



Lobbying: The preconditions of an anti-corruption promise

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Abstract

Can lobbying be a realistic and legitimate alternative to corruption in less developed countries? This paper addresses this question by: (1) delineating the differences and similarities between lobbying and corruption; (2) discussing the research on lobbying in less developed countries; (3) concluding that at this point we do not have enough information to address this question; and (4) suggesting that more research is required to clarify the relationship between lobbying, corruption and governance regime types.

In the end, the answer to the question, “*Can lobbying be a realistic and legitimate alternative to corruption in less developed countries?*” is unknown. But a number of intriguing clues suggest that the answer may be “Yes.” But there is much more work to be done.

About the author

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Indexing terms

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Governance regime
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1. Introduction: influencing government

To citizens in many countries, the words *lobbying* and *corruption* are virtually synonymous. But research from many quarters indicates that lobbying and corruption are not the same thing, although lobbying and many forms of corruption have the same basic goal—to affect government decisions. Lobbying, however, is preferable to corruption, as corruption, study after study shows, impedes economic and social development. But does this mean that lobbying should be part of the anti-corruption agenda as a substitute for corruption? Can it be effective in reducing corruption especially in contexts where corruption is particularly problematic? As a means to provide information to influence government decisions, lobbying may even be an easier way for development partners to approach the sensitive issue of addressing corruption. These are all questions of direct relevance to the donor community, as well as to anti-corruption practitioners, attempting to find new and possibly more effective anti-corruption measures. This paper discusses a wide range aspects that need further consideration and knowledge before a clear answer can be provided.

In this section, I will begin by defining *lobbying* and *corruption*. From here, I will discuss how lobbying and corruption are different. I will conclude this section with a discussion of why countries that have a great deal of lobbying tend to regulate it. I include this section because to understand the relationship between lobbying and corruption, it is necessary to understand what they are, how they are different, and how lobbying is regulated.¹

1.1 Definitions: lobbying and corruption

The OECD (2008) and others acknowledge that there is no single, widely-used definition of lobbying. Nonetheless, a broad consensus on the definition of lobbying has emerged. That definition is something along these lines: *any legal attempt by an organization to affect a government decision*. This is an exceptionally broad definition by design. It is broad because any accurate conception of lobbying must account for the following empirical findings:

- Lobbying is conducted by a wide variety of types of organizations, including individual business firms, trade associations of business firms, associations of professionals such as doctors or lawyers, trade unions, citizen or “public interest” groups (often called NGOs or civil society in some contexts), governments, and even churches and charitable organizations.
- Lobbying is an exceedingly variegated phenomenon, which can entail a huge variety of activities, including meeting personally with government officials, contributing money to government officials’ campaigns and/or political parties in places where this is allowed, testifying before government tribunals of various sorts including legislative committees, and engaging in “grassroots” activities such as stimulating citizen contact with government officials or engaging in public protests or demonstrations.
- Lobbying is directed at a large variety of government officials. While research indicates that a great deal of lobbying is aimed at legislators and their staffs, lobbyists also engage non-legislative

¹ I should note at this point that in this paper, I engage in what is generally labelled *desk research*. Desk research comprises gathering information from existing resources such as scholarly studies, government documents, and press reports. I do not engage in any original research here, instead relying on the work of others to address the question at hand.

actors such as government agency officials, chief executives and their closest advisors, ministers, and in some cases even judges.

- Lobbying is conducted at all levels of government—central and sub-central. Studies of lobbying consistently show that lobbying is not confined to central governments, but also takes place in regional and local and provincial contexts.
- Lobbying is aimed at all sorts of government decisions, including policy decisions about “big” issues such as taxation, trade, and government spending; procurement decisions about from whom government will purchase goods or services and how much they will purchase; and appointment decisions about whom will fill appointed positions in government.
- Lobbying is different in different places. Some countries have large and diverse and very active lobbying communities, while others have small and monolithic and relatively inactive lobbying communities, while still other countries have no lobbying at all.

Corruption, like lobbying, is very difficult to define, and numerous definitions of the term exist. But in the most general terms, corruption is defined as “*the abuse of entrusted power for private gain*” (Transparency International). Anti-corruption efforts therefore are designed to diminish or eliminate the abuse of entrusted power for private gain, and also to enforce public integrity and fairness in government. Like lobbying, corruption can take many forms, including bribes, extortion, graft, electoral fraud, cronyism, embezzlement, kickbacks, and influence peddling.

1.2 How are lobbying and corruption different?

As Campos notes (2009; Campos and Giovannoni 2007), there are three primary differences between lobbying and corruption. First, corruption is considered to be illegal, and often, depending on the contextual function of certain forms of corruption and their prevalence, illegitimate. In contrast, lobbying is considered legal and legitimate, though in some contexts not particularly desirable. Second, corrupt practices tend to benefit one person or a small group of people, while lobbying is conducted on behalf of, and thus ostensibly benefits, a larger group of people who share a particular interest such as lowering taxes or increasing government spending on something. Finally, while corruption often entails the provision of bribes or favours, lobbying most often entails the provision of information, as lobbyists provide government decision makers with information they can bring to bear on their decisions. This is not to say that lobbying never entails the provision of money or favours or other tangible benefits. Clearly, lobbying does sometimes entail these things, as when lobbyists and their organizations provide money for government officials’ election campaigns or trips to exotic locales. But despite the widespread belief that lobbying is about money and favours, virtually every study of lobbying in the developed world concludes that lobbying is most often about the provision of information.

