

**PROPOSED THEORETICAL FRAMEWORK
FOR REFORMS IN THE
PHILIPPINE LOBBY PROCESS
TO MAKE IT A TOOL FOR
EQUITABLE INCOME DISTRIBUTION,
HUMAN DEVELOPMENT,
AND HUMAN RIGHTS**

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EXECUTIVE SUMMARY

The main rationale for this study on the Philippine lobby process is the principle that lobbying should be used as a tool for equitable income distribution, human development, and human rights.

Its context is the prevailing Philippine lobby process, characterized by elite-domination, virtually total exclusion of the poor, massive corruption, no registration, no regulation, no reporting, and no monitoring of lobbyists – a lobby process which has long been the perfect tool against equity, development, and human rights.

The central purpose of this study is to formulate and propose a theoretical framework on the reforms that need to be done in the Philippine lobby process to make it an effective tool for equitable income distribution, human development, and human rights.

To achieve its purpose, the study used both primary and secondary research. Primary research consisted of key-informant interviews with lobbyists and lobby-targets. Out of 40 target-respondents who were sent questionnaires, only 18 agreed to respond on condition of strict anonymity because of the sensitive subject. Secondary research consisted of review and analysis of hundreds of lobby-related articles and studies (hard copy and through the Internet).

This study submits that the simplest and clearest definition of **LOBBYING** is that it is *the process through which one or more parties (the lobbyists) seek favorable decisions and actions from a government or an international development organization, through fair or foul means.*

“Government” refers to the **three branches – legislative, executive, judicial – at the national and local levels.** “International development organizations” refers to **global institutions composed of various governments** such as the United Nations, the World Bank, the International Monetary Fund, the World Trade Organization, and the like.

This study also emphasizes that at the national level, the **lobby process covers the period before, during, and after elections** -- contrary to the usual notion that lobbying covers only elected officials after elections. Put another way, this study submits that the **electoral process is part of the lobby process.**

Relative to **LOBBYISTS**, the simplified definition proposed by this paper is that **LOBBYISTS are all parties who seek favorable decisions / actions from a government or an international/multi-government development institution. They range from individual/s to organization/s to government/s to international development institution/s.**

The **MAIN FINDINGS** of the study can be summed up as follows:

There are three basic premises or reasons for the objective of reforming the Philippine lobby process, specifically:

First, lobbying is a neutral tool or technology. It can be used for or against human development and human rights.

Second, under the **right conditions**, a **credible lobby process becomes** virtually the **best legal tool for peaceful negotiated resolution** of deep social conflicts; the **primary constitutional medium** through which the **voice and will of the people** is expressed and the **majority decision determined and implemented**; the **concrete manifestation** of the people’s **constitutional rights to freedom of thought/belief, choice, speech, association, and to peacefully petition** government for redress of grievances; society’s primary **tool** for the promotion of **authentic democracy** (majority rule) and **peace based on justice, human development, and human rights.**

However, under the **wrong conditions**, the lobby process **loses its credibility** and **becomes the instrument for extremely harmful situations**, such as the **subversion and perversion** of authentic **democracy** (majority rule) and the **rule of law**; perpetuation of **oligarchy** or elite rule; **institutionalization of corruption** in government, and many others.

Third premise: The relationship between the lobby process and its social milieu is dialectical, a unity of opposites. The lobby process is shaped by, and shapes its, social milieu.

The **core idea** of the proposed theoretical framework consists of two key points:

First point: From the insight that global inequity is both the starting and central issue of human development, this paper extrapolates as its central theory that the **entire lobby process, whether at the global or state level, is FOUNDED on the fundamental conflict between those who benefit** from this global inequity and therefore **want to perpetuate it – and those who are victimized** by this global inequity and therefore want to **dismantle and replace it** with a more just and equitable global economic / political / cultural system. All other aspects of the lobby process are subordinate and peripheral to the **ruling elite’s central objective of preserving/expanding their immense wealth by preserving/expanding extreme inequity**. It is for the preservation of this global inequity that its defenders have built extremely sophisticated and powerful “lobby tools” to neutralize the opposition, tools such as **nuclear arsenals, globalization, debt trap, state capture through the local elite, and the US-led “global war on terror.”**

Second point: Since perpetuation of global inequity is directly against human development and human rights, therefore any serious attempt to establish a development-oriented and rights-based lobby process must have as its **central long-term objective the eradication of extreme global inequity**. **Every component of said lobby process must be evaluated in terms of its relevance to the accomplishment of this central objective.**

At the national level, the Philippine lobby process is oligarchic (elite-ruled) because it is part of an oligarchic government. It is dominated and virtually monopolized by the local elite who serve as enthusiastic, well-compensated, and active partners/representatives of the global elite in perpetuating global inequity and oligarchy, of which the Philippines is a small but vital cog.

Poor Filipinos are basically excluded from the lobby process. They literally need every centavo for food and therefore **cannot afford even the cheapest lobby tool** such as a five-peso phone call to Congress which, in the first place, will most likely be ignored.

Not surprisingly, this has resulted in a Philippine society wherein 80% can barely afford to meet their basic needs while economic wealth and political power are monopolized by a few hundred families who live in utmost luxury.

A major strategy used by the Philippine elite in excluding the poor from the lobby process is by excluding them from meaningful participation in the electoral process (which is part of the lobby process).

The elite do this in **two ways: First**, by maintaining an **electoral system that the poor cannot afford to join; Second**, by **not implementing the anti-dynasty provision** of the Philippine Constitution (resulting in a few families monopolizing national and local elective positions).

By ensuring that most or all elective positions at the local and national level are “won” by members of the ruling elite or their puppets / representatives, the ruling elite ensure that the **top officials** of the **national and local government will protect elite interests** against the interests of the poor majority.

True, there is a “party-list” system in place which is supposed to provide marginalized sectors with representation in Congress. However, even at full occupancy of party-list slots, they will still be a very small minority in Congress, capable only of making noise but without the numbers to win pro-poor decisions. Thus, the **present party-list system is essentially a token and useless gesture**, meant to deceive the poor. If it cannot be amended to ensure meaningful representation for the poor, it should be scrapped.

To make this bad situation infinitely worse, the **already narrow democratic space for the poor is being steadily reduced by the alarming pattern of numerous unsolved monthly killings of activists and journalists**, allegedly by ultra-rightists in the Philippine military. If these killings of peaceful advocates for truth and justice are not stopped, the poor will obviously have **no other recourse but armed revolution to effect social change.**

In countries like the United States and regions like the European Union, the lobby process is at least tempered by attempts at regulation to reduce potential abuse by powerful lobbyists (unfortunately, even in the US where lobby regulation is at its most advanced stage, thousands of lobbyists still get away with non-registration and non-reporting). However, given our apparent penchant for making bad things worse, the Philippine lobby process has **no registration, no reporting, no monitoring, no regulation of lobbyists**. As a result, **favorable government actions/decisions are allegedly often for sale to the highest bidder**, regardless of tragic consequences on the majority of Filipinos. One of the most disturbing allegations made

by the key informants interviewed is that **“lobby money (bribes from lobbyists) does not only go all the way up to Malacanang (the President) . . . sometimes it comes from Malacanang.”**

The reason for the absence of regulation in the Philippine lobby process is unbelievably absurd: Our government basically **forgot to implement** the **Philippine Lobby Law** (Republic Act 1827; passed in **1957** or **48 years ago**) and the **Foreign Agents Registration Act** (Batas Pambansa 39; passed in **1979** or **26 years ago**). The next question, of course, is how could we forget? This study theorizes that a “culture of amnesia and non-implementation” afflicts not only the Philippine government but nearly all Filipinos (please see study for elaboration). This culture coupled with elite-domination, i.e., the elite finds it convenient to have a lobby process that is not regulated, has resulted in the non-implementation of both lobby-related laws.

This is not to say, though, that both laws are adequate. They have fundamental defects that need to be fixed through amendments before they are implemented (please see study for elaboration on defects and amendments needed).

The **MAIN RECOMMENDATIONS** of the study can be summed up as follows:

Relative to the **immediate or short-term period**, the highlights of this study’s **recommendations** are:

- 1. Do not attempt to make up for decades of delay through hasty implementation of RA 1827 and BP 39.** Hasty and poorly planned implementation of both laws could lead to problems too big for government and the nation to handle. Focus instead on amending both laws and doing social preparation/marketing for their future implementation.
- 2. Amend the lobby law (RA 1827) per guidelines proposed by this study, such as:**
 - The amended law should explicitly state its central objective of reforming the Philippine lobby process to make it a more effective tool for equitable income distribution, human development, and human rights. All provisions should contribute towards the attainment of this objective.
 - Include in basic amendments the revision of the definitions of LOBBYING and LOBBYIST (as proposed in this paper). Ensure that all provisions of amended lobby law are consistent with the revised definitions, e.g., since proposed revised definition of lobbying is that it covers all three branches (not just Congress), therefore lobby regulations/provisions should cover lobbying in all three branches.
 - Ensure inclusion of sufficient legal provisions which will prevent unethical, illegal, corrupt, and pro-elite lobby practices; encourage and promote ethical, legal, and pro-poor lobby practices; prevent foreign intervention and/or domination of RP lobby process; provide attractive incentives for lobbyists to obey the lobby law; ensure appropriate funding for full implementation of lobby law; protect from political machinations the independence and integrity of the office and officials tasked to implement the lobby law in all three branches.
- 3. Preempt potential elite opposition to pro-poor lobby reforms through participatory planning.** After appropriate amendments have been done to RA 1827 and BP 39, government should then **muster the political will to implement the amended laws immediately and fully.**
- 4. Organize a small “Lobby Process Reform -Technical Working Group (LPR-TWG)”** that will spearhead the lobby reform effort. The LRP-TWG should come up with a **Lobby Process Reform Plan (LPRP)** based on consultations with all affected sectors. The plan should contain at least the following: **list of specific reforms** needed for RP lobby process; **list of basic amendments** for RA 1827 and BP 39 to ensure adequate legal bases and budget for said reforms; **concrete action plan** (with clear timetables) on how to accomplish said amendments and lobby reforms.
- 5. Neutralize potential elite opposition** by creating public pressure through national consensus for pro-poor lobby reforms.
- 6. Supporters of pro-poor lobby reforms should help the poor organize large and solid voting blocs.** There is still **no lobby tool more powerful than a large, solid, and well-organized voting bloc in influencing government.**

7. **Immediately stop the allegedly government-sanctioned killings of activists and journalists. Give lobbyists maximum democratic space.** Without democratic space, the poor will have no other option but violent revolution in their struggle for social justice.
8. **Order government research agencies to immediately stop window-dressing vital socio-economic indicators.** Effective anti-poverty development and lobby work cannot be done without accurate and current data.
9. **Require the lobby regulation officials to submit annual report on the state of RP lobby process** published in national newspapers and internet.
10. **Get civil society to organize a Citizens Lobby Oversight Coalition (CLOC)** to monitor and pressure lobby regulation officials to implement the amended lobby law fully.
11. **Eradicate the “culture of amnesia and non-implementation of laws”** by imposing heavy penalties for non-implementation and through strict Congress oversight / inventory of laws

Relative to the **medium and long terms**, two main actions are proposed:

First, create a level playing field for the Philippine lobby process by employing three strategies:

- **Implement electoral and campaign finance reforms** to make the electoral process (which is part of the lobby process) more affordable and accessible to poor sectors. Numerous difficult tasks are covered by this item, such as government subsidies for campaign expenses, total ban on vote-buying and selling, strict limits on campaign spending, immediate disqualification of law-breaking candidates, education of voters and candidates, abolition of political dynasties, computerization of elections, and many others.
- **Make the lobby process more affordable and accessible** to the poor through measures such as **socialized lobby registration fees**, establishment of a **Free Lobby Assistance Center (FLAC)**, **translation** of all major bills, laws, and regulations into **main Philippine dialects**, and similar measures.
- **Educate both lobbyists and lobby targets** to make them pro-development and pro-human rights.

Second, address the **problem of a global lobby process aimed at perpetuating global inequity** by **linking up with progressive groups in other countries** who are supportive of **global actions to reform the global lobby process**. Create regular mechanisms for **sharing of experiences and lessons** on how to reform the national and global lobby process.

I. INTRODUCTION

Two introductory points:

First point: the simplest and clearest **definition** of **LOBBYING** is that it is *the process through which one or more parties (the lobbyists) seek favorable decisions and actions from a government or an international development organization, through fair or foul means.*

“Government” refers to the **three branches** – legislative, executive, judicial – at the **national and local** levels.

“International development organizations” refers to **global institutions composed of various governments** such as the United Nations, the World Bank, the International Monetary Fund, the World Trade Organization, and the like.

“Lobbyists” range from individual/s to organization/s to government/s to international development institution/s.

Second point: Last May 25, 2004, then **World Bank President James D. Wolfensohn** delivered a speech in Shanghai, China, entitled “Opening Address at the Scaling Up Poverty Reduction Conference.” He started his speech with the following insight:

“Without alleviating poverty, there is no possibility for peace and stability . . . And that is at the heart of our discussions. We start with the recognition that in our world of six billion people, one billion (or 16% of 6 billion) have 80 percent of the income and five billion (or 84%) have under 20 percent..”

In the same vein, this paper posits that any discussion or analysis of the lobby process must **start** with this profound and unconscionable global inequity, wherein 16% of the world’s peoples (the **“First World”**) live in utmost luxury because they have 80% of the world’s income, while 84% (the **“Third World”**) live in moderate to extreme poverty because they have to make do and fight over 20% of the world’s income.

It is an inequity that **kills, that literally massacres thousands of children every day.** **UNICEF statistics indicate that for as long as the problem of mass poverty remains unresolved, about 28,000 children, 0 to 5 years old, die every day worldwide because their parents are too poor to buy food or medicines for simple diseases that enter their malnourished bodies.** This is equivalent to **840,000 children killed per month, or ten million children killed by inequity per year.** The three to four thousand who died in the 9/11 attacks in the United States which caused tremendous global outrage and led to the “global war on terrorism” are but a drop in the bucket compared to these deaths which are hardly even mentioned in media. If we consider those who died in the 9/11 attacks as innocent civilians, then how about the 28,000 children who die every day because of this global inequity? Who

can be more innocent and defenseless than these children? The statistics become meaningful only when we put the faces of our own children on these faceless and nameless children.

