Corporate Director for Innovation
jcachinero@llorenteycuenca.com

SPAIN AND PORTUGAL

Arturo Pinedo
Partner and Managing Director
apinedo@llorenteycuenca.com

Adolfo Corujo
Partner and Managing Director
acorujo@llorenteycuenca.com

Madrid

Joan Navarro
Partner and Vice-President of Public Affairs
jnavarro@llorenteycuenca.com

Amalio Moratalla
Partner and Senior Director
amoratalla@llorenteycuenca.com

Juan Castellero
Financial Director
jcastillero@llorenteycuenca.com

Lagasca, 88 – planta 3
28001 Madrid (Spain)
Tel. +34 91 563 77 22

Barcelona

María Cura
Partner and Managing Director
mcura@llorenteycuenca.com

Muntaner, 240-242, 1º-1ª
08021 Barcelona (Spain)
Tel. +34 93 217 22 17

Lisbon

Madalena Martins
Founding Partner
mmartins@llorenteycuenca.com

Carlos Matos
Founding Partner
cmatos@llorenteycuenca.com

Rua do Fetal, 18
2714-504 S. Pedro de Sintra (Portugal)
Tel. + 351 21 923 97 00

LATIN AMERICA

Alejandro Romero
Partner and Latin American CEO
aromero@llorenteycuenca.com

José Luis Di Girolamo
Partner and Latin American CFO
jldgirolamo@llorenteycuenca.com

Antonio Lois
Regional Director of Human Resources
alois@llorenteycuenca.com

Bogota

María Esteve
Managing Director
mesteve@llorenteycuenca.com

Germán Jaramillo
Chief Executive
gjaramillo@llorenteycuenca.com

Carrera 14, # 94-44. Torre B – of. 501
Bogota (Colombia)
Tel. +57 1 7438000

Buenos Aires

Pablo Abiad
Partner and Managing Director
pabiad@llorenteycuenca.com

Enrique Morad
Chief Executive for the Southern Cone
emorad@llorenteycuenca.com

Av. Corrientes 222, piso 8. C1043AAP
Ciudad de Buenos Aires (Argentina)
Tel. +54 11 5556 0700

Lima

Luisa García
Partner and CEO of the Andean Region
lgarcia@llorenteycuenca.com

Cayetana Aljovín
General Manager
caljovin@llorenteycuenca.com

Av. Andrés Reyes 420, piso 7
San Isidro. Lima (Peru)
Tel. +51 1 2229491

Mexico

Juan Rivera
Partner and Managing Director
jrivera@llorenteycuenca.com

Bosque de Radiatas # 22 – PH7
05120 Bosques las Lomas (México D.F.)
Tel. +52 55 52571084

Panama

Javier Rosado
Partner and Managing Director
jrosado@llorenteycuenca.com

Avda. Samuel Lewis. Edificio Omega, piso 6
Panama City (Panama)
Tel. +507 206 5200

Quito

Catherine Buelvas
Managing Director
cbuelvas@llorenteycuenca.com

Av. 12 de Octubre 1830 y Cordero.
Edificio World Trade Center, Torre B, piso 11
Distrito Metropolitano de Quito (Ecuador)
Tel. +593 2 2565820

Rio de Janeiro

Yeray Carretero
Director
ycarretero@llorenteycuenca.com

Rua da Assembleia, 10 – sala 1801
Rio de Janeiro – RJ (Brazil)
Tel. +55 21 3797 6400

São Paulo

Juan Carlos Gozzer
Managing Director
jcgozzer@llorenteycuenca.com

Rua Oscar Freire, 379, CJ 111, Cerqueira César
CEP 01426-001 São Paulo SP (Brazil)
Tel. +55 11 3082 3390

Santiago de Chile

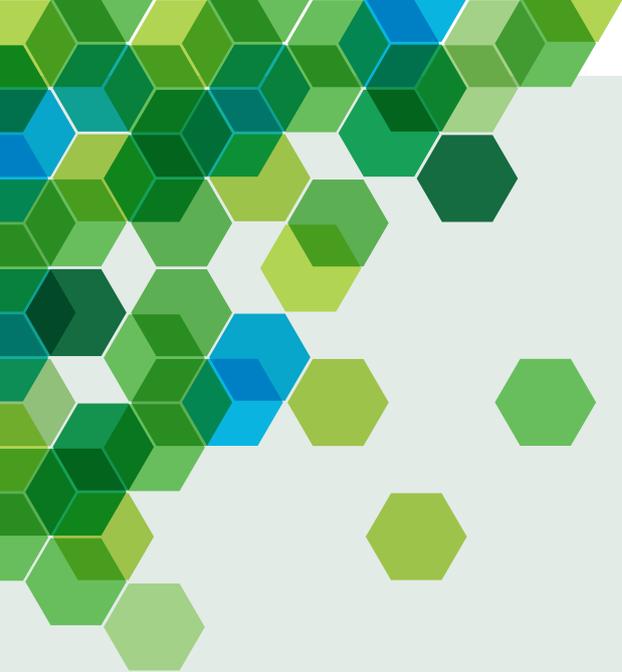
Claudio Ramírez
Partner and General Manager
cramirez@llorenteycuenca.com

Avenida Vitacura 2939 Piso 10. Las Condes
Santiago de Chile (Chile)
Tel. +56 2 24315441

Santo Domingo

Alejandra Pellerano
Managing Director
apellerano@llorenteycuenca.com

Avda. Abraham Lincoln
Torre Ejecutiva Sonora, planta 7
Santo Domingo (Dominican Republic)
Tel. +1 8096161975



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