These differences notwithstanding, lobbying and some forms of corruption have something very important in common. As Campos and Giovannoni (2007: 1) put it: “In a general sense, both are ways of obtaining help from the public sector in exchange for...” something. In simple terms, both lobbying and some forms of corruption entail someone or some entity asking for something from someone or some entity in government. In this sense, lobbying and corruption are very similar. Moreover, there clearly are some “grey zones” where it is difficult to see the differences between lobbying and corruption. Because the two practices are somewhat similar, especially in their end goal, this is to be expected. For example, in countries where lobbying is widespread, lobbying organizations make contributions to political parties and candidates, which many observers consider “legal corruption” (Kaufmann and Vicente, 2011). In

addition, organizations that lobby in the United States and the EU and elsewhere provide favours for officials, and as I mention above, may also provide trips and other things of tangible economic value to policymakers. Such favours and contributions may be fully legal. But they *can* have the intention as well as the effect of creating a bias in favour of the interest that provides them. The specific risk of such behaviour is that it gives rise to *a perceived or actual conflict of interest*, which undermines *impartiality* in the assessment of relevant facts and in the interpretation of applicable rules for public decisions (Strömberg and Lundell, 2008). The harmful consequences of such behavior include a loss of public trust in government, and a decline in the legitimacy of public institutions intended to balance, protect and fulfil common public and individual interests. In short, the provision of favours and/or contributions, even when legal, may lead policymakers to favour the interests represented by those who can provide them to entrusted decision-makers (Strömberg and Lundell, 2008).

It is important to recognize, however, that while both lobbying and corrupt activities seek to influence government, there are nevertheless clear and obvious distinctions between the two, as is evident in the definitions provided above. For example, lobbying is legal, while corruption is not. Moreover, lobbying does not *clearly* entail any breach of trust, while corruption does. In addition, lobbying seeks to influence government decisions by providing information that may or may not satisfy a certain interest, while corruption seeks to influence government authority through some means that provide a “private gain.” Finally, an important difference is that corruption is, of course, considered bad by anti-corruption advocates, while lobbying to influence policymaking is not viewed as a “corrupt or illegitimate activity per se” (Martini 2012:1). Rather, it is viewed as “a key element of the [government] decision-making process” in many developed countries such as Australia, Canada, Germany, Sweden, and the United States (Martini 2012:1). In the end, the question becomes whether or not the definition of corruption needs to be expanded in a way that allows us to identify ethically questionable circumstances that may be supported by law (as in the case of “legal corruption”).

1.3 Why regulate lobbying?

Because lobbying and corruption are not altogether dissimilar, in some places where lobbying takes place, it is regulated by the government (Chari et al., 2012). In the United States, for example, lobbyists who lobby the national government in Washington, DC, must register with a governmental body and file periodic reports about their activities and spending. The reports that lobbyists file are available to the public. At the European Parliament in Brussels, lobbyists who register are provided “with privileged access to the premises in which public office holders carry out their activities” (OECD, 2009: 127). Many countries in Western Europe regulate lobbying to some degree (though the nature and extent and effectiveness of regulations vary widely; Chari et al., 2012).

The existence of lobbying regulations begs the following question: Why regulate lobbying? If lobbying is, as many political professionals and laypeople alike agree, “an integral part of a healthy democracy” and “closely related to universal values such as freedom of speech and the right to petition government” (Mulcahy, 2015: 6), then regulating it might seem undesirable and perhaps even unfairly constricting.

But the reasons to regulate lobbying are numerous. First and most obviously, lobbying can easily morph into corruption. This appears to be the primary rationale for lobbying regulation offered by Transparency International, which in a recent report argues that in European countries where lobbying regulations are lax, conflicts of interest are rampant, “certain groups enjoy privileged access to decision-makers,” and “influence remains hidden and informal” (Mulcahy, 2015: 6). All of this sounds suspiciously like corruption. Transparency International essentially believes that left to their own devices, lobbyists and policymakers will develop close relationships that lead to untoward and perhaps corrupt activity. Overall,

the idea here is that bad behaviour among lobbyists and government officials will almost inevitably occur unless government takes steps to prevent it. One step suggested by Transparency International is the adoption of a code of conduct for lobbyists and government officials that explicitly spells out what is and is not allowed under the law. Another is disclosure, whereby lobbyists must disclose to either the government the public or both, what they are doing, who they are lobbying, and how much they are spending.

A second rationale for lobbying regulation is that it is important for shoring up public trust in government (Thomas, 1998: 503). The idea here is that in an era of declining trust in government throughout the world, steps must be taken to convince citizens that government is indeed transparent and accountable. One such step should be lobbying regulation, so citizens know who is trying to affect government decisions, what lobbyists want, and how government responds to lobbying efforts (OECD, 2009: 127). This rationale for lobbying regulation has inspired regulations that require lobbyists to register with a public body and disclose their activities to the public.

A third and related rationale for lobbying regulation—particularly regulation that focuses on disclosure—is that it can “level the influence playing field.” Specifically, disclosure regulations allow citizens and their organizations to learn what lobbyists are doing and how policymakers are responding, which gives them information they need to engage in their own political activity. It is also important to note that studies show that citizens believe that lobbying regulations are important—especially those that make lobbying activities transparent to the public—and that they are virtually universally popular with the public (Caldas and Pereira, 2007: 73; McGrath, 2008).