It is an **economic inequity** that **leads to political and cultural inequity**.

Economic domination leads to political and cultural domination, which in turn leads to greater economic domination, and so on, in a never-ending spiral which results in a situation where the rich and powerful get richer and more powerful while the poor and powerless get poorer and more powerless.

From the insight that global inequity is both the starting and central issue of human development, this paper extrapolates as **its central theory that the entire lobby process**, whether at the global or state level, **is FOUNDED on the fundamental conflict between those who benefit from this global inequity and therefore want to perpetuate it – and those who are victimized by this global inequity and therefore want to dismantle and replace it with a more just and equitable global economic / political / cultural system.**

Put more plainly, this study posits that **this is the bottom line, this is what the lobby process is all about: The struggle between the beneficiaries/ proponents and the victims/opponents of extreme global and national inequity.**

All other elements and aspects of the lobby process are peripheral offshoots of this bottom line struggle. All other lobby issues are subordinate to this issue of global and national inequity.

All the lobby tools, strategies, and tactics **employed by the beneficiaries** of global and national inequity – tools ranging from economic, political, cultural, and military -- **are connected by one unifying thread, driven by one logic and one overarching objective: *The preservation of global and national inequity.***

The blind defense of inequity, in turn, is based on insatiable greed and the attitude that “We don’t care if 28,000 children die every day because of extreme inequity for as long as we benefit from it. We just want to accumulate all the wealth we can get and live as luxuriously as possible.” As the saying goes: “The Earth has enough for man’s needs but not for man’s greed.”

It is **for the preservation of this global inequity** that its defenders have built **nuclear arsenals as the ultimate “global lobby tool” to “persuade” everyone to accept this inequity** (the insane aspect, though, is that even the nuclear owners or powers will die once the nuclear bombs explode).

It is for the preservation of this global inequity that its defenders have created the global lobby tool called **“globalization”** wherein poor nations are threatened with exclusion from international trade and credit if they refuse to “agree” to the onerous terms of the General Agreements on Tariff and Trade (GATT) administered by the World Trade Organization (WTO). Globalization is **designed**

to ensure the expansion and consolidation of the global business monopolies of the First World's multinational corporations (MNCs). Globalization is **another form of state capture (ironically with the "official consent" of a poor nation which signs the GATT) wherein rich nations capture a poor nation's entire economy by pressuring it to remove its tariff protections and open up to cheap imports**, creating a situation where it becomes cheaper to import goods than to produce them locally, thus wiping out local manufacturers and agricultural producers who can't compete with the cheap imports, in turn leading to thousands of company closures and the loss of millions of jobs. The imported products are cheaper because the industrial and agricultural producers of the First World enjoy economies of scale, more sophisticated production technology, plus subsidies from their rich governments which enable them to sell even at below-cost prices (to ensure the destruction of local manufacturers and agricultural producers who have no subsidies and can't compete with below-cost imports). As a result, bulk of global trade income is monopolized by the First World while Third World economies become perpetual dumping grounds for First World products and a cheap source of labor and raw materials.

It is for the preservation of this global inequity that its defenders have created the clever global lobby tool called the **"debt trap,"** so Third World nations will forever be mired in debt, **forever allot the biggest portion of their national budgets to endless interest (not even principal) payments, and therefore be forever weak, subservient, and dependent on the First World.** In the same manner that at the level of individuals, a debtor who is unable to pay his debts is forced to silently accept even the most humiliating treatment from the creditor, so too with nations. Often, the debt trap is more effective than overt physical threat in ensuring a nation's timid subservience.

It is for the preservation of this global inequity that its defenders have implemented the lobby strategy of **"state capture" by cultivating partnerships with the local ruling elite of poor countries,** so they will betray their nation's and people's interests in favor of the interests of their foreign masters.

It is for the preservation of this global inequity that its defenders have invented the lobby tool called **"global war on terrorism"** to coerce the entire world to accept this global inequity, based on the explicit threat of US President George Bush that "If you are not with us, then you are against us." The implication of the threat is that all who oppose the prevailing global inequity (which has the US as primary beneficiary and defender) is either a terrorist or a terrorist supporter. Since the doctrine of "global war on terrorism" justifies US invasion of any country that is considered a terrorist or terrorist supporter, then any nation (especially weak nations like Iraq and the Philippines) are open targets for US invasion.

The irony, though, is that **even the government of President Bush does not have a clear definition of "terrorism" or "terrorist."** It might help them think more clearly if they ask themselves the following question: **Who is the terrorist – the**

one who opposes the prevailing global inequity which kills 28,000 innocent children daily, or the one who benefits from this inequity and defends its perpetuation?

For millions of intelligent Americans who do not agree with Bush, as well as for billions of impoverished Third World citizens, the terrorists are the beneficiaries/defenders of extreme inequity, such as George Bush and those who support his “global war on terror.”

Indeed, it is the height of adding insult to injury when the victims of global inequity are also the ones who are branded as terrorists.

Unfortunately, for the **victims/opponents** of this global inequity, the **tragic reality** is that **even the “cheapest” lobby method, e.g., a phone call to Congress, is often beyond the reach of the poor. Between spending five pesos on a phone call to a congressman’s office or using it to buy a pack of noodles to be shared by the entire family, obviously the latter is more important. The thought of lobbying cannot even enter the mind of a father listening to his child crying because of hunger.** If he does try to call or visit his congressman, most likely he can only talk to the secretary.

Relative to the lobby process, **this is the saddest and biggest tragedy of all: *The poor who need to lobby most have the least capacity to lobby, while those who are already very rich and powerful have the greatest lobby capacity and are given all sorts of additional privileges and favors.***

This study is entitled “PROPOSED THEORETICAL FRAMEWORK FOR REFORMS IN THE PHILIPPINE LOBBY PROCESS TO MAKE IT A TOOL FOR EQUITABLE INCOME DISTRIBUTION, HUMAN DEVELOPMENT, AND HUMAN RIGHTS.” In effect, it is an attempt to answer the question: **In a situation where the poor who need to lobby most have the least capacity to lobby, what can be done to create a lobby process which can help them gain freedom from inequity and poverty,** from a situation that denies them all semblance of human development and human rights?

Indeed, it seems like an **impossible question to answer. How can poor men and women who cannot even afford a P5.00 phone call to Congress effectively lobby for equity and justice against gargantuan opponents** with billions of dollars, nuclear bombs, and millions of soldiers at their disposal?

This study gains inspiration from the insight by Viktor Hugo that **“No army can withstand the strength of an idea whose time has come.”** The truth of this insight was proven by the impoverished Vietnamese people when they defeated, by the power of their conviction, the US armed forces, the biggest, richest, and most powerful army in the world. As a political analyst put it: “The Americans lost because they were just fighting to win while the Vietnamese were fighting for their honor, their lives, their families, and their homes.”

While it might seem ridiculous now to talk of a development-oriented and rights-based lobby process considering the present extent of its corruption and domination by the ruling elite, as well as the seemingly zero capacity of the poor to effectively lobby for equity and justice – the time will come when this idea will come true.

When enough people understand that global inequity is the root cause of their poverty, when enough people realize that inequity and poverty are not creations of God to be fatalistically accepted but are the result of unjust social structures created by human beings driven by insatiable greed, when enough people unite and organize themselves to ceaselessly LOBBY for the dismantling of global inequity and its replacement with a more just and equitable sharing of the world's economic wealth and political power – then no army or nuclear threat can stop them.

II. TERMS OF REFERENCE

Key points of the Terms of Reference (TOR) provided by the Congressional Planning and Budget Department (CPBD):

A. WORKING TITLE FOR STUDY

INSTITUTIONALIZATION OF SYSTEMATIC LOBBYING PROCEDURE AND POLICIES RELATING TO PEOPLE'S PARTICIPATION IN POLICY MAKING IN THE COUNTRY

B. BACKGROUND

Lobbying helps ensure that the rights and interests of various affected sectors are properly balanced and incorporated in the passage of a law.

Legislators also benefit from valuable information provided by lobbyists. However, there's a need to regulate lobbying activities in the legislature to ensure that lobby interests do not enjoy undue advantage over the interests of other sectors, especially those who are poor and powerless.

To regulate the lobby process, Congress passed in 1957 Republic Act No. 1827 or "An act to regulate lobbying in the Congress of the Philippines and in the Commission on Appointments."

RA 1827 defines lobbying as an act (both oral and written communication) to influence members of Congress, Senate, and other government officials who have a role in the legislative process. It requires all lobbyists to register with the Secretary-General of the House and Senate, respectively, and make regular activity and financial reports, on pain of penalties (fines and/or imprisonment).

However, there are indications that the Lobbying Law is not properly implemented in the Philippines. According to officials in Senate and Congress, majority of lobbyists are not

registered but are allowed to participate in the legislative process. Worse, some Senate officials say they have lost track of the record or list of registered lobbyists in the Senate.

Unlike the Philippines, countries such as the United States, Canada, Europe and Hawaii have systematic lobbying procedures and policies concerning policy making.

C. OBJECTIVES OF THE STUDY

The proposed study aims to create a more systematic set of lobbying procedures and policies in the legislature. It seeks to identify problems encountered in lobbying activities such as non-compliance with R.A. 1827, and to design the appropriate measures to address the problems, including possible amendments to the said law.

D. SCOPE AND OUTPUT OF THE STUDY

1. Conduct an assessment report

- *Review of the Philippines' Lobbying Law concerning policy making.*
- *Comparison between the Philippines' lobbying law vs other countries particularly of the U.S.*

2. Formulation of a proposed lobbying framework for the Philippines.

- *Establishment of an accreditation lobbying system.*
- *Formulation of a reporting and monitoring system.*
- *Conduct a capacity building program for the practice of lobbying.*

III. RESEARCH METHODOLOGY

A. PRIMARY RESEARCH / INTERVIEWS

Formal interview requests and questionnaires were sent to about 40 key informants target-respondents /representative of the key players in the lobby process (members of Congress; officers and staff of the Congress Secretariat; TV/radio/print media reporters; lobby/PR/advocacy consultants; local government executives (e.g., mayors); civil society; top business executives) Only 18 agreed to respond, but on condition of anonymity. Rather than fill up the questionnaire, most preferred oral interviews not recorded on tape, i.e., the consultant could only take notes. Apparently, the respondents consider the topic too “sensitive” and “risky” for them to identify themselves.

B. SECONDARY RESEARCH

The consultant read and analyzed existing literature on lobbying and lobby-related subjects. He used the Internet and available printed (hard copy) materials (books, legal papers, reports, news articles, monographs).

IV. KEY PREMISES REGARDING THE LOBBY PROCESS

The succeeding sections of this paper are based on the premises listed in this section. The premises apply to the lobby process as practiced at various levels: local / national (Philippines) and international (state-level and global-level).

A. SIMPLIFIED DEFINITION

This study proposes two alternative definitions of **LOBBYING**. **First**, a **simplified definition** for lay audiences. **Second**, a more accurate **legal/technical definition**.

Only the simplified definition will be discussed at this point. The more accurate legal/technical definition will be discussed in Part V (“Proposed Theoretical Framework”).

The proposed **simplified definition**:

***LOBBYING** is the process through which one or more parties (the lobbyists) seek favorable decisions and actions from a government or an international development organization through fair or foul means.*

“**Government**” refers to the **three branches** – legislative, executive, judicial – at the **national and local** levels.

“**International development organizations**” refers to **global institutions composed of various governments** such as the United Nations, the World Bank, the International Monetary Fund, the World Trade Organization, and the like.

“**Lobbyists**” range from individual/s to organization/s to government/s to international development institution/s.

When lobbyists use only fair, legal, and ethical means to get what they want from the lobby target, then they are merely exercising their constitutional and democratic rights to free speech, association, and to petition government.

The problems arise when foul and illegal means are used to persuade or pressure public officials towards a certain course of decision and/or action.

B. LOBBYING: NEUTRAL TOOL (for or against human development)

Lobbying is a neutral tool or technology. It can be used to benefit the rulers or the ruled, the rich or the poor, the oppressors or the oppressed. **It can be used for – or against -- human development and human rights.**

When **used to perpetuate elite/minority rule (oligarchy)**, inequity, injustice, poverty, and war, it becomes a tool **against** human development and human rights.

When **used to build authentic majority rule (democracy)**, equity, justice, shared prosperity, and peace, it becomes a tool **for** human development and human rights.

C. URGENCY OF NEED FOR DEVELOPMENT-ORIENTED AND RIGHTS-BASED LOBBY PROCESS

In effect, this study seeks to answer the question: How can lobbying be made a tool for human development and human rights? Put another way, how can lobbying be made a tool for liberation from poverty and injustice instead of an instrument for oppression and exploitation?

If the concern is merely how to make lobbying promote the interests of the ruling elite, then no study is needed. The prevailing Philippine lobby system is already perfect for this purpose: No implementation of the current (and highly inadequate) lobby law; no registration of lobbyists, no regulation, no reporting, no transparency, no professionalism, no code of ethics, no developmental framework and orientation, no serious respect for human rights. Might makes right. Get what you want through bribery, blackmail, or brute force. (One of the most disturbing allegations made by an interview respondent in this study is that from his experience as a Congress employee, “Not only does lobby money in Congress go all the way up to Malacanang (office of the President) . . . sometimes it comes *from* Malacanang . . .” If the allegation is true, then our nation is really in trouble.)

The question is not academic. It is literally life-or-death in urgency. **UNICEF statistics indicate that for as long as the problem of mass poverty remains unresolved, about 28,000 children die every day worldwide because of hunger and simple diseases.** The children are 0 to 5 years old, mostly in Third World countries like the Philippines. This is equivalent to 840,000 children per month, or ten million per year. Those who died in the 9/11 attacks in the United States which caused tremendous global outrage and led to the “global war on terrorism” are but a drop in the bucket compared to these deaths which are hardly even mentioned in media. The statistics become meaningful only when we put the faces of our own children on these faceless and nameless children.

The question is not academic. As former World Bank President James D. Wolfensohn puts it, **all development efforts must start with the fact that 80% of the world’s income goes to 16% of the world population, or to one billion of**

Earth's six billion inhabitants. Obviously, for as long as only 20% of the world's income is left for 84% of the population to survive on and fight over, poverty cannot be solved.

UNDP defines the essence of "human development" as the "expansion of choices people have to lead lives that they value." It is based on the insight that the essence of poverty is the absence of choice, from what food to eat (if any) to what career to pursue.

Further, **UNDP defines "human rights" as "the minimum rights or entitlements of every human being,"** which include "basic civil and political rights," such as the right to life, liberty, security, food, shelter; as well as "crucial social, economic and cultural rights," such as the right to education, to work, and to equal pay for equal work. One of the clearest definitions is that by the late Sen. Jose W. Diokno: **"Human rights make us human . . . without these rights, we cannot be human."**

The United Nations (UN) underscores the fundamental importance of human rights when it states in the "Universal Declaration of Human Rights" that ". . . it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law."

To concretize its commitment to human development, the UN has generated solid commitments from its 191 Member States for them to meet the UN Millennium Development Goals (MDGs) by year 2015. The MDGs are measurable development targets relative to eight categories, namely: poverty and hunger; universal primary education; gender equality and empowerment of women; child mortality; maternal health; HIV/AIDS, malaria and other diseases; environmental sustainability; global partnership for development.

Michael P. Todaro, in his book "Economic Development in the Third World" (Third Edition), offers a concise and profound definition of "development."

He states that **development has three core values and three objectives.**

The three core values are:

"LIFE-SUSTENANCE: THE ABILITY TO PROVIDE BASIC NEEDS

"All people have certain basic needs without which life would be impossible. These 'life-sustaining' basic human needs include food, shelter, health, and protection. When any of these is absent or in critically short supply, we may state without reservation that a state of 'absolute underdevelopment' exists.

"SELF-ESTEEM: TO BE A PERSON

“A second universal component of the good life is self-esteem – a sense of worth and self-respect, of not being used as a tool by others for their own ends.

“FREEDOM FROM SERVITUDE: TO BE ABLE TO CHOOSE

“Freedom here is (used) . . . in the more fundamental sense . . . of emancipation from alienating material conditions of life and from social servitude to nature, ignorance, other people, misery, institutions, and dogmatic beliefs. Freedom involves the expanded range of choices for societies and their members . . .”

The three minimum objectives of development are:

“1. To increase the availability and widen the distribution of basic life-sustaining goods such as food, shelter, health, and protection.

“2. To raise levels of living including, in addition to higher incomes, the provision of more jobs, better education, and greater attention to cultural and humanistic values, all of which will serve not only to enhance material well-being but also to generate greater individual and national self-esteem.

“3. To expand the range of economic and social choices available to individuals and nations by freeing them from servitude and dependence not only in relation to other people and nation-states but also to the forces of ignorance and human misery.”

D. STATE AND INSTITUTION CAPTURE: MOST INSIDIOUS AND EFFECTIVE LOBBY METHOD

Since the surest way of getting favorable decisions or actions from government or an international development institution is to take control of the government or the institution, the ultimate objective of serious lobbyists is to do so, to capture state or institution power. To achieve this objective, countless and endless lobby games are played every day in government or institution, from top to bottom.

As a result, **government** has become **one big lobby process**. Thus, **to regulate the lobby process is to regulate how competing and conflicting interests conduct themselves** in their attempts to influence or gain control of government. The **main purpose of lobby regulation**, then, is to get lobbyists to use, as much as possible, **only fair and legitimate methods** in their lobby activities, and to ensure that the **lobby playing field remains as even as possible** for all lobby players.

It is in the context of state and institution capture that we come to understand why the **electoral process** at the state or institutional level is **actually only a part of the larger lobby process**.

Sophisticated lobbyists see the electoral process as one of the best ways of cementing their control of government. The logic is extremely simple: **Get “your man or woman” “elected” into the “right position” and you are assured that, with one phone call, you will get the favorable decisions and actions you want.**

E. LOBBY PROCESS: EFFECTS OF RIGHT AND WRONG CONDITIONS

Most people view the lobby process with deep suspicion and cynicism. They see lobbyists as shadowy figures giving out bribes to corrupt government officials to get what they want from government.

However, contrary to common opinion, **lobbying is an indispensable and positive component of democratic government.** In fact, the lobby process is basically synonymous to the democratic process, i.e., **democracy cannot exist without a credible lobby process.**

E.1 BENEFITS OF RIGHT CONDITIONS

Under the **right conditions**, a **credible lobby process becomes:**

- 1.** Virtually the **best legal tool for peaceful resolution** of deep **social conflicts** at the local, national, and international levels. **Without it**, social conflicts will be resolved through **violent** means.

At the **international** level, this can take the form of **invasion of a weak country by a stronger one.**

At the **local and national** levels, this can take the form of **local uprisings or national revolution**, to which the state responds with equally violent repression.

- 2.** The primary **constitutional medium** through which the **voice and will of the people** is expressed and the **majority decision determined and implemented.**
- 3.** The **concrete manifestation** of the people’s **constitutional rights** to **freedom of thought/belief, choice, speech, association, and to peacefully petition** government for redress of grievances.
- 4.** Society’s primary **tool** for the promotion of **authentic democracy** (majority rule) and **peace based on justice, human development, and human rights.**

E.2 EFFECTS OF WRONG CONDITIONS

Under the **wrong conditions**, the lobby process **loses its credibility** and **becomes the instrument for:**

1. The **subversion and perversion** of authentic **democracy** (majority rule) and the **rule of law**;
2. The perpetuation of democracy's anti-thesis: **oligarchy** or elite rule;
3. The perpetuation of pro-elite and **anti-poor economic policies and systems**
4. The **institutionalization of corruption** in government.
5. The rapid polarization of Philippine society into two extreme camps either for or against the maintenance of the status quo, i.e., quick narrowing of the middle class/ground;
6. The rapid radicalization of poor and disadvantaged sectors, as they lose faith and hope in the use of constitutional and peaceful methods to obtain social reforms, and turn to armed struggle as the main method for social change or transformation.
7. Perpetuation of inequity, injustice, mass poverty, and the oppression of the citizenry.

V. **ANALYSIS OF THE CURRENT PHILIPPINE LOBBY PROCESS**

The problems (**wrong lobby conditions**) which **prevent** the establishment of a **development-oriented and rights-based Philippine lobby process** can be clustered under **two categories:**

(A) Micro and Immediate Problems (Wrong Conditions)

(B) Macro and Long-term Problems (Wrong Conditions)

A. **MICRO AND IMMEDIATE PROBLEMS (Wrong Conditions) THAT NEED TO BE ADDRESSED**

1. **FIRST CONSIDERATION: POTENTIAL MASSIVE OPPOSITION TO SERIOUS LOBBY REGULATION**

Perhaps the most immediate and important consideration regarding any plan to seriously reform and regulate the Philippine lobby process – whether based on the existing law or a new/amended law – is that it will most likely be met with **massive and overwhelming opposition from all beneficiaries of the present lobby process status quo. The moment they feel that their**

economic and political interests will be seriously threatened by the lobby reforms, they will not hesitate to mount no-holds-barred covert and overt anti-reform moves.

While it is tempting to assume that all it takes to implement the existing lobby law is to come up with its IRR and then implement the IRR; or amend the law and then implement it – Philippine reality is not that simple. The truth is **any serious attempt to regulate the Philippine lobby process will be like opening up a very large can of worms (or more accurately, deadly snakes).**

Four insights/comments from senior Congress insiders interviewed as part of this research (who responded on condition of anonymity) indicate the potential magnitude of the opposition and the size of the can of snakes that will be opened:

COMMENT 1: “Yes, lobby money in Congress can go all the way up to Malacanang (office of the President) . . . sometimes, it comes from Malacanang!”

COMMENT 2: “One of the most powerful lobbyists in the nation now is the Catholic church. You think you can ask Cardinal Rosales to register and report the lobby activities and lobby budgets of the church? And let’s not forget Iglesia ni Cristo and El Shaddai.”

COMMENT 3: “How will you regulate President Bush and his global war on terror which might soon transform Mindanao into another Iraq or Afghanistan? How will you regulate lobbying by the US embassy, USAID, and AGILE or EMERGE? The CIA? The World Bank? IMF? WTO? The European Union? The oil cartel lobby? The mining lobby? How will you regulate the multi-billion illegal drugs and jueteng (illegal gambling) lobby? How do you handle a business tycoon like Danding Cojuangco who has his own political party, who is obeyed and called “Boss Danding” by elected public officials who are members of the Nationalist People’s Coalition (NPC) which he funds and heads? What do you do with strange organizations like the PLCPD (Philippine Legislators’ Council on Population and Development) which is unabashedly a lobby group, funded by foreign funding agencies, but is composed of Filipino legislators and even holds office in Congress? What do you do with the contractors who lobby legislators for pork barrel projects and give their benefactors huge commissions?”

COMMENT 4: *“Of course, congressmen and their staff do not want their names to appear in any report by lobbyists. For example, who will want wining and dining, free trips and gifts given by lobbyists reported? And even if we don’t do any hanky-panky, you can imagine how our political opponents can twist the reports regarding our meetings with lobbyists against us.”*

The foregoing comments have extremely heavy implications. They indicate what the stakes are, the numerous and complex forces and interests at work in the Philippine lobby process. They give a glimpse of the massive power and wealth of the forces arrayed against serious lobby reforms.

Faced with such formidable opponents, advocates for lobby process reforms are therefore left with two choices: Give up now and allow the present unregulated and corrupt lobby process to continue until the country is totally ruined; or find in themselves the courage and integrity to fight the good fight for lobby process reforms against great odds.

For those who decide to continue the struggle, the thing to do is to carefully anticipate the battles up ahead and come up with appropriate action strategies to ensure victory.

2. RP LOBBY PROCESS AND THE TRAGICOMIC CULTURE OF NON-IMPLEMENTATION

The Filipino culture of non-implementation is a problem that is both micro/short-term and macro/long-term.

It is also tragicomic -- both tragedy and comedy. If it were a movie, the typical scene would be men and women in formal clothes signing an official agreement regarding a major law or program in front of media reporters. The leaders will then make impressive speeches and there will be much shaking of hands. Right after the event, when they go out of the door, the signatories have already forgotten what they agreed to.

Relative to any development effort, including the establishment of a development-oriented and rights-based Philippine lobby process, perhaps the first factor to consider is the tragicomic phenomenon or **culture of non-implementation or non-completion** prevailing not only in the Philippine government but in the entire Philippine society.

For example, legal experts agree that **few nations can match the quality and quantity of our anti-corruption laws** – and yet our **government is still ranked as the SECOND most corrupt on Earth** by Transparency International.

Likewise, the non-implementation of the two laws directly related to the Philippine lobby process, namely:

- Republic Act (RA) No. 1827 (passed in 1957). AN ACT TO REGULATE LOBBYING IN THE CONGRESS OF THE PHILIPPINES AND IN THE COMMISSION ON APPOINTMENTS.
- Batas Pambansa (BP) No. 39 (passed September 7, 1979). AN ACT REGULATING THE ACTIVITIES AND REQUIRING THE REGISTRATION OF FOREIGN AGENTS IN THE PHILIPPINES.

RA 1827 assigns responsibility for its Implementation to the Secretary of the House of Representatives (HOR) and the Philippine Senate, respectively. This is one of the very rare times when implementation is assigned to the legislative instead of the executive branch.

BP 39 assigns responsibility for its implementation to the Secretary (then Minister in 1979) of Justice.

Until now (2005), **48 years** or nearly half a century since it was passed in 1957, **RA 1827 has still not been implemented** by HOR or the Senate. **It does not even have Implementing Rules and Regulations (IRR), the very first step in the implementation process.**

Likewise, 26 years after it was issued/passed in 1979 by former President and dictator Ferdinand Marcos, there appears to be **no indication that BP 39 has ever been fully implemented** by the Department of Justice (DOJ).

Apparently, the most that has been done about it is the issuance of its IRR through DOJ Department Order No. 143 dated May 3, 1991, signed by former Justice Secretary (now Senate President) Franklin Drilon. It should be noted, though, that the DOJ performed better than Congress, in that it was at least able to issue the IRR for BP 39, while Congress has not prepared the IRR for RA 1827 until now.

One of the key points made by the DOJ department order is that BP 39's implementation should be directly handled by the Foreign Agents Registration Division (FARD) under the National Bureau of Investigation (NBI), which is part of DOJ.

However, interviews conducted by this consultant with DOJ and NBI officials indicate that at present, no one knows exactly what happened to FARD. Apparently, it is no longer functional. Likewise, **none of the**

officials interviewed is aware of any foreign agent or lobbyist who has registered in compliance with BP 39.

For all its various shortcomings, RA 1827 is commendable because it pushes for transparency and the eradication of corruption in the Philippine lobby process in the legislative branch. **Had the assigned Congress officials fully implemented the law since 1957, Philippine history could have turned out differently (imagine the effects of 48 years of a transparent and corruption-free lobby process in Congress!).** It could also have made the assigned Congress secretaries two of the nation's most powerful officials, considering the power they would wield over the numerous local and foreign lobbyists operating in Congress.

In the same vein, BP 39 is commendable for its prohibition of foreign intervention in the nation's governance and political affairs. Considering the extent of alleged foreign intervention in Philippine governance and political affairs, full implementation of BP 39 over the past 26 years could have greatly changed Philippine history.

It wouldn't be so bad if we could at least point to some powerful conspiracy blocking RA 1827 and BP 39 as the reason for their non-implementation.

Unfortunately, based on this consultant's interviews with Congress secretariat insiders who have requested anonymity, the reason is far more pathetic: **Congress did not implement RA 1827 because after passing it, congress simply forgot all about it** – just like hundreds of other laws our government has passed and forgotten to implement, as well as thousands of grandiose projects started and never completed.