Of course, there are those who believe that lobbying regulations are not necessary or helpful. Three arguments seem especially important here. First, government officials in many countries—especially corporatist countries in which interest groups are officially a part of the policymaking process—say that lobbying regulations “come into conflict with the fundamental right in a democracy to influence people in power” (Lumi, 2014: 305). In Scandinavian countries, for example, the notion that lobbying should be regulated is considered “unnatural” by many government officials and citizens, as corruption is viewed as a non-problem, interest groups are viewed as important sources of valuable information for policymakers (Lumi, 2014), and regulations are viewed as unnecessary constraints on the free flow of information during the policymaking process (Slingerland, 2010). Second, some scholars note that in many cases lobbying regulations are simply not effective (Greenwood and Thomas, 2004; Thomas, 2006). Observers note that ostensibly strong lobbying regulations in the United States, for example, have not eliminated unethical behaviour among lobbyists. Finally, there is the possibility that lobbying regulations can be used by people in power as a cudgel against their enemies. In a one-party, authoritarian or totalitarian state, for example, the government could use “lobbying regulations” to make collective action and lobbying activities by opposition groups and individuals illegal.

2. The problem

Lobbying and many forms of corruption share a basic goal—affecting government decisions. Yet while lobbying is legal and arguably constructive, corrupt practices are almost universally scorned by scholars and development professionals. Not surprisingly then, anti-corruption scholars and donors have raised the possibility that lobbying might be a valuable substitute for corruption. The logic is simple and straightforward: perhaps anti-corruption efforts should be aimed at channelling government supplicants, be they organizations or individuals, *toward* lobbying and *away* from corrupt practices such as bribery or extortion or influence peddling or cronyism. *In short, perhaps more lobbying can lead to less corruption.*

Five strands of research suggest that this line of reasoning is sensible. First, Harstad and Svensson's (2011) model shows that in some contexts, lobbying and corrupt practices are substitutes rather than complements. Campos and Giovanni (2007) lend empirical support to this claim. Second, a recent study by Fjeldstad and Johnsen (2017) argues that we cannot conclude that organizations, even well-heeled business firms, will choose bribery or other corrupt practices over lobbying when they have a choice between the two options. They reach this conclusion after a close look at the development of new petroleum legislation in Tanzania in 2015, which featured a great deal of lobbying by several organizations. Third, there is growing evidence that despite the fact that lobbying is more common in developed countries than it is in less developed countries, it is nonetheless present in many less developed countries. Campos and Giovanni (2007) find, for example, that business firms lobby quite commonly in 25 developing countries, and a spate of recent research confirms that lobbying occurs throughout the developing world (Fjeldstad and Johnsen, 2017; Santos and da Costa, 2014; Lumi, 2014; Weymouth, 2013; Yadav, 2008, 2011). Fourth and relatedly, a body of research shows that when developing countries consider tax reforms, lobbying is quite common. Among the organizations that are most active in lobbying on tax reform are business associations, and the “Big Four” international accounting and professional services firms of Deloitte, Ernst and Young, KPMG, and PwC (Moore, 2013). Fifth and perhaps most important, Campos and Giovanni (2007; 2008) find that in some cases, lobbying is actually more effective in influencing government decisions than corrupt practices are. Campos and Giovanni (2007; 2008) reach this conclusion on the basis of survey data gathered from almost 4,000 business firms in 25 developing countries.

In summary, lobbying and many forms of corruption have the same basic goal—to affect government decisions. Lobbying, however, is preferable to corruption in the minds of virtually everyone who studies policymaking and development, as corruption, study after study shows, impedes economic and social development. Certainly, anti-corruption reformers see lobbying as preferable to corrupt influence practices. It is reasonable then for anti-corruption advocates to consider the possibility that lobbying, especially in contexts where corruption is particularly problematic, may decrease corruption. It is particularly reasonable in light of recent research suggesting that lobbying is a substitute for corruption (Campos and Giovanni, 2007; Harstad and Svensson, 2011) and that it may actually be more effective than corruption in affecting government decisions (Campos and Giovanni, 2007; 2008). In other words, efforts designed to increase lobbying might be useful in combatting corruption. Moreover, the seed of a solution already exists in many less developed countries where lobbying is already a part of politics.

2.1 Challenges to lobbying as a substitute for corruption

All of this seems like a clear warrant for action: *Encourage and increase lobbying to decrease corruption.* The challenge here is to leverage what we know about lobbying as an alternative means of exercising influence into action that can reduce corruption. But how to do this? Three things make answering this question difficult. First, unfortunately, some of what we have learned about lobbying in less developed countries augurs against any clear and easy path to increasing lobbying and thus decreasing corruption.

Specifically, studies show (Campos and Giovanni, 2007; 2008; Harstad and Svensson, 2011) that while lobbying may be an alternative to corruption as a way to influence government decisions, it is far more common, far more widely-accepted, and far better tolerated in more developed countries than it is in less developed countries. In other words, simply saying, “move toward a system of lobbying and away from a system of corrupt practices” is unlikely to have much impact in the face of resistance. Indeed, in less developed democracies with long histories of corruption, lobbying is seen by many analysts and citizens as simply another form of corrupt influence-peddling. Second, while there is some evidence that lobbying is a substitute for corruption, lobbying can lead to implementation distortion problems of its own, including unequal access to government decision-makers, covert and devious channels for political influence, and interest group “capture” in which some part of government is in the thrall of a group or small set of groups. Third, lobbying may be more compatible with some types of governance regimes than with others. Specifically, in some places—especially places where corruption is rampant and the rule of law is “thin” or non-existent—lobbying seems incompatible with dominant practices.

2.2 Governance regimes

Any effort to encourage lobbying, or indeed to reduce corruption in any way, must consider the role of *governance regimes*. A governance regime is generally defined as “any stable configuration of governance rules, norms, and practices,” where governance is defined as “the set of formal and informal rules determining who gets what in a given polity...” (Mungiu-Pippidi 2011, in Kasemets 2012:10). Mungiu-Pippidi (2015) describes four basic types of governance regimes (see Table 1).

First, there are **open access order or universalist regimes**. These regimes are characterized by equality of citizenship, state autonomy, a sharp separation of private and public, complementary relations between formal and informal institutions, a pervasive individualistic mentality, permanent government accountability, and general or “thick” rule of law. Open access order or universalist governance regimes exist in most of the developed world. Second, there are **limited access order, particularistic regimes**. These regimes are characterized by a hierarchical power distribution with monopoly of central power, state capture by the ruler, no separation of the private and the public, substitutive relations between informal institutions and formal institutions, a collectivist mentality among the populace, no government accountability, and either limited or non-existent rule of law. Third, there are **limited access order, competitive particularistic regimes**. These regimes are characterized by a stratified distribution of power with some competition between elites, state capture by winners of elections, no separation of the private and public, substitutive relations between informal institutions and formal institutions, a collectivist mentality, limited government accountability, and no rule of law. Finally, there are **limited access order, borderline regimes**. These regimes are characterized by a competitive power distribution with less stratification than that found in competitive particularistic regimes, islands of state autonomy, particular and universal public resource allocation, poor separation between the private and the public, competitive and substitutive informal institutions, a mixed individualistic/collectivist attitude among the populace, occasional government accountability, and “elites only” rule of law.

Table 1: Governance Regime Types and Their Main Features

	Limited access order			Open access order
Governance regime type	Particularism	Competitive Particularism	Borderline	Universalism
Power distribution	Hierarchal with monopoly of central power	Stratified with power disputed competitively	Competitive with less stratification	Citizenship
State autonomy	State captured by ruler	State captured in turn by winners of elections	Archipelago of autonomy and captured (islands)	State autonomous from private interest (legal lobbying, etc.)
Public resource allocation	Particular and predictable (extractive)	Particular but unpredictable (extractive)	Particular and universal (norm competition)	Ethical universalism (inclusive)
Separation private/public	No	No	Poor	Sharp
Relation between formal/informal institutions	Informal institutions substitutive of formal ones	Informal institutions substitutive of formal ones	Competitive and substitutive informal institutions	Informal institutions only complementary to formal ones
Mentality	Collectivistic	Collectivistic	Mixed	Individualistic
Government accountability	No	Only when no longer in power	Occasional	Permanent
Rule of law	No; sometimes ("thin")	No	Elites only	General ("thick")

Source: Mungiu-Pippidi, A. (2015) *The Quest for Good Governance*. Cambridge, UK: Cambridge University Press, p. 29.

Governance regimes are vitally important in the study of corruption. Recent research indicates that before designing and proposing interventions meant to combat corruption, reformers must acknowledge that regime type affects the probability of success of specific reform proposals. Acknowledging the relationship between governance regime type and corruption is crucial to the success of effective anti-corruption measures. In other words, anti-corruption reforms predicated on the existence of governance characteristics that are not there are destined to fail. For example, the imposition of strict regulations on who can and cannot lobby the government in a country with a limited access order governance regime would be meaningless, as these laws would not be enforced.

So just what is the relationship between governance regime type and corruption? The relationship appears clear: In limited access order governance regimes, especially in particularistic and competitive particularistic regimes, corruption is so extensive that it is considered the norm rather than the exception. Because this is the case, importing a lobbying regime—that is, a set of rules and norms and practices surrounding the practice of lobbying—from a more developed country such as Canada or the United States or Germany to a less developed country with a limited access order regime would not work. Empirical studies suggest that lobbying as a widespread, widely-accepted, and legal means by which to influence government decisions

is a concomitant of open access order governance regimes. But this emphatically does not mean that lobbying occurs only in open access order regimes. Nor does it mean that lobbying should not be at least considered as a substitute for corruption in places without open access order governance regimes. In the end, what we have learned about lobbying and governance regimes tells us that we must approach lobbying as a substitute for corruption with some scepticism, and yet must also keep an open mind.

2.3 Lobbying regimes in developing country contexts

If, as I argue here, encouraging and nurturing lobbying as a means to influence government has *promise* in the ongoing battle against corruption, the following question arises: What do we do next? To address this question, we need to address three more specific questions: (1) Given what we know about the impact of governance regimes on corruption and anti-corruption efforts, does encouraging and recommending lobbying as an alternative make sense in all contexts? (2) If not, in which contexts *does* it make sense? (3) What types of *lobbying regimes* work in which contexts? In other words, what types of lobbying regimes work in which types of governance regimes?

2.4 The influence of context on the merits of lobbying

The short answer to the first two questions is: *we do not know*. However, there is one very good reason to believe that the answer to the first question may be *Yes, it does make sense to encourage lobbying as an alternative to corruption*. The reason is this—virtually the only scholars who have empirically examined whether or not lobbying can be a viable substitute for corruption, Campos and Giovannoni (2007; 2008), conclude without reservation that lobbying is “a much more effective instrument for political influence than corruption, even in poorer, less developed countries” (Campos and Giovannoni 2007: 1). This is vitally important. Campos and Giovannoni study “transition economies” in their studies, many of which do not have open access order governance regimes, so their finding that lobbying works better than corruption in influencing government decisions suggests that lobbying can work across governance regimes, not just in open access order countries where it is more common. Implicit in the work of Campos and Giovannoni is that in places where corruption is a common means by which to influence government decisions and where lobbying is a viable option, choosing lobbying is actually *a better choice* than choosing corruption in terms of influencing.