Essentially the same thing happened regarding BP 39. All the DOJ and NBI officials this consultant interviewed sounded surprised and confused about BP 39's existence and status.

Just like we have forgotten even the most important lessons of Philippine history. Just like we keep on repeating the same mistakes year in and year out.

In a perverted sense, we have become the world's penultimate existentialists and fatalists. We live only for the present and accept whatever the present gives us. We have no sense or understanding of the past, and therefore no sense or understanding of the present and the future. We have resigned ourselves to fate, and thus we have lost faith in our capacity to change the society we live in.

3. IMPLICATIONS OF CULTURE OF NON-IMPLEMENTATION ON PHILIPPINE SOCIETY AND THE LOBBY PROCESS

The **implications** on the lobby process, as well as larger Philippine society, of a Philippine government dominated by a **culture of non-implementation** are almost **too ridiculous, too obvious, and too tragic, for description.**

Even if Filipino lobbyists succeed in convincing Philippine Congress to pass the best pro-people and pro-development laws possible, it would still be a total waste of time, effort, and money if the laws are not implemented.

What good are the best laws if they are forgotten as soon as they are passed? What good are the best programs and projects if they are not completed? Since the development process consists of one step leading on to the next larger and logical step, what good is doing one project if there is no follow-through to the next logical step? What good is one training if the skills learned are not applied, of one research project if the findings are not even read by the officials who can implement them?

4. CULTURE OF NON-IMPLEMENTATION: RESULT OF MARRIAGE OF CONVENIENCE BETWEEN BUREAUCRATIC INCOMPETENCE AND ELITE-DOMINATION?

Perhaps the first question we need to ask regarding the culture of non-implementation is: WHY?

Is the non-implementation of the Philippine lobby law merely due to 48 years of irresponsibility by Congress secretaries -- **or is it due to a convenient combination of bureaucratic irresponsibility and the obvious benefits to corrupt lobbyists and lobby-targets of non-regulation, non-registration, and non-reporting?**

Another way of putting it is: Have the assigned officials refrained from implementing RA 1827 and BP 39 out of fear that if they implement the laws fully, they could lose their jobs or even their lives the moment they step on the toes of lobbyists who are too powerful and have too much at stake?

One of the most disturbing realities in Philippine society is that basically, only laws that benefit the ruling minority get fully implemented – regardless of the negative impact on the poor and powerless majority. For example, automatic appropriation of about 40% of the national budget to repayment of debts which mostly benefited a few cronies and not the Filipino people. Likewise, the so-called “oil deregulation law” which is essentially a pro-oil cartel, anti-people law. Other examples are the VAT-expansion law and the Mining Law which is guaranteed to destroy the nation’s land, air, and water resources. **On the other hand, laws like RA 1827 and BP 39 which**

can greatly benefit the majority but are “harmful” to the interests of the wealthy ruling elite get sidetracked into oblivion.

But what can be done to make Filipino government officials assigned to implement Philippine laws do their job fully? How to have patriotic government leaders and employees who are totally dedicated to the nation’s development, who will always place national interest above self-interest? How to instill both competence and passion for excellence?

And since it is true that people get the government they deserve, that evil thrives when good persons do nothing, **what can be done to make the Filipino masses stop electing irresponsible and corrupt persons into public office?** What can be done to **break the apathy and resignation** of the Filipino people, make them stop tolerating corruption and incompetence in their government, make them demand the full implementation of the nation’s laws, make them demand full respect for their human rights?

Evidently, the root causes of the culture of non-implementation are extremely complex, covering not only external political/economic systems but also internal factors within each Filipino, such as attitudes, values, religious beliefs, traditions, skills, and knowledge.

They can be effectively addressed only through a deeply thought-out and comprehensive strategy which covers both external and internal root causes. While the task cannot be accomplished overnight, **ways must be found to shortcut or fast-track the process of eradicating the culture of non-implementation,** since every day of delay means millions or billions of pesos worth of damage to the nation.

NOTE: Recommendations on how to address the culture of non-implementation are in Part V.

5. **Zero reprimand / penalties** imposed on officials who have failed to implement RA 1827 as assigned to them by law.
6. Very **minimal implementation** of **registration and accreditation** of lobbyists. **Zero implementation** of **reporting** requirement for lobbyists. **Zero monitoring** of lobbyists. **Zero penalties** for lobbyists who don’t comply with existing lobby law.
7. **UNREALISTIC AND OBSOLETE PHILIPPINE LOBBY LAW**

The main weaknesses of the existing Philippine lobby law are:

7.1 INCOMPLETE AND UNREALISTIC DEFINITION OF “LOBBYING” AND “LOBBYIST,” RESULTING IN INCOMPLETE AND UNREALISTIC PROVISIONS

The **present Philippine lobby law** (RA 1827, passed in 1957) **defines LOBBYING** as *“The practice of promoting or appointing the introduction or passage of legislation before either House of the Congress of the Philippines or any of its committees, or promoting or opposing the confirmation of any pending appointment before the Commission on Appointments or any of its committees.”*

It defines **LOBBYIST** as *“Any person who engages in the practice of **lobbying for hire** . . . Lobbying for hire shall include activities of any officers, agents, attorney or employees of any principal who are paid a regular salary or retainer by such principal and whose duties include lobbying.”*

Said definitions are legal fiction, i.e., inaccurate and unrealistic; a case of trying to make reality fit theory, instead of making theory capture reality.

They perpetuate the simplistic legal fiction that:

- a. Lobbying is merely the act of trying to influence legislation and is, therefore, limited to the legislative branch (Congress);
- b. It covers only elected officials, not candidates (i.e., it only begins after elections);
- c. The term “lobbyists” cover only the hired hands who do the actual work of trying to influence legislators.

Such definitions ignore the following facts regarding actual lobby practice:

- a. Lobbying is much more than trying to influence legislation. In the real world, **the bottom line for any serious lobbyist is not legislation but action or maximum implementation of the measure being lobbied for.** The best law is useless if not implemented. Thus, **lobbying covers not just Congress but all three branches of government** (legislative, executive, judicial) and three geographical levels: international, national, and local. There are dynamic interactions and linkages across branches and across levels.

The three branches of government do not only serve as lobby targets for private lobbyists. The branches actually lobby each other. Also, within each branch, a lot of lobbying happens, not only by private lobbyists but also by public officials (members of the branch or another branch) working for personal, private, or foreign interests.

Most lobbyists soon realize that the real battle is in getting the proper law properly implemented by the EXECUTIVE BRANCH to ensure the attainment of the ultimate target results. Even while lobbying the legislative branch, lobbyists already get the executive branch involved by lobbying the President to certify their bill as urgent. If the law goes against powerful interests, it will be questioned every step of the way in the nation's courts. This brings the battle then to the JUDICIAL BRANCH.

- b. Lobbying begins before -- not after -- elections. More accurately, **elections are merely a part of the lobby process.** Lobbyists know they are assured of victory regarding their lobby objective if their supporters or puppets get elected. They know how beholden and compliant the elected candidates will be if they are acknowledged as major campaign contributors. Thus, lobbyists "invest" in the election campaigns of candidates with strong chances of winning vital positions, and then "collect" their "returns on investment" or ROI once the candidates win. The ROI usually comes in the form of lucrative government contracts or favorable government decisions/actions for the lobbyist. Everyone (including the elected official) is kept happy through profit/loot sharing.

The practice of **lobbying through campaign funding ensures the exclusion and defeat of poor lobbyists from the very start of the lobby process**, i.e., the poor have no money to contribute to a candidate. In effect, the poor have already lost the lobby contest even before the game has officially started.

Traditional/corrupt politicians view the poor merely as votes to be bought. They make all sorts of empty and hypocritical promises during the campaign period but have no real commitment to fighting poverty and inequity since, in the first place, they are too dumb to have any development orientation and ideological framework. Their purpose in running for public office is personal enrichment and empowerment. Their loyalty is to themselves and their rich lobby financiers.

- c. **“Lobbyists” are composed of much more than hired hands.** Hired lobbyists are not even the real lobbyists since they can be fired anytime. **The real lobbyists are the financiers and masterminds of the lobby effort.** Nor are lobbyists limited to private individuals and organizations. For each branch of government, there are internal lobbyists (i.e., members of the branch who lobby their own branch for personal/private interests) and external lobbyists (i.e., not only private parties but also public officials belonging to another branch who lobby the branch in question)

7.2 Law not development-oriented and rights-based.

The current Philippine lobby law does not concern itself with the task of making the lobby process a tool for authentic democracy, human development, and human rights. It focuses solely on trying to prevent corruption/ bribery in the lobby process in Congress. It does not address fundamental issues such as the need for a level playing field and democratic space in the lobby process. It makes no explicit or implicit reference to the relationship between the lobby process, on one hand, and democracy, human development, and human rights, on the other.

7.3 No budget for implementation.

Full implementation of the lobby law (even in its present state) requires substantial human and material resources. For example, the law prohibits illegal lobby methods such as bribery. It also requires registration and regular reporting by lobbyists. **How can these provisions be enforced without full-time staff who are well-trained, well-equipped, and have sufficient operating funds?** How can violators be monitored, arrested, charged, and punished without these resources? **How can all these be done without any budget for the law’s implementation?**

7.4 No penalty for non-implementation by assigned officials.

The law assumes that the assigned Congress officials will implement the law. Thus, while it sets penalties for lobbyists who don’t follow its provisions, it does not set any penalty for the assigned officials who don’t do their job. The fact that after 48 years, the law has not been implemented indicates the error in the assumption.

7.5 No incentives for compliance by lobbyists.

The law sets penalties for non-compliance by lobbyists but does not give incentives to lobbyists who comply, e.g., those who register,

submit regular reports, and avoid illegal/unethical lobby methods. This is a major flaw because of the proven effectiveness of incentives in ensuring compliance.

B. MACRO AND LONG-TERM PROBLEMS (WRONG CONDITIONS) THAT NEED TO BE ADDRESSED

1. UNEVEN PLAYING FIELD

The playing field under the present Philippine lobby process is uneven because it favors the wealthy ruling elite over the poor in virtually all aspects.

What chance do poor lobbyists have of winning against wealthy lobby monopolies or juggernauts such as the Catholic Church, the Iglesia ni Cristo, and the El Shaddai which have neatly fused their business, religious, and political interests? How can the poor compete with the oil cartel lobby? The mining lobby? The landlord / anti-agrarian reform lobby? The pro-globalization and liberalization lobby of WTO and GATT? The debt trap lobby of the World Bank and IMF? The local and foreign business chambers? The global empire lobby of the US government?

The absence of an even playing field is mainly due to the following factors:

1.1 NO AFFORDABLE LOBBY STRATEGY OR TACTIC FOR THE POOR

The barriers against the poor seem insurmountable. **Even the “least expensive” lobby strategies/tactics listed in Annex 1 of this study entail some cost which millions of starving Filipinos cannot afford. Between spending P5.00 on a phone call to a congressman’s office or using it to buy a pack of noodles to be shared by the entire family, obviously the latter is more important.** The thought of lobbying cannot even enter the mind of a parent desperately seeking food for the family. If he does try to call or visit his congressman, most likely he can only talk to the secretary.

Relative to the lobby process, **this is the saddest and biggest tragedy of all: *The poor who need to lobby most have the least capacity to lobby***, while those who are already very rich and powerful also have the greatest lobby capacity and are given all sorts of additional privileges and favors.

1.2 **ABSENCE OF AUTHENTIC AND MEANINGFUL REPRESENTATION FOR THE POOR MAJORITY IN GOVERNMENT.**

The Philippine government is not a government of, for, and by the Filipino people, the rich and the poor. It is, essentially, a government of, for, and by the wealthy Filipino ruling elite and their foreign partners who are also the elite in their respective countries.

It is an oligarchy, a government of the elite minority, for the elite minority. It is **not a democracy**, because democracy means a government of the majority, for the majority.

Even the House of Representatives is not representative. More than 80% of its members are multi-millionaires – the exact opposite of Philippine society wherein more than 80% live below the poverty line.

It is impossible for these multi-millionaire representatives to represent the poor.

How can they represent something they do not understand? How can they understand what it means to have no money when they have millions or billions stashed away in local and foreign banks? How can they understand what it means to have no food, no water, no house, no electricity, no education, no medicine, no respect?

How can they fight with and for the poor to change the present Philippine social system when they are precisely the beneficiaries of the prevailing system?

Their loyalty is to themselves and their financiers or fellow ruling elite. They only remember the poor during elections. They think of the poor only as votes to be bought. They will never fight for social reforms which will benefit the poor

1.3 **PARTY LIST SYSTEM: MEANINGLESS TOKEN GESTURE**

The **Party List system** which is supposed to provide the poor with representation in Congress is a meaningless **token gesture**.

Even at full occupancy of party list seats, the party list representatives will remain a very small minority in the House of Representatives. They can only make noise but do not have the numbers to get majority vote for serious pro-poor reforms.

1.4 STATE CAPTURE BY ELITE; ABSENCE OF AUTHENTIC AND MEANINGFUL REPRESENTATION FOR THE POOR MAJORITY IN GOVERNMENT.

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1.5 LANGUAGE BARRIER

The use of **English and legal jargon as government's official language** is a **major barrier** to the poor who can hardly read, write, or speak English – much less legal jargon.

1.6 DIGITAL DIVIDE

The insight that in the Information Age, he who has information wins is particularly relevant to the lobby process where information is one of the most fundamental requirements. Unfortunately, the poor have basically no access to computers and the Internet, which are the standard tools of information today. On the other hand, the rich lobbyists have access to the most sophisticated information technology.

1.7 DOMINANCE OF BRIBERY

No one denies the fact that the most powerful tactic in the Philippine lobby process is bribery (“money talks”). Since the poor don’t have money, they are no match to rich lobbyists who can afford to give millions or billions of pesos for bribes.

2. REMOVAL OR CONSTRICTION OF DEMOCRATIC SPACE

The virtually zero access of the poor to the lobby process is made worse by the alleged undeclared government policy of killing activists and journalists peacefully seeking the truth and pro-poor reforms.