In sum, the two scholars who know more than perhaps anyone else on the potential for lobbying to substitute for corrupt practices and thus decrease corruption, show us that lobbying does indeed have the potential to decrease corruption across governance regime types and even where corruption is common. But at this point it is still too early to proffer a full-throated recommendation that the anti-corruption community embrace the encouragement of lobbying as a tool in its anti-corruption toolbox. Why? The answer is twofold. First, a handful of studies by the same two scholars is simply not enough to allow serious conclusions. Second, there are a few limitations in the Campos and Giovannoni studies that render them somewhat less than definitive. Specifically, Campos and Giovannoni define lobbying as membership in a “trade association or lobby group...” (Campos and Giovannoni 2007: 5). As for corruption, they define it as whether or not a business firm typically pays “10% or more of total revenue per annum in unofficial payments to public officials...” (Campos and Giovannoni 2007: 8). From here, they use survey responses (those surveyed are business firms) to explore the relationship between corruption, lobbying, and “political influence” in both the legislature and the executive branch. This is problematic because there is no direct measure of either lobbying, which they measure using a proxy variable—membership in an organization that lobbies; or political influence, which is measured via a survey question. Moreover, corruption is measured at the firm level, not at the country or government level, which is also problematic.

The Campos and Giovannoni studies helped give rise to the very notion that lobbying may offer promise for fighting corruption. Moreover, these studies are exquisitely done. But they are suggestive rather than definitive. That is why it is imperative that before we do anything else, we *learn more about lobbying in less developed countries*. Though there is now a non-trivial amount of research on lobbying outside the developed world, this body of research remains small. For example, the number of studies on lobbying in Africa and South America remains pitifully low. There is also a dearth of research on lobbying in Asia and Eastern Europe. As Campos (2009:3) points out, we simply must “learn more about lobbying in developing countries.” It is particularly important, Campos notes, “to learn more about the types of lobbying activities and actors other than trade associations...” that actively engage in lobbying (2009:3). We should also learn more about “the types and strategies and tactics used by lobbying groups in developing countries” (Campos 2009:3).

Of course, the most important reason that we should learn more about lobbying in developing countries is that we need more than anything else additional studies to confirm the link between lobbying and corruption that Campos and Giovannoni posit and find. Studies—some of which unquestionably should rely upon direct measures of lobbying and political influence if such measures are available—should be conducted in many countries, as perhaps this link exists in some places and not in others. If research suggests that Campos and Giovannoni are incorrect and that lobbying is not a viable alternative to corrupt practices, then this debate can be put to rest, and anti-corruption reformers can focus their efforts elsewhere. Again, well-designed studies would focus on many different countries and utilize direct measures of lobbying and political influence.

Assuming we find that Campos and Giovannoni are correct—that is, that research indicates that in some places lobbying is an alternative to corruption—we should continue to learn more about lobbying in developing countries. One reason we should continue to learn more is that doing so may help us determine where to focus anti-corruption efforts. Places where lobbying is relatively common, even if corruption is the norm, are probably better suited to reform efforts than are places where it is not. Again, however, the operative word here is *probably*, which is why we need to learn more. While it is tempting to conclude that the *type of governance regime* is the key variable in determining whether or not lobbying can work as a substitute for corruption, it is just as likely that the *extent of lobbying activity* is essential in determining the potential for lobbying to decrease corruption. Why? The answer lies in the very premise that lobbying *may* substitute for corruption. Where lobbying exists—that is, where organizations seek to influence government decisions in a non-corrupt way—there is likely to be room for so-called “self-interested contestation” (Johnston, 2005: 13), which is essentially the process by which those who “lose out” in policy battles can assert their interests through approaching government in an attempt to mitigate their losses or achieve gains through the policymaking process. Where lobbying has a foothold—regardless of the other characteristics of the political system—efforts to encourage it are likely to be more effective.

Along the same lines, again assuming that we find that lobbying is a viable alternative to corruption, learning more about lobbying in developing countries will help us decide what to do next. The path forward depends upon what we know about lobbying in developing countries. For example, consider a hypothetical case in which we discover that lobbying occurs in a specific developing country, and that the bulk of this lobbying is done by individual business firms. This knowledge would allow us to know where to “plug in” to the system in order to encourage lobbying as a substitute for corruption. Knowing this may, for example, guide us toward aiming initial anti-corruption activities toward corporate actors rather than say, labour groups or local community groups, which could be capitalized upon by anti-corruption advocates. And lobbying may not be a hard sell. Imagine a scenario in which a multinational company lobbies extensively in the USA but only occasionally in a specific developing country in which it has interests. Anti-corruption advocates could approach the company and essentially argue that the sort of

lobbying it does in the USA may be effective in the country at hand. Anti-corruption advocates could tout studies showing that lobbying is a better way to influence government decisions. Another potential argument could focus on self-interested contestation, as mentioned above. A company that lobbies in a specific developing country could be educated on the merits of lobbying as a way to contest government decisions with which it disagrees. This could reinforce the company's commitment to lobbying rather than, say, bribery. When we move away from the "who" of lobbying to the "where," learning more also makes a great deal of sense. Imagine, for example, that in our efforts to learn more we learn that in a specific country there is virtually no lobbying taking place at the local or regional level, but a great deal of lobbying occurring at the national level. This, again, might guide us toward aiming our initial efforts at one level of government rather than another.

In closing this section, it is important to stress that our efforts to learn more about lobbying in developing countries must be painstaking and wide-ranging ones. In sum, we need a great deal more information about the relationship between lobbying and corruption. But this relationship may differ across contexts, so it is important that we study as many countries as possible. I will have more to say about this in the concluding section.

2.5 What types of lobbying regimes work in which types of governance regimes?

Again, the answer to this question is quite clear: we do not know. Because we do not know, our first course of action must be, again, to *learn more*. If anti-corruption efforts do go in the direction of encouraging lobbying (again, which should happen if there is a mass of evidence supporting the studies by Campos and Giovannoni), it is absolutely imperative that we get this right. If there is one thing anti-corruption reformers have learned, it is that many anti-corruption efforts are expensive failures. If anti-corruption reformers begin to push the notion that lobbying can be a substitute for corruption in a specific country, this encouragement must be accompanied by a *lobbying regime plan*. By this I mean *a configuration of lobbying norms and (perhaps) rules*.

Lobbying regimes vary widely among countries that have them (Chari et al., 2012; Thomas, 1998). Chari and his colleagues (2012) have written extensively about lobbying regimes across the world, and they place lobbying regimes into three categories: relatively lowly regulated systems (e.g., Germany, Poland, the EU Commission), medium regulated systems (e.g., Canada, Lithuania), and relatively heavily highly regulated systems (USA). There is also an implicit additional category—completely unregulated systems (e.g., Japan, Iceland). Chari and his colleagues find no relationship between lobbying regimes and level of corruption. In other words, they do not find, as we might expect, that countries with highly regulated lobbying systems have less corruption than do countries with lowly regulated lobbying systems. As for the relationship between lobbying regime type and governance regime type, Chari and his colleagues do not explore it.

More than anything else, the work of Chari and his colleagues beckons us to learn more about the relationship between both lobbying regimes and corruption, and lobbying regimes and governance regimes. Turning first to the relationship between lobbying regulation and levels of corruption, the findings of Chari and his colleagues, while intriguing, are far from definitive. While the authors have an easy time categorizing lobbying regimes, their measure of corruption is the widely-used Transparency International Corrupt Perceptions Index, which is suspect in this context. This index, of course, is a country-level measure, that while useful in some contexts, makes little sense here. To truly understand if lobbying regulations can affect levels of corruption, scholars must use measures that are specific to attempts to influence government. In other words, no overall, comprehensive measure of a country's level

of corruption can capture how lobbying regulations might affect corruption in the influence process. We need more fine-grained research on the relationship between lobbying regulations and corruption. To conduct this research, we first need a realistic and relevant measure of corruption in the influence process. What does a corrupt influence process look like? What does a less corrupt influence process look like? From here, we can conduct a more granular and useful analysis of how lobbying and lobbying regulations might affect corruption in the influence process.

As for the relationship between lobbying regimes and governance regimes, this relationship too needs further study. As I mention above, Chari and his colleagues do not explore this relationship in any detail. Are some types of countries more likely than others to highly regulate lobbying? Are some type of regulations more common in some types of countries than others? We do not know. We need to learn more, because we need to learn what works. If we find that there is a relationship between lobbying regimes and governance regimes—that, for example, countries with open access order regimes restrict lobbying more than countries with limited access order regimes—we can then explore within each regime category what works and what does not. But again, the first step is to learn more about this relationship.

As for what lobbying regulations actually do, Chari and his colleagues write that they are designed to provide accountability, transparency, or both. Transparency, they write, “refers to the ease with which the public can monitor not only the government with respect to its activity, but also which private interests are attempting to influence the state when public policy is formulated” (Chari et al., 2012: 5-6). Accountability, they write, means “answering to and taking responsibility for actions” (Chari et al., 2012: 6). Here the authors are referring to politicians, bureaucrats, and even “economic elites,” many of whom “are increasingly having to justify their actions to citizens” (Chari et al., 2012: 6). Empirical studies (see Thomas, 1998; Chari et al. 2012) show that lobbying regimes in the real world generally have one or more of the following stipulations: (1) Lobbyists must register with the government, disclosing who they are; (2) Lobbyists must file disclosure reports with the government that clearly indicate who they are lobbying and what issues they are working on; (3) Lobbyists must file disclosure reports that detail how much they spend on lobbying; (4) The government must make the information it collects about lobbyists and lobbying available to the public; (5) Legislators and perhaps other government officials must wait a certain period of time—a “cooling off” period—once they leave office before they go to work as lobbyists; (6) Some activities such as giving gifts or providing favors are banned; (7) Conflicts of interest in which, for example, government officials have connections to organizations or businesses or individuals about whom they make decisions, are either banned outright or required to be disclosed.

Which of these stipulations work across which types of regimes? Again, at this point we do not know. But there is reason to be sceptical of reformers’ ability to adopt *any* of these provisions in limited access order countries. Chari et al (2012) conclude that lobbying regulations do not do much good without the existence of a “big stick”—that is, a real threat that people who violate them will be penalized for doing so. And in limited access order systems, penalties are unlikely, and punishment for violating rules is not likely to be doled out equally given the existence of patronage and person-based rules. But all the news is not bad. First of all, none of this means that all efforts to encourage lobbying in limited access order systems are doomed to fail. It simply means that such efforts should not be accompanied by strict lobbying rules and regulations, at least not at first. Could this work? Again, we do not know. But encouraging lobbying as a substitute for corruption is almost certainly bound to fail if the encouragement is accompanied by a lobbying regime plan that calls for strict regulations and relies on strict and impartial enforcement of rules by sanctioning non-compliance. Second, it is worthwhile to note that the fight against corruption is not limited to developing countries. After all, many open access order countries have corruption, and strict, enforceable lobbying regulations—regulations which make sense in open access order systems—do have the potential to decrease corruption in these places.