The idea of killing critics to stop criticisms sounds too insane for any government to consider. Unfortunately, there are disturbing allegations that the Philippine government has covertly adopted such a policy.

According to Bayan Muna Party List Representative Teddy Casino, since January 2005, an average of TWO Bayan Muna members are being killed or abducted EVERY 10 DAYS, allegedly by the Philippine military. It is difficult to deny the charge, since the dead bodies are there. The fact that no killers are caught adds to the suspicion of military involvement. **The fact that President Arroyo has maintained an eerie silence on the killings of the activists fuels allegations of her involvement in the crime.** For some reason, she has not called on the police and the military to find ways to put a stop to the killings and bring the murderers to justice.

If the allegation by Bayan Muna is true, then the implication is that government is discouraging – instead of encouraging – activist organizations from using peaceful, democratic, and legal means to lobby or advocate pro-poor reforms. This is dangerous, because once the avenues for peaceful and legal struggle are closed, then even the UN Declaration of Human Rights acknowledges the fundamental right of the oppressed to use armed struggle as a last recourse against tyranny and oppression. The policy of killing unarmed activists is the epitome of moronic governance. The people behind it

forget the historical lesson that you cannot kill an idea with bullets; a particular ideology can only be defeated by a better ideology.

The killings of journalists have major implications on the democratic lobby process. The National Union of Journalists of the Philippines (NUJP) has counted one journalist killed every month since January 2005, with two failed attempts; 13 journalists killed in 2004 (more than one per month in 2004); 66 since 1986. NUJP alleges military involvement in most of the killings.

The free flow of truthful information is a fundamental element of democratic lobbying (how can the citizenry lobby without the right information at the right time?). If journalists are killed for reporting the truth, how can lobby work continue? Where will lobbyists get the information they need? How can they communicate to get public support for their lobby issue if they are afraid of being killed for exposing the truth?

The paradigm of insatiable greed for wealth and power of the local, national, and international ruling elite is, in a sense, the root cause of inequity, poverty, and repression. For as long as the elite are too numb and dumb to willingly share their wealth and power with the poor majority, inequity and poverty will persist. For as long as they are determined to use all possible means – including killing their critics -- to prevent all reforms that threaten their monopoly of wealth and power, the killings of activists and journalists will continue. For as long as they use public office only to amass more wealth and power . . . for as long as they pay only hypocritical lip service to human development and human rights, more and more Filipinos will see the total destruction of the ruling elite through bloody revolution as the only real solution.

3. ABSENCE OF DEVELOPMENT AND HUMAN RIGHTS ORIENTATION AMONG MOST LOBBYISTS AND LOBBY-TARGETS

Most lobbyists and lobby targets in the current Philippine political setting focus only on their narrow self-interests, with virtually no regard for the implications of their decisions and actions on majority of Filipinos.

The oil cartel lobby composed of Shell, Caltex, Petron, and the so-called small players is one good example. Its only concern is to maximize its profits by endlessly raising oil prices, regardless of the extreme poverty and hardships wrought on Filipinos by their actions. It is allegedly able to maintain a “friendly” or pro-cartel political environment by allegedly bribing key government officials.

The privatization of NAPOCOR wherein legislators were allegedly given P500,000.00 each to agree to a deal highly disadvantageous to the Filipino people is another example.

4. WINDOW-DRESSING OF VITAL ECONOMIC DATA

It is impossible to have a development-oriented and rights-based lobby process without accurate and current socio- economic data. When said data are window-dressed for political reasons, it will be impossible for the nation to develop.

For example, latest data (circa year 2000) from the National Statistics and Coordination Board (NSCB) peg the minimum amount needed for basic needs at P31.00 per person per day. As a result, only 32% of Filipinos are said to live below the poverty line.

The total absence of truth and sanity in the P31.00/person/day poverty line is indicated by the fact that P31.00 is not even enough for one decent meal; nor can you eat three meals per day at P10.00 per meal.

Obviously, the cheap rationale for the lie is that it lowers the official figure for the total population below the poverty line. If we peg the minimum amount needed for basic needs at the more realistic P200 to P300 per person per day, more than 80% of Filipinos will fall below the poverty line.

But how can government's economic planners make the right plans against poverty based on wrong information?

VI. ANALYSIS OF THE INTERNATIONAL LOBBY PROCESS: GLOBAL LEVEL AND STATE LEVEL (selected countries)

This section analyzes the international lobby process at two levels: global level and state level.

“Global level” refers to the lobby process as practiced between countries, i.e., why and how countries lobby each other.

“State level” refers to the lobby process as practiced within other countries (outside of the Philippines).

A. ANALYSIS OF GLOBAL LEVEL LOBBY PROCESS

Last May 25, 2004, then **World Bank President James D. Wolfensohn** delivered a speech in Shanghai, China, entitled “Opening Address at the Scaling Up Poverty Reduction Conference.” He started his speech with the following insight:

“Without alleviating poverty, there is no possibility for peace and stability . . . And that is at the heart of our discussions. We start with the recognition that in our world of six billion people, one billion (or 16% of 6 billion) have 80 percent of the income and five billion (or 84%) have under 20 percent..”

In the same vein, this paper posits that **any discussion or analysis of the lobby process must start with this profound and unconscionable global inequity**, wherein 16% of the world’s peoples (the “**First World**”) live in utmost luxury because they have 80% of the world’s income, while 84% (the “**Third World**”) live in moderate to extreme poverty because they have to make do and fight over 20% of the world’s income.

It is an inequity that **kills, that literally massacres thousands of children every day**. UNICEF statistics indicate that for as long as the problem of mass poverty remains unresolved, about 28,000 children, 0 to 5 years old, die every day worldwide because their parents are too poor to buy food or medicines for simple diseases that enter their malnourished bodies. This is equivalent to **840,000 children killed per month, or ten million children killed by inequity per year**. The three to four thousand who died in the 9/11 attacks in the United States which caused tremendous global outrage and led to the “global war on terrorism” are but a drop in the bucket compared to these deaths which are hardly even mentioned in media. If we consider those who died in the 9/11 attacks as innocent civilians, then how about the 28,000 children who die every day because of this global inequity? Who can be more innocent and defenseless than these children? The statistics become meaningful only when we put the faces of our own children on these faceless and nameless children.

It is an **economic inequity that leads to political and cultural inequity**. Economic domination leads to political and cultural domination, which in turn leads to greater economic domination, and so on, in a never-ending spiral which results in a situation where the rich and powerful get richer and more powerful while the poor and powerless get poorer and more powerless.

This paper submits as **its central theory that the entire lobby process, whether at the global or state level, is FOUNDED on the fundamental conflict between those who benefit from this global inequity and therefore want to perpetuate it – and those who are victimized by this global inequity and therefore want to dismantle and replace it with a more just and equitable global economic / political / cultural system**.

Put more plainly, this study posits that **this is the bottom line, this is what the lobby process is all about: The struggle between the**

beneficiaries/ proponents and the victims/opponents of extreme global and national inequity.

All other elements and aspects of the lobby process are peripheral offshoots of this bottom line struggle. All other lobby issues are subordinate to this issue of global and national inequity.

All the lobby tools, strategies, and tactics **employed by the beneficiaries** of global and national inequity – tools ranging from economic, political, cultural, and military -- **are connected by one unifying thread, driven by one logic and one overarching objective: *The preservation of global and national inequity.***

The blind defense of inequity, in turn, is based on insatiable greed and the attitude that “We don’t care if 28,000 children die because of extreme inequity for as long as we benefit from it. We just want to accumulate all the wealth we can get and live as luxuriously as possible.” As the saying goes: “The Earth has enough for man’s needs but not for man’s greed.”

It is **for the preservation of this global inequity** that its defenders have built **nuclear arsenals as the ultimate “global lobby tool” to “persuade” everyone to accept this inequity** (the insane aspect, though, is that even the nuclear owners or powers will die once the nuclear bombs explode).

It is for the preservation of this global inequity that its defenders have created the global lobby tool called “**globalization**” wherein poor nations are threatened with exclusion from international trade and credit if they refuse to “agree” to the onerous terms of the General Agreements on Tariff and Trade (GATT) administered by the World Trade Organization (WTO). Globalization is **designed to ensure the expansion and consolidation of the global business monopolies** of the First World’s multinational corporations (MNCs). Globalization is **another form of state capture (ironically with the “official consent” of a poor nation which signs the GATT) wherein rich nations capture a poor nation’s entire economy by pressuring it to remove its tariff protections and open up to cheap imports**, creating a situation where it becomes cheaper to import goods than to produce them locally, thus wiping out local manufacturers and agricultural producers who can’t compete with the cheap imports, in turn leading to thousands of company closures and the loss of millions of jobs. The imported products are cheaper because the industrial and agricultural producers of the First World enjoy economies of scale, more sophisticated production technology, plus subsidies from their rich governments which enable them to sell even at below-cost prices (to ensure the destruction of local manufacturers and agricultural producers who have no subsidies and can’t compete with below-cost

imports). As a result, bulk of global trade income is monopolized by the First World while Third World economies become perpetual dumping grounds for First World products and a cheap source of labor and raw materials.

It is for the preservation of this global inequity that its defenders have created the clever global lobby tool called the **“debt trap,”** so Third World nations will forever be mired in debt, **forever allot the biggest portion of their national budgets to endless interest (not even principal) payments, and therefore be forever weak, subservient, and dependent on the First World.**

It is for the preservation of this global inequity that its defenders have implemented the lobby strategy of **“state capture” by cultivating partnerships with the local ruling elite of poor countries,** so they will betray their nation’s and people’s interests in favor of the interests of their foreign masters.

It is for the preservation of this global inequity that its defenders have invented the lobby tool called **“global war on terrorism”** to coerce the entire world to accept this global inequity, based on the explicit threat of US President George Bush that “If you are not with us, then you are against us.” The implication of the threat is that all who oppose the prevailing global inequity (which has the US as primary beneficiary and defender) is either a terrorist or a terrorist supporter. Since the doctrine of “global war on terrorism” justifies US invasion of any country that is considered a terrorist or terrorist supporter, then any nation (especially weak nations like Iraq and the Philippines) are open targets for US invasion.

The irony, though, is that **even the government of President Bush does not have a clear definition of “terrorism” or “terrorist.”** It might help them think more clearly if they ask themselves the following question: **Who is the terrorist – the one who opposes the prevailing global inequity which kills 28,000 innocent children daily, or the one who benefits from this inequity and defends its perpetuation?**

For millions of intelligent Americans who do not agree with Bush, as well as for billions of impoverished Third World citizens, the real terrorists are the beneficiaries/defenders of extreme inequity, such as George Bush and those who support his “global war on terror.”

Unfortunately, for the **victims/opponents** of this global inequity, the **tragic reality** is that **even the “cheapest” lobby method, e.g., a phone call to Congress, is often beyond the reach of the poor. Between spending five pesos on a phone call to a congressman’s office or using it to buy a pack of noodles to be shared by the**

entire family, obviously the latter is more important. The **thought of lobbying cannot even enter the mind** of a **parent desperately seeking food** for the family. If he does try to call or visit his congressman, most likely he can only talk to the secretary.

Relative to the lobby process, **this is the saddest and biggest tragedy of all: *The poor who need to lobby most have the least capacity to lobby, while those who are already very rich and powerful have the greatest lobby capacity and are given all sorts of additional privileges and favors.***

B. ANALYSIS OF STATE-LEVEL LOBBY PROCESS

1. AMERICAN LOBBY PROCESS

The following analysis by the Center for Public Integrity provides a very incisive overview of the American lobby process:

WASHINGTON, April 7, 2005 In a major study of the federal lobbying industry, the Center for Public Integrity today reports that lobbyists have spent nearly \$13 billion since 1998 to influence members of Congress and federal officials on legislation and regulations.

Out of that \$13 billion, almost \$600 million was tax and tuition dollars spent by states, local governments and universities.

Records show that in 2003 alone lobbyists spent \$2.4 billion and records for 2004 are expected to show expenditures of at least \$3 billion. That's about twice as much as was spent on campaign finance in the same time period.

"For years the media and the public have focused on campaign finance as the key to congressional and governmental accountability," said Roberta Baskin, the Center's executive director. "Our report reveals that each year since 1998 the amount spent to **influence** federal lawmakers is double the amount of money spent to **elect** them."

The Center also found that the revolving door is turning dizzily fast. Nearly 250 former members of Congress and agency heads are active lobbyists, and more than 2,000 lobbyists used to work in senior government positions. There is a large financial incentive for the move.

The report shows that the federal disclosure system is in disarray. Forty-nine out of the top 50 lobbying firms failed to file one or more required forms during the last six years. Similarly, 20 percent of the companies registered to lobby failed to file one or more required forms.

Nearly 14,000 documents that should have been filed are missing; nearly 300 individuals, companies or associations lobbied without first registering; more than 2,000 initial registrations were filed after the allowable time frame; 210 out of 250 [top lobbying firms](#) failed to file one or more required document; and in more than 2,000 instances, lobbyists never filed the required termination documents at all.

Even those who did file were often late in doing so. Almost 20 percent—36,000 out of 183,000—of lobbying forms were filed late.

"In 2004 the press wrote ten times as many stories about campaign finance than they did about lobbying," said Baskin. "Such inattention by the public and the press has made it possible for lobbyists to run stealth campaigns that impact America's democracy out of the spotlight."

As part of its investigation of federal lobbying, the Center built an extensive database that includes the names of all registered lobbyists, the names of the top clients of all the lobbyists, the issues lobbied, the agencies that are lobbied and the government officials involved in the revolving door system. The database (which is free to the public) takes information difficult to access from sources such as [the Senate](#) Office of Public Records and makes it user friendly and easily accessible by company, lobbying firm or issue.

The database also details federal lobbying activities by companies based in each of the 50 states and six territories, along with information about lobbying by universities and local governments. It shows, for example, that in the past six years, more than 300 public universities have spent over \$131 million, while more than 1,400 local governments have doled out more than \$352 million to secure funding for everything from freeways to fire trucks.

"States, local governments, even school boards spend millions of taxpayer dollars competing to become favorites of the federal decision makers. The way this game is played, no one can afford NOT to play," said Baskin.

Below are questions commonly asked about federal lobbying:

Who are the top five lobbying firms?

Interpublic Group of Companies, Inc.	\$265 million
WPP Group plc	\$170 million
Patton Boggs	\$145 million
Piper Rudnick	\$125 million
Akin Gump	\$120 million

Which companies spend the most on lobbying?

Chamber of Commerce for the USA	\$193 million
Altria Group Inc.	\$125 million
Verizon Communications Inc.	\$105 million
General Electric Co.	\$105 million
Edison Electric Institute	\$100 million

Which companies spend the most on outside lobbyists?

Lockheed Martin	\$39 million
Altria Group Inc.	\$37 million
AT&T Corp.	\$31 million
Verizon Communications Inc.	\$26 million
PhRMA	\$26 million

Who do lobbyists lobby?

U.S. House of Representatives	17,300 companies
U.S. Senate	17,200 companies
Dept. of Defense	2,800 companies
Health & Human Services	2,400 companies
Dept. of Commerce	2,300 companies
Dept. of Treasury	2,300 companies
Dept. of Transportation	2,200 companies
Executive Office of the Pres.	2,000 companies
White House Office	1,900 companies
Dept. of Agriculture	1,800 companies

What are the top issues lobbied?

Federal budget and appropriations	6,800 companies
Health issues	4,100 companies
Defense	3,700 companies
Taxation & Internal Revenue Code	3,500 companies

Transportation

3,300 companies

Where does the money for lobbying come from?

- companies (as clients);
- member dues;
- tax dollars;
- and foreign governments.

Why has the amount of money spent on lobbying grown so much in the past six years?

The amount has doubled in the past six years for several reasons, including: legislative gridlock; changes in the seniority system of members of congress; and realization by lobbyists that "money talks."

What do the dollar figures that lobbyists disclose include?

Billable hours, as defined by reporting requirements, include meals and other direct expenses. Lobbyists do not have to report not indirect expenses such as general research and consulting that might be done for a client.

Who becomes a lobbyist?

Many lobbyists are [former members of congress](#) or former officials in executive departments and agencies (or vice versa).

Is lobbying illegal?

Absolutely not. In fact the right "to petition the government" is guaranteed under the First Amendment of the Constitution. However, it is important that the public be aware of the amounts of money being spent by lobbyists on specific issues, as well as who the lobbyists are. From time to time lobbyists write legislation and agency regulations – the responsibility of government officials, elected and appointed.

Can lobbyists guarantee results for their clients?

There are no guarantees. However, Lockheed Martin, one of the biggest clients of lobbyists, is also the leading defense contractor. Since 1998, Lockheed has spent \$80 million on lobbying and received \$94 billion in government contracts.

2. EUROPEAN UNION

NOTE: Items 2.1 to 2.3 below are excerpts from “LOBBYING IN THE EUROPEAN UNION: CURRENT RULES AND PRACTICES”; a Working Paper for the EUROPEAN PARLIAMENT Directorate-General for Research; Author : Wilhelm Lehmann (with the assistance of Ms Anita Tušar, Robert Schuman scholar) and Lars Bosche (chapter 1.3.5))

2.1 OVERVIEW (Executive Summary)

The main objective of European affairs consultants, European associations and other lobbying professionals is to maintain a favourable regulatory environment for their organisations, members or clients.

In 2000, about 2,600 interest groups had a permanent office in downtown Brussels, of which European trade federations comprise about a third, commercial consultants a fifth, companies, European NGOs (e.g., in environment, health care or human rights) and national business or labour associations each about 10%, regional representations and international organisations each about 5%, and, finally, think tanks about 1%.

According to the literature, the activities of lobbyists and pressure groups can usefully be grouped in four categories:

- *service functions*, i.e. the provision of specific (and often exclusive) services for their members (e.g. the gathering of information);
- *lobbying functions*, i.e. attempts to influence decision-making processes from outside (e.g. by meeting Commission officials or participating in public hearings);
- *decision-making functions*, i.e. the attempts to influence decisions from within (e.g. by direct participation in the decision-making process of expert committees selecting research project proposals);
- *implementation functions*, i.e. the participation in policy implementation (e.g. by taking over management functions in programme implementation).

The first two tasks mainly serve the organisations' membership or clients, whereas the latter two contribute – in some way or other – to public policy-making and the governance of a specific policy sector.

Most EU interest associations are composed of national associations, large companies or both.

Sectors dominated by small firms tend to be represented by federations of national associations, whereas highly concentrated sectors tend to be represented by direct company membership organisations. The key players are formal EU business associations and firms that have established government relations offices in Belgium. A high degree of specialization is apparent according to

sectors or even sub-sectors of business activity and issues. However, some of EU business associations also represent a very broad spectrum of issues. At the national level consumer organisations in Europe have pursued a number of different strategies to attract members. Although each of these traditions is represented at the European level, European consumer organisations use similar approaches.

Many lobbying groups exhibit striking differences in their approaches. They may have particular preferences, resources, forms of management, or lobbying styles. These differences often stem from factors such as geographical origin, type or size of organisation and situational (time) aspects.

One of the most significant issues facing interests groups is the shifting balance of power among European Institutions. Extension of qualified majority voting in the Council took the veto power from Member States in some economic areas, the co-decision procedure gave the EP a greater role in decision-making and the ability to reject legislation that the Council favours. These institutional changes helped to underpin the importance of non-state actors (now often called civil society) in the policy making process. In addition, in the past ten years the EU has been given new competencies in areas such as consumer, social and environment policy and it has introduced a single currency. This growth of authority has created the need for information on complex regional economic issues and the opportunities to influence EU legislation in new policy areas. The Court of Justice has played a crucial role in promoting civic interests, particularly in overruling national regulations that protected certain individual and corporate interests at the expense of consumers.

In describing lobby activities, the metaphor of the *political market* is often used: just as the equilibrium price in goods markets is found by the interplay of supply and demand, the equilibrium level of influence is determined by the supply and demand of information and other goods provided by officials and politicians, on the one hand, and lobbyists, on the other. The immediate parallel of price formation in the commercial market would hence be the formation of consensus in the EU political market.

Not all legislative proposals concern a whole industry branch; they may instead relate to an individual enterprise. In both cases, however, the more the point of view presented to the addressees of a lobbying effort is European, the greater the chances of having that viewpoint seriously considered. Hence, interest groups form alliances in order to give the issue a genuine European dimension and context.

The extent of *knowledge* and *understanding* of the EU machinery frequently makes the big difference between successful and inefficient participants in the lobbying theatre. The desired outcome being set as the dependent variable,

stakeholders' expertise of the decision-making process can be taken as one of the most important independent ones.

A certain symbiosis can be detected between interest groups and bureaucracies. The latter have a tendency to construct stable relationships with the former as a means of securing some sort of "negotiated order". Interest groups, for their part, also exhibit a preference for public bureaucracies as a venue for obtaining reliable information and influencing public policy, particularly planned or impending legislative measures.

The growth of lobbying and the greater sensitivity of EU institutions to their public image have led to lobbying now being more closely regulated. Lobbyists (or "public affairs professionals") have drawn up their own codes of conduct, which require them, for instance, to "identify themselves by name and company" and to specify the client they represent. The codes outlaw anything which might be construed as bribing officials or politicians. The EP has its own 10-point code of conduct on lobbying, set out in Annex IX of the Parliament Rules of Procedure. This, too, requires lobbyists to refrain from any action designed to obtain information dishonestly and moreover not to claim any formal relationship with Parliament in dealing with third parties. Lobbyists, defined as persons who wish to enter Parliament's premises frequently with a view to supplying information to Members in their own interests or those of third parties, are required to register and are issued with special passes, which distinguish them from other visitors.

In more general terms, efforts at regulating outside interest influence in the European Parliament should be seen for what they can achieve in maintaining public confidence in the work of the Parliament and in putting its relations with interests on a more solid basis. They are linked to broader concerns about the legitimacy of European institutions and a level playing field between business and non-business interests. The regulation of lobbying abuses may be seen as only the nucleus of wider issues such as public standards of behaviour, openness and transparency, remedying the democratic deficit and creation of a Citizens' Europe.

The basic purpose of all regulation and codes of conduct is to bring lobbying into the open. Although there is still pressure in some quarters in favour of making the codes legally binding, others argue that this is not necessary as long as they are consistently enforced.

Lobbyists recognise that it is not in their interest to be suspected of underhand practices and that good relations with EU institutions are essential for them.

2.2 LOBBY RULES OF EUROPEAN PARLIAMENT

Annex 9 to the Rules of Procedure of the European Parliament Provisions governing the application of Rule 9(2) - Lobbying in Parliament

Article 1

Passes

1. The pass shall consist of a plastic card, bearing a photograph of the holder, indicating the holder's surname and forenames and the name of the firm, organisation or person for whom the holder works.

Pass-holders shall at all times wear their pass visibly on all Parliament premises. Failure to do so may lead to its withdrawal. Passes shall be distinguished by their shape and colour from the passes issued to occasional visitors.

2. Passes shall only be renewed if the holders have fulfilled the obligations referred to in Rule 9(2). Any dispute by a Member as to the activity of a representative or lobby shall be referred to the Quaestors, who shall look into the matter and may decide whether to maintain or withdraw the pass concerned.

3. Passes shall not, under any circumstances, entitle holders to attend meetings of Parliament or its bodies other than those declared open to the public and shall not, in this case, entitle the holder to derogations from access rules applicable to all other Union citizens.

Article 2

Assistants

1. At the beginning of each parliamentary term the Quaestors shall determine the maximum number of assistants who may be registered by each Member. Upon taking up their duties, registered assistants shall make a written declaration of their professional activities and any other remunerated functions or activities.

2. They shall have access to Parliament under the same conditions as staff of the Secretariat or the political groups.

3. All other persons, including those working directly with Members, shall only have access to Parliament under the conditions laid down in Rule 9(2).

Article 3

Code of conduct

1. In the context of their relations with Parliament, the persons whose names appear in the register provided for in Rule 9(2) shall:
 - (a) comply with the provisions of Rule 9 and this Annex;
 - (b) state the interest or interests they represent in contacts with Members of Parliament, their staff or officials of Parliament;
 - (c) refrain from any action designed to obtain information dishonestly;
 - (d) not claim any formal relationship with Parliament in any dealings with third parties;
 - (e) not circulate for a profit to third parties copies of documents obtained from Parliament;
 - (f) comply strictly with the provisions of Annex I, Article 2, second paragraph;
 - (g) satisfy themselves that any assistance provided in accordance with the provisions of Annex I, Article 2 is declared in the appropriate register;
 - (h) comply, when recruiting former officials of the institutions, with the provisions of the Staff Regulations;
 - (i) observe any rules laid down by Parliament on the rights and responsibilities of former Members;
 - (j) in order to avoid possible conflicts of interest, obtain the prior consent of the Member or Members concerned as regards any contractual relationship with or employment of a Member's assistant, and subsequently satisfy themselves that this is declared in the register provided for in Rule 9(2).

2. Any breach of this Code of Conduct may lead to the withdrawal of the pass issued to the persons concerned and, if appropriate, their firms.

2.3 OVERVIEW OF LOBBYING IN EU MEMBER-COUNTRIES

In most parliaments of the Member States there are no specific rules or provisions governing the activity of interest groups or their representatives. The main exceptions are Germany and the UK.

In the United Kingdom, the Select Committee on Members Interests of the *House of Commons* reported in 1990/91 that a Register of lobbyists should be set up together with an associated Code of Conduct. However, this recommendation was not adopted by the House.

In 1994, a Committee on Standards in Public Life (the Nolan Committee) was set up. This committee considered the use of parliamentary lobbyists along with a wide range of public ethics issues. The committee's report in May 1995 did not propose a mandatory register of lobbyists but did recommend that the House should immediately prohibit Members "from entering into any agreements in connection with their role as Parliamentarians to undertake services for or on behalf of organisations which provide paid parliamentary services to multiple clients or from maintaining any direct or active connections with firms, or parts of larger firms which provide such parliamentary services".

However, the House Select Committee on Standards in Public Life, which was appointed to consider the recommendations of the Nolan Committee, found it impossible to arrive at a satisfactory definition of "lobbyists" as distinct from other forms of outside employment. It preferred, instead, to recommend a greater degree of disclosure by Members of all outside sources of remuneration which involved "the provision of services in their capacity as Members of Parliament". This was the solution agreed to by the House in November 1995, which is now embodied in the Code of Conduct for Members of Parliament approved in July 1996 and updated recently (see below).

The German *Bundestag* is the only Chamber which has specific rules set out in an annex to its Rules of procedure, which stipulate that groups (*Verbände*) wishing to express or defend their interests before the Bundestag or before the Federal Government must be entered in a register; this list of registered organisations, including some information such as name and address, is published annually.

In *Italy*, there has been much debate on the regulation of pressure groups and indeed on the need for such regulation at all. As in other countries, it was never easy to arrive at a definition which would, in any case, only cover public affairs 'professionals' and would not tackle the issue of lobbies as such or the representation of interests in general. Some observers have suggested that the proliferation of legislation provides fertile ground for pressure groups and that a return to basic legislation fixing general principles, keeping the adoption of laws to a minimum and publicising or 'proceduralising' access of pressure groups to the pre-legislative stage would be the best means of resolving the issue of lobbying.

In the Danish *Folketing* there is a *de facto* recognition of interest groups, which may be received and heard by parliamentary committees according to an accepted practice. Several national parliaments apply systems which inspired the regulations adopted by the European Parliament: issuing access cards or passes of variable duration, as and when requested by Members of parliament or political groups, which allow the holders to establish contacts and/or gain access to certain parts of parliament buildings and/or to attend public meetings.

In most of the national parliaments, practice and the Rules of Procedure allow Committees to listen to the opinions of persons or organisations from outside parliament, in particular through public hearings, where this is considered necessary.