If reformers decide to encourage lobbying in limited access order systems, they may simply have to live with an unregulated lobbying system, at least for a while. But there is, of course, another possibility. That possibility is this: *developing a new type of lobbying regime that is accompanied by a governance mechanism that is more suitable to closed access order regimes*. The work of Chari and his colleagues uses as a benchmark the highly regulated lobbying regime that exists in some of the American states. From here, they classify other lobbying regimes. Rather than evaluating lobbying regimes on the basis of *what works*, they evaluate them on the basis of *how close they come to approximating their ideal* of a highly regulated system. An alternative approach would be to classify lobbying regimes on the basis of how close they come to *fulfilling their goals*, or how closely they match the contexts in which they exist. And what type of governance mechanism might work in limited access order countries? For a hint, we can look to the work of Marquette and Peiffer (2015), who point out that corruption in closed access order contexts is not just a principal-agent problem, but also a collective action problem in which people see corrupt practices as “normal,” and see no benefit in abstaining from “free-riding” by eschewing corruption. This calls for a governance mechanism that does not rely upon punishment and monitoring and sanctions, but rather relies upon a change in the way people view corruption. An “Integrity Pact” is an example of governance mechanism that flows from viewing corruption as a collective action problem. Such a pact is essentially a written agreement between individuals involved in some activity in which participants agree to refrain from corrupt practices. An integrity pact relies upon *trust* rather than *sanctions and punishment* to stop corrupt practices. Of course, a successful integrity pact requires an independent third party (such as an NGO) that can establish facts and monitor pact signees. Could such a mechanism work to “regulate” lobbying in contexts where strict regulations seem unworkable and unenforceable? Perhaps. Again, this question deserves further research attention.

While we are on the subject of what might work and what might not work, it is important to recognize that there is at least some evidence that even thoroughly unregulated lobbying has potential to mitigate corruption in the influence process. The firms in Campos and Giovannoni’s study lobby instead of bribe *not* because they are afraid of punishment if they bribe, but rather because they believe (with some reason, it seems) that lobbying is more effective than bribing and saves them money. This is straightforward evidence that even unregulated lobbying has the potential to decrease corruption in the influence process.

3. How donors can support these efforts

Based on the preceding, one overarching suggestion for donor action seems in order. Specifically, donors can:

Fund research projects that teach us more about lobbying in the developing world.

This is a very broad warrant, as research can cover an array of topics, and can come in many shapes and sizes. So in closing, I will get a little more specific about what we need to learn more about, and how we can learn it.

I believe a good place to start is with funding research that addresses the following questions:

Does more lobbying mean less corruption?

This is an empirical question that can be answered by studying individual countries first, and then using comparative methods to see if more lobbying is associated with less corruption, more corruption, or about the same level of corruption. If studies find that lobbying and corruption are positively related, this entire program of reform is questionable. But if more lobbying means less corruption, no matter the reasons, this program of reform becomes all the more intriguing.

There is a possibility that the relationship between lobbying and corruption differs across regions, levels of development, and types of governance regimes. So a large number of studies from across the globe is necessary to discover the true relationship between lobbying and corruption. Following the lead of Kaufmann and Vicente (2011), studies of lobbying can be conducted in both developed and developing countries. There is a larger need for studies of lobbying in developing countries, as so few exist. But a comprehensive understanding of the relationship between levels of lobbying and levels of corruption require us to look at developed as well developing countries.

Why and under what circumstances do organizations choose lobbying over corruption if both options are available?

A handful of studies, including Fjeldstad and Johnsen (2017), and Campos and Giovanni (2007; 2008), conclude that when given a choice between lobbying and engaging in corrupt practices, organizations sometimes choose lobbying. Thus, we cannot assume that organizations will prefer to engage in corrupt practices rather than lobby when they have a choice among the two options.

But questions remain. For example, *who* chooses lobbying over corruption and *when*? It may be that only certain types of organizations—businesses, for instance—choose lobbying over corruption when given a choice. Or it may be the case that organizations choose lobbying over corruption in some instances—for example, in trying to affect bureaucratic agency decisions—but not others—for example, in trying to affect legislation. Or it may be that the choice to lobby rather than engage in corruption varies across region, governance regime, or policy issue.

One way to tackle this general topic is to catalogue instances in which organizations engage in lobbying rather than corruption when both options are available, and then look for patterns. Are the groups that choose lobbying over corruption overwhelmingly of one type? Or do various types of organizations choose lobbying? Do groups choose lobbying in some regions or countries but not others? Does the choice to lobby vary across type of governance regimes? We can address these questions with more data.

Another way to tackle the question of why organizations choose lobbying over corruption when given the choice is to ask organizations that make this choice. Once we identify specific instances of organizations choosing lobbying over corruption, we might query these organizations themselves about why they chose to lobby. This may not be fruitful, as organizational representatives might not want to discuss such matters, but it is worth considering, as surveys of lobbyists and lobbying organizations have taught us a great deal about the behaviour of interest groups and lobbyists across the globe.