In several Member States, the Constitution and/or national law provide for the setting up of national bodies representing economic and social interests (e.g., Economic and Social Councils) which have the right to participate in the

formation of legislative policy in certain areas and which must in certain cases be consulted by the executive and even by parliament.

This notion of "representation of interests" is part of a particular political culture, which is not explored in greater detail below.

Brief summaries of individual Member States

Austria

The Rules of Procedure of neither the Austrian National Council nor the Federal Council contain any provisions affecting the activities of lobbies or interest groups in connection with the framing of the federal legislation, and there is no official register of interest groups in Austria.

Nonetheless, the influence of interest groups on Austrian legislation, especially of the large economic interest groups co-operating within the framework of the so-called 'social partnership', is relatively strong. The social partners participate in the preparation of legislation: when preparing a bill, government has to consult the chambers (*Kammern*), which are the statutory representatives of interest groups, under the so-called "appraisal procedure".

Usually, not only the chambers but also other interest groups are consulted. At the parliamentary stage, the social partners influence legislation through political and personal contacts. For a long time more than 50 % of MPs have had close ties with or were members of interest groups such as employers' associations or trade unions. This proportion has only recently diminished.

Furthermore, under the provisions of section 40 para. 1 of the Rules of Procedure of the National Council and section 33 para. 1 of the Rules of Procedure of the Federal Council, which entitle the committees of the National Council and the Federal Council to summon experts or other witnesses, experts representing interest groups may also be invited to present their point of view to a committee deliberating on a bill.

Belgium

Both in the Chamber of Representatives and in the Senate, there are no rules on this matter. There were lively debates within the *Commission pour le renouveau politique*, which so far had no legislative result.

Denmark

Lobbyists who seek to have their interests made known or defended in the Folketing by sending delegations or petitions to the Standing Committees, have their names entered in the archives of these Committees, but this and the registration of working documents is done purely for recording purposes. Their names are also mentioned in committee reports submitted to the Folketing and published in the Danish parliamentary journal, *Folketingstidende*.

All written material from the committees of the Folketing, including petitions to standing committees and Members of the Folketing, is collected in the Archives of the Folketing to which the public has access in accordance with the "Rules on access to the written material of parliamentary committees and access to information held in the parliamentary database of committee documents (FTU)" adopted by the Standing Orders Committee of the Folketing on 3 April 1991.

Rules exist governing the admittance of delegations to the presence of a Committee such as :

- those making up a delegation must have a natural affiliation to the person, organisation, association etc. applying for admittance to the Committee (e.g. a lawyer, member, or employee). Persons without any real affiliation to the delegation are not allowed to participate.
- the spokesman of a delegation - possibly assisted by other participants - is entitled to make a short statement of the delegation's position to the Committee.
- after this statement, the Members of the Committee may ask questions and receive replies from the delegation.
- no negotiations may take place, but the points of view stated by the delegation are included in the deliberations of the Committee.
- the delegation is not allowed to put questions to the Committee.
- the hearing is not expected to exceed 10 to 15 minutes.

All participants of the delegation should be acquainted with the above mentioned rules.

Written material for the Committee should be sent to the Committees Department of the Folketing in 60 copies in sufficient time to enable the Committee to study its contents.

Details of the names, affiliation etc. of the members of a delegation must be given to the Committees Department in good time. Changes in the composition of the delegation must be notified to this department no later than one day before the hearing.

Finland

Interest groups are not registered in the Finnish Parliament. Lobbyists may contact representatives informally as they wish - there are no regulations whatsoever, except that demonstrations and other strong measures are strictly forbidden on Parliament's premises.

Parliamentary committees do, in the normal routine of the preliminary preparation of legislative work, hear invited specialists in their committee meetings. The representatives of interest groups are also treated as specialists and are regularly invited whenever government legislative proposals might be of some importance to a particular group.

France

Senate

The Senate has no register or list of pressure groups. Professional groups or organizations wishing to gain access to the Senate apply to the Presidency of the Senate. The request is dealt with by the General Secretariat of the Presidency which, in addition to authorising access to the *Palais* (the seat of the Senate), may also authorise access to the corridors of the *Salle des Séances* (the Chamber itself) if the professional group is considered important and representative (e.g., *Barreau de Paris, Chambre des notaires, Assemblée permanente des Chambres d'agriculture, Electricité de France, Gaz de France*, etc.).

The request may also be addressed to the College of Quaestors which then issues a pass for the *Salle des Conférences* and the *Galerie des Bustes*, where it is possible to meet senators. In this case no access is given to the *Salle des Séances*.

About 20 passes are issued each year by the College of Quaestors and a dozen or so authorisations for access to the corridors of the *Salle des Séances* are granted by the Presidency General Secretariat.

There is no code of conduct for representatives of interest groups. Any who behave improperly may be the subject of oral recommendations or be declared *persona non grata* at the request of senators.

National Assembly

Lobbying activities are not regulated and are not covered by any code of ethics. There is no list or register (public or otherwise) of pressure groups, which are neither 'known' nor 'recognised' as such. There is only one relevant provision: under the general directives of the bureau of the National Assembly on circulation within the Assembly, those with special cards issued personally by the President or by the Quaestors have access to the *Salon de la Paix*. In practice, there are about twenty public affairs representatives of a few large public firms (e.g., *Electricité de France*) and a few institutional bodies (e.g., *Caisse des dépôts et consignations*) or agencies representing a professional organisation (e.g., *Chambres consulaires*). However, these are not the only representatives likely to lobby within the National Assembly. Many others have access to certain areas, either on a permanent basis or otherwise, for example at the request of one or more deputies, and may thus in effect put forward the point of view of many large private companies or professional and trade union organisations.

Article 79 of the rules of procedure forbids deputies from pleading and from using their position or status or allowing it to be used for any purpose other than the performance of their duties as deputy, with disciplinary sanctions for non-compliance. They are also prohibited from belonging to any association or group which defends private, local or professional interests or from making any commitments to such groups regarding their parliamentary activities, if such membership or commitments involve accepting mandatory instructions.

Germany

Bundestag

According to Annex 2 of the rules of procedure of the German Bundestag, each year a public list is drawn up of all groups wishing to express or defend their interests before the Bundestag or the Federal Government.

Representatives of pressure groups must be entered on the register before they can be heard by parliamentary committees or be issued with a pass admitting them to parliament buildings.

The following information must be provided: name and seat of the group; composition of board of directors and board of management; sphere of interest; number of members; names of appointed representatives; address of group's or association's office at the seat of the Bundestag and of the Federal Government. However, the public list does not have any legal force. Its purpose is to make pressure groups in the parliamentary field clearly visible and collect information for the work of the Bundestag and its committees, and make it available on request. Registration does not entitle a group to special treatment, nor to be consulted at parliamentary hearings. The Bundestag may unilaterally declare an entry pass invalid, and the Bundestag and its committees may invite associations or experts who do not appear on the register to their meetings where they consider it necessary. The list published in the federal gazette (*Bundesgesetzblatt*) in 1996 contained 1 614 pressure groups. Similarly to what was said above about the Austrian system, a substantial part of *Bundestag* MPs are members of trade unions or employers' associations.

Bundesrat

There are no rules governing interest groups.

Greece

The concept of lobbying or interest group activities is unknown in Greek law and is therefore not regulated.

Ireland

There are no rules governing pressure groups. In 1999 and 2000, a Registration of Lobbyists Bill was presented by opposition Members several times. However, it will not proceed without significant changes from the government side. There is no time scale at the moment. In the meantime, there are no guidelines on the

activities of lobbyists.

Italy

There are no specific rules on the activities of interest groups or their representatives within the Italian parliament. However, in the Ninth Legislature (1983-1987), four bills were tabled on regulating professional public affairs activities (A.C. 148, 157, 2983 and A.S. 125) and discussed by the committee on employment and social security of the *Camera*, which in the course of its deliberations prepared a unified text. The passage of this proposed legislation was interrupted by the early dissolution of parliament. Further bills have since been tabled (A.C. 479 in 1987, A.C. 4144 in 1989 and A.C. 144 in 1992), but there the procedure has ended. In the Senate, national associations and organisations can usually ask to receive a card admitting them to the Senate buildings, but not to the rooms where the parliamentary committees meet. The card does give the holder access to parliamentary facilities (library, photocopiers, etc.). It is generally felt, though with differences of emphasis, that there is a need for regulation, accompanied by institutional reform which would change the relationship between interest groups and political groups (for example, the introduction of one-member constituencies or incompatibility between parliamentary posts and government office). It was also proposed to establish registers of pressure groups and to make it compulsory for registered groups to submit reports stating their expenses incurred and actions taken in order to provide greater transparency of interest group activities. Recently, a Bill taking up some of these ideas (*progetto di legge N. 1567*) was presented to Parliament, in September 2001, but not adopted.

Luxembourg

There is no register or public list of pressure groups wishing to express or defend their interests before the Chamber of Deputies. No facilities are provided for such groups by the Chamber of Deputies and there is no code of conduct applicable to them. However, the Chamber of Deputies, a parliamentary committee or one or more deputies do have the right to hear such pressure groups if they wish, either on their own initiative or at the request of the pressure groups themselves.

Netherlands

There are no specific rules on the activities of pressure groups within the Dutch parliament.

The Public Relations Division of the Second Chamber provides representatives of pressure groups and lobbyists and representatives of other organisations with a special card or pass which is valid only on the date of issue. In exceptional cases, this card may be valid for a maximum of two years. The pass admits the holder to the buildings of the Second Chamber in order to contact Members of parliament, attend public meetings and consult documents.

Portugal

There are no specific rules or registers concerning pressure groups or their activities. Representatives of such groups are covered by the general rules governing access to, circulation and presence in Assembly buildings (despacho n 1/93, D.A.R. du 22.3.1993, II Série-C, n 22).

Spain

There are no rules governing the activity or registration of pressure groups.

Sweden

There are no rules or practices in Sweden (other than general legal rules) concerning lobbying in the *Riksdag*. Lobbying has been discussed for many years and lately to a somewhat greater extent. Private Members' bills on the registration of lobbyists in Parliament have recently been rejected by Parliament, as lobbying in its present form and degree is considered to be a natural and legitimate part of the political process.

Traditionally, organisations have played an important role in Swedish society and the dangers of lobbying have been considered to be outweighed by a traditionally transparent and open society. Even so, there is some discussion about the dangers of a 'dual mandate' for MPs involved in interest groups or state authorities, and also about the involvement of interest groups in the work of state authorities. There is an ongoing debate on these issues but no formal proposals for rules or legislation.

United Kingdom

The UK disposes of many regulatory texts (e.g., codes of conduct) concerning Members' interactions with outside interests. However, many of these concern Members' own financial interests and behaviour rather than control of third party interests. Most recommendations are in keeping with the British tradition, also practised in the media, of declaring an interest when participating in a debate related to that interest.

The basis of current regulatory practice was laid down in October 1994, when Prime Minister John Major set up the so-called Nolan Committee (Committee on Standards in Public Life, presently chaired by Sir Nigel Wicks) to "examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of probity in public life."

House of Lords

There is no official register or public list of lobbyists seeking to have their interests made known or defended in the House of Lords, and no rules or code of conduct specifically applicable to such persons. In general, the facilities of the House are made available only to Members, and not to lobbyists or interest

groups as such, although it is open to Members supporting particular interest groups to sponsor in person meetings or functions of such groups at the House. In November 1995, the House of Lords agreed to set up a Register of Members' Interests as recommended by the Procedure Committee which had conducted an enquiry into the matter earlier in 1995. The Register is divided into three categories: category 1 is mandatory and lists Lords with paid parliamentary consultancies; category 2 is also mandatory and lists Lords with financial interests in lobbying companies; finally, category 3 is optional and shows other interests (financial or non-financial) which Lords have chosen to register. The Register is published annually.

As a general rule, Lords are supposed always to speak for themselves and not on behalf of outside interests. Lords with paid consultancies, or financial interests in lobbying firms, are barred from speaking, voting or lobbying on behalf of their clients. The operation of the Register of interests is overseen by a subcommittee of the House of Lords Committee for Privileges. This committee would investigate any allegation that a Lord was in breach of the new rules.

In recent years, several Committee reports and revised versions of guidelines for Members have been published. Details of the rules governing relations between Members and third parties are thus constantly updated. For an overview of developments in both Houses see "Seventh Report of the Committee on Standards in Public Life", November 2000, Standards of Conduct in the House of Lords; "Eighth Report of the Committee on Standards in Public Life", November 2002, Standards of Conduct in the House of Commons.

House of Commons

The Nolan Committee's report, adopted in May 1995 (see above), did not propose a mandatory register of lobbyists but did recommend that the House should immediately prohibit Members "from entering into any agreements in connection with their role as parliamentarians to undertake services for or on behalf of organisations which provide paid parliamentary services to multiple clients or from maintaining any direct or active connections with firms, or parts of larger firms which provide such parliamentary services."

However, the Select Committee on Standards in Public Life, which was appointed to consider the Nolan recommendations, found it impossible to arrive at a satisfactory definition of "lobbyist" as distinct from other forms of outside employment. They preferred instead to recommend a greater degree of disclosure by Members of all outside sources of remuneration which involved "the provision of services in their capacity as Members of Parliament." This was the solution agreed to by the House in November 1995, which is now embodied in the "The Guide to the Rules Relating to the Conduct of Members" approved in July 1996 and updated in May 2002, which now includes a chapter on "Lobbying for reward or consideration". The guide reiterates that "the main responsibility for observation of the ban on lobbying for reward or consideration lies with the individual Member".

There are Registers of Journalists and Members' staff, introduced by the Commons in December 1985 following concerns about the introduction of professional lobbyists into the House under the guise of Members' staff. Professional lobbyists are not treated as a separate category when passes are issued to the Palace of Westminster and lobbyists have no right to a security pass (which would gain them access to the Palace). Hence, there still is no public list or register of parliamentary lobbyists. NGOs such as Charter 88 have criticised this as a failure of parliamentary self-regulation. Charter 88 also recommended that a set of written rules should be established which should include the regular publication of who is acting with whom, on behalf of whom, over what, at any time, with penalties for failure to comply.

Still, in 1994, two separate Associations of Parliamentary Lobbyists launched Codes of conduct to self-regulate their affairs. *The Association of Professional Political Consultants* and the *Institute of Public Relations* have set up registers of professional Lobbyists. It is important to note that these are voluntary codes and registers.

Conclusion

The European system of multi-level governance has produced a system of equally multilayered interest groups organized at the European level. There is a majority view that these “Eurogroups” are numerous, but often rather weak. A certain fragmentation of interest representation in the European policy process has taken place during the last decade.

Alternative methods of interest representation have gained importance which are supposed to be faster, more flexible, less costly and more effective, because they by-pass the existing European interest groups:

- national interest groups and associations have started to act directly at the European level; a large number of national business associations now have offices of their own in Brussels and are in direct contact with supranational institutions;

- small informal clubs, round tables, or ad-hoc coalitions, such as the European Information Technology Industry Round Table (EITIRT) or the Transatlantic BusinessDialog (TABD), are selective in their membership and targeted on specific goals, thus reducing the costs of consensus-building among their members;

- individual companies – large multinational firms in particular – have addressed their lobbying efforts directly to the European institutions; they have established offices in Brussels and gained some access to the European policy process, thus having a chance to become major political actors;

- the number and importance of professional lobbyists (“public affairs representatives”), law firms and consultants in Brussels has been increasing considerably in the 1990s; although their access to the principal institutions is also weak, they still allow firms to invest in highly specialized advice for very specific purposes without the costs of permanent offices or of cumbersome consensus-building.

According to a recent study, successful lobbying is characterised by the following combination of traits:

- the group is well organised and able to solve conflicts;
- disposes of sufficient financial, human, informational and political-economic resources; its main interest is in high-tech markets;
- decisions do not have to be taken unanimously within the association;
- the group deals with a strongly communitarised policy and has a limited number of addressees;
- it has been around for some time;
- it has few member organisations and its administrative seat is in Brussels.

Lobbying that does not contribute to the aggregation of interests can result in the development of personally close, but intransparent networks and channels of contact.

In a democratic political system, it is legitimate for a plurality of actors to try to pursue their own interests. Problems arise if the system is not capable of considering and prioritising all relevant interests, given that some groups are much better organised than others. Therefore, some regulation or control of certain aspects of lobbying and other special interest activities is necessary.

The EU institutions are probably more open to a variety of interests than most national administrations, since they are aware of the need to recover public support for the integration process. The Commission has always had a strong incentive to widen support for its proposals, for which social, environmental, regional or consumer interests may be particularly important. These civic interests present the Commission with opportunities to expand its influence and legitimacy.

The EP has been able to amend legislation since the entry into force of the Single European Act in July 1987, thereby incorporating certain interests and policy aims in the decisionmaking process. In addition to the institutional discrepancies between a directly elected and a markedly intergovernmental body there are often different political majorities in the EP and the Council. Moreover, the EP has become more involved in the details of regulation than most national parliaments. This has proved significant for the articulation of special interests, because many MEPs tend to be receptive to some of them (e.g., for Environmental protection policies).

The wide distribution of power in the EU provides not only for multiple arenas in which lobbyists engage but also for some insulation of the European institutions from producer interests, which tend to be better organised than others. Bargains between business interests and EU institutions can lack durability as the focus of decision-making moves to other, notably national arenas. Furthermore, the Commission can sometimes play different interests off against one another in acting as a “multi-level broker”. As pointed out by Greenwood, the Commission is sometimes able to insulate itself from pressures by outside interests, thus eroding the importance of business associations at the European level compared to other lobbying strategies.

Looking at the future, it can be argued that lobbying is likely to increase rather than decrease in the coming years, albeit more slowly than in the past 10-15 years. De Fouloy names some key factors that will continue to favour lobbying and outside interest activities:

- further consolidation of the EU and more uniformity of legislation;
- an austere economic and political climate in which more groups are demanding to be heard and to redistribute or retain their piece of the economic pie;
- technology change due to the speed and growth in communication technology;
- the information explosion (sheer volume of information to be absorbed);
- increasing specialisation within a body of knowledge.

With enlargement, lobbyists will have to work in an EU that is becoming even more complex. Many of the new Member States have a political culture which is quite different from that of current members. Pressure groups will therefore face new challenges as the EU institutions and their decision-making mechanisms are modified by the European Convention and the subsequent Intergovernmental Conference. Organised interests and their capacity to plan and execute campaigns will probably become more manifest, as has already been recognised by EU bodies, particularly the Commission, by increasing the consideration given to improving consultation and the dialogue with civil society. It is all the more important that competition among lobbying groups remains open for newcomers, thus assuring that European interest representation does not develop into a closed shop system.

VII. PROPOSED THEORETICAL FRAMEWORK FOR A DEVELOPMENT-ORIENTED AND RIGHTS-BASED LOBBY PROCESS

A. PROPOSED ALTERNATIVE DEFINITION OF LOBBYING AND LOBBYIST

INTRODUCTION

There are various definitions of “lobbying,” ranging from simple to highly technical / complex.

All existing definitions agree on the point that lobbying is the act of trying to influence government.

However, there is **fundamental disagreement regarding the coverage** – relative to space and time -- of lobbying.

Most definitions (such as that by the Philippine lobby law, RA 1827) maintain the common notion that relative to space, lobbying is limited to the legislative branch (Congress), and relative to time, it happens only after elections (i.e., lobbying is done only to elected legislators).

In the United States (US) where lobby practice (including documentation and regulation) is most advanced, the law (Public Law 104–65 “Lobbying Disclosure Act of 1995”) officially acknowledges that lobbying covers not only the legislative branch but also the executive branch. In many studies on the US lobby process, there is also acknowledgment of the reality that lobbyists are as active in the pre-election and election process, as they are in the post-election process.

It is most disturbing to note, though, that both RP and US lobby laws are mysteriously silent on the issue of lobbying in the judicial branch. The implicit message is that lobbying does not exist in the judiciary and therefore no lobby regulation is needed in said branch. However, even the most cursory observation reveals that this is pure legal fiction, since lobbying is a major daily reality in the judiciary.

There is equally complete silence on the issue of lobbying at the international level, aimed at international multi-government organizations such as the United Nations and the World Bank.

Guided by the principle that the best theoretical definition is that which approximates or captures reality most, this study has come up with its own proposed definition of LOBBYING. More specifically, it proposes two types of definitions: first, a simplified (and therefore less precise) definition

for lay audiences; second, a more precise technical / legal definition for technical / legal audiences.

The debate on the correct definition of “lobbying” automatically leads to a debate on the correct definition of “lobbyist.”

Who can be considered LOBBYISTS? The Philippine, American, and European Union laws on lobbying basically limit “lobbyists” to **private** individuals and organizations, particularly the **hired hands** who do lobby work for a living and can be hired and fired anytime by the real lobbyists, the individuals/organizations who employ them.

This very narrow definition is made even narrower by the numerous possible exemptions provided by law, e.g., under the US law, lobbyists who earn less than US\$5,000.00 from their lobby work do not need to register.

The obvious implication of having a very narrow definition of the “lobbyists” to be covered by regulation is that it allows numerous lobbyists (both public and private individuals / organizations) to conduct their lobby activities without being covered by any lobby regulation.

In the same manner that this study proposes two types of definitions for “lobbying,” it also proposes a simplified (and therefore less precise) definition of “lobbyist” for lay audiences and a more precise technical / legal definition for technical / legal audiences.

1. PROPOSED SIMPLIFIED DEFINITION OF “LOBBYING” AND “LOBBYISTS”

LOBBYING: The process through which one or more parties (the lobbyists) seek favorable decisions and actions from a government or an international development organization, through fair or foul means.

“Government” refers to the three branches – legislative, executive, judicial – at the national and local levels.

“International development organizations” refers to global institutions composed of various governments such as the United Nations, the World Bank, the International Monetary Fund, the World Trade Organization, and the like.

LOBBYISTS: All parties who seek favorable decisions / actions from a government or an international/multi-government development institution. They range from individual/s to organization/s to government/s to international development institution/s.

2. PROPOSED TECHNICAL DEFINITION

2.1 LOBBYING: Essentially, a **sustained, organized, and funded effort** by Filipino and/or foreign parties (public and/or private) with the **ultimate objective** of getting a **collective and official decision / action from** one or all three branches of the Philippine **government, in favor** of the interests of the **lobby principal** (the funding source and mastermind of the lobby effort).

The phrase “collective and official” must be underscored. It means that relative to the ultimate objective of the lobby effort, the **unofficial opinions** / positions of individual public officials become **irrelevant; what matters is the collective and official decision of the Philippine government** (one or all three branches).

2.2 LOBBYISTS: All parties involved in the organized lobby effort to get a collective and official decision / action from the Philippine government in favor of the interests of the lobby principal.

This study proposes the grouping of the various types of lobbyists under the following categories and sub-categories:

2.2.1 LOBBY PRINCIPALS

a. EXTERNAL LOBBY PRINCIPALS –

Private individuals, organizations, or foreign governments/ agencies that are the ultimate beneficiaries of the lobby campaign, and are the financiers, initiators, organizers, and employers of the lobby effort. They hire/fire and pay the external lobby consultants and internal lobbyists.

b. INTERNAL LOBBYPRINCIPALS – Officials/employees of the Philippine government who initiate, fund, and organize a lobby campaign to get a favorable decision/action from a branch or office of government not directly under the control of the internal lobby principals.

Their lobby efforts can be either legal or illegal. This study proposes that the determining factor for legality be the interests benefited.

If the lobby effort clearly benefits the interests of the majority of the Filipino people, such as when the Executive Branch under President Corazon Aquino lobbied Congress for passage

of the Generic Medicines Law, then the lobby is legal (provided it uses only legal lobby methods, i.e., it doesn't resort to bribery or other illegal methods). The use of public funds for such an effort should likewise be acceptable.

If the lobby effort clearly benefits only the interests of a few government officials or a few private or foreign entities they are supporting, then the lobby effort should be declared illegal (even if legal lobby methods are used), and the public officials involved should be immediately removed or impeached from the positions they occupy. Appropriate criminal charges should also be filed against them. If they use public funds and illegal lobby methods (e.g., bribery) for an illegal lobby objective, all the more they should be impeached and charged with criminal cases.

Examples of illegal lobbying by "internal lobby principals" include the alleged lobby efforts of past and present government officials to change the Philippine constitution to suit their personal political ambitions (e.g., the alleged attempt by former President Fidel V. Ramos to lift the one-term limitation set by the 1987 constitution so he could run again). The alleged P500,000.00 per congressman payola for the privatization of NAPOCOR (exposed by Rep. Renato Magtubo) is also another example.

2.2.2 PAID LOBBYISTS

a. EXTERNAL LOBBYCONSULTANTS

Private organizations/individuals who are paid to do lobby work.

b. PAID INTERNAL LOBBYISTS

Government officials/ employees who covertly accept bribes from lobby principals to do lobby work.

2.2.3 LOBBY VOLUNTEERS

a. EXTERNAL LOBBY VOLUNTEERS

Private organizations/individuals who initiate / support a lobby effort out of personal conviction, without any compensation.

b. INTERNAL LOBBY VOLUNTEERS

Government officials/ employees who initiate / support a lobby effort out of personal conviction, without any compensation.

B. PROPOSED DEFINITION OF DEVELOPMENT-ORIENTED AND RIGHTS-BASED PHILIPPINE LOBBY PROCESS

This study defines “development-oriented and rights-based Philippine lobby system and process” as:

A regulated lobby system and process based on the full and competent implementation of an amended and improved version of the current Philippine lobby law which will seek to accomplish the following targets:

- *Help promote human development and human rights;*
- *Help the nation meet at least its commitments to the global Millennium Development Goals of the United Nations.*
- *Eliminate or minimize unethical or illegal lobby practices and methods that are anti-development, anti-human rights, and benefit only narrow elite interests, at the expense of the poor majority;*
- *Encourage and maximize ethical and legal lobby practices and methods that promote human development and human rights and benefit the majority who are poor and powerless.*

C. OBJECTIVE

Establish within 3 to 5 years an authentic **development-oriented and rights-based Philippine lobby system and process (as defined in item B)**

D. CORE IDEA

D.1 BASIS OF CORE IDEA

The core idea of the proposed theoretical framework is based on the insight by former **World Bank President James D. Wolfensohn** that **any serious development effort should “start with the recognition that in our world of six billion people, one billion (or 16% living in the “First World”) have 80 percent of the income and five billion (or 84% living in the “Third World”) have under 20 percent.”**

The implication of Wolfensohn’s insight is that **extreme poverty is the direct result of extreme inequity**, and therefore the **only way to eradicate extreme poverty is to eradicate extreme inequity.**

The inequity **literally massacres thousands of children every day.** **UNICEF** statistics indicate that for as long as the problem of mass poverty remains unresolved, about **28,000 children, 0 to 5 years old, die every day worldwide** because their parents are too poor to buy food or medicines for simple diseases that enter their malnourished bodies. This is equivalent to **840,000 children killed per month, or ten million children**

killed by inequity per year. The three to four thousand who died in the 9/11 attacks in the United States which caused tremendous global outrage and led to the “global war on terrorism” are but a drop in the bucket compared to these deaths which are hardly even mentioned in media. If we consider those who died in the 9/11 attacks as innocent civilians, then how about the 28,000 children who die every day because of this global inequity? Who can be more innocent and defenseless than these children? The statistics become meaningful only when we put the faces of our own children on these faceless and nameless children.

It is an **economic inequity** that leads to **political and cultural inequity, as well as deeper economic inequity.** Economic domination leads to political and cultural domination, which in turn leads to greater economic domination, and so on, in a never-ending spiral which results in a situation where the rich and powerful get richer and more powerful while the poor and powerless get poorer and more powerless.

D.2 CORE IDEA OF THEORETICAL FRAMEWORK

The **core idea** of the proposed theoretical framework is an extrapolation from Wolfensohn’