Under what circumstances is lobbying more effective than corruption?

The same studies that show that organizations sometimes lobby when they could engage in corruption instead—that is, Fjeldstad and Johnsen (2017), and Campos and Giovanni (2007; 2008)—also show that lobbying can be as effective as, or more effective than, corruption. When is lobbying more effective than corruption? It may be the case that lobbying is more effective than corruption for large, well-funded, highly professional business organizations, but not for other sorts of organizations. Or lobbying might be more effective in some contexts than in others. The effectiveness of lobbying may vary, for example, across country, type of governance regime, region, type of group, or branch of government.

There is one major impediment to learning the answer to the question of why lobbying is more effective in some cases than others. That impediment is this: It is very difficult to define the term “effective.” What is and is not effective in the world of lobbying is often in the eye of the beholder. For example, a huge multinational corporation may succeed in changing one line of a country’s long and complicated tax code, and outside observers would probably not consider this a huge deal. But to the corporation itself, this might be worth millions of dollars. Thus, the best way to learn more about the circumstances under which lobbying is and is not more effective than corruption is probably to ask organizations themselves. This is not ideal, as a definitive, objective definition of “effective” would be nice to have. But again, power and influence and effectiveness are in the eye of the beholder, so querying lobbying organizations about instances in which they believed their lobbying was effective is probably the best way to gather the best and most valid data on this question.

This does not mean that we should eschew more objective studies of lobbying effectiveness. Again, as we continue to catalogue instances of lobbying, we can always ask: In this instance, did the organization(s) in question get what they asked for? Sometimes this question is hard to answer, but we can try to answer it nonetheless.

The bottom line here, for both this general research question and the last, is that we need more data and more information. This is why my primary recommendation here is to fund more studies of lobbying.

In places where lobbying is widespread, legally sanctioned, and at least somewhat regulated—as in some developed countries and a few developing countries—under what circumstances does it lead to corruption?

This question is especially important in light of recent research by Kaufmann and Vicente (2011) showing that there is “legal corruption” in many places, including in OECD countries where lobbying is widespread and regulated. Kaufman and Vicente state that legal corruption comprises public officials allocating public goods not to “the population,” but rather to some individual or entity they call a “private agent.” Moreover, there is little doubt that lobbying itself can lead to corruption, as there are “grey zones” between the two practices, even in developed countries with lots of lobbying and little “illegal corruption.”

The goal of any lobbying regime should be to stop both legal and illegal corruption. Thus, we must learn about how lobbying regimes affect levels of both types of corruption. Specifically, we need to learn if certain types of regulations and lobbying regimes lead to more corruption, both illegal and legal, than others. In addition, we must learn what sorts of lobbying regulations work in which sorts of governance regimes.

Again, the best way to explore all of this is to do much more research. We should study a wide variety of countries in which lobbying takes place, and try to discover which types of regulations and rules work to constrain corruption. Of course, this will take a lot of work. We should study multiple countries across multiple regime types and multiple regions and multiple levels of development. It may well be the case that there are some contexts in which no lobbying regulations or rules can stop corruption, either illegal or legal. In cases like these, we must look outside the world of lobbying for solutions to the problem of corruption. But only if we learn which lobbying regimes fit which contexts can we make progress toward our primary goal of reducing corruption.

What benefits flow to organizations that engage in lobbying rather than corruption?

I conclude with this question. Ultimately, it appears to me that if lobbying is to substitute for corruption, there must be widespread buy-in from the organizations and individuals who must choose between lobbying and corruption when they are faced with such a choice. Extant studies show us that there are cases in which organizations choose to lobby rather than to engage in corrupt activities. Once we identify these cases, we can explore the question of *why* organizations might choose lobbying over corruption. It is sensible to conclude that one reason an organization might choose lobbying over corruption is that this is the rational decision; that is, that it maximizes benefits. And it may maximize benefits in ways we do not yet understand. Lobbying might, for example, be a better choice than corruption for a multinational corporation concerned about its public image. Or it might be a better choice for a cause group that wants to make sure it has a stellar reputation with the public, from which it draws its membership.

To embark down this road, we must first identify cases in which organizations do indeed choose lobbying over corruption. Again, we can only do this with wide-ranging, time-consuming research. From here, we can, again, engage in survey research to identify the reasons the organizations in question chose lobbying over corruption. This approach might well give us more information than we currently have about the benefits of lobbying. This information might help us in our future attempts to encourage lobbying over corruption. It could, for example, give us fodder for public education campaigns in which the anti-corruption community identifies specific benefits that flow to organizations from eschewing corrupt activities in favour of lobbying.

In the end, my call for additional research is not simply a way to avoid the primary question at hand here—*Is lobbying an alternative to corruption in developing countries?* Though we have a few clues as to the answer to this question, and these clues are somewhat encouraging, we simply do not have enough information to answer it. I believe it is worth the effort to gather this information.

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Can lobbying be a realistic and legitimate alternative to corruption in less developed countries? This paper addresses this question by: (1) delineating the differences and similarities between lobbying and corruption; (2) discussing the research on lobbying in less developed countries; (3) concluding that at this point we do not have enough information to address this question; and (4) suggesting that more research is required to clarify the relationship between lobbying, corruption and governance regime types.

In the end, the answer to the question, "Can lobbying be a realistic and legitimate alternative to corruption in less developed countries?" is unknown. But a number of intriguing clues suggest that the answer may be "Yes." But there is much more work to be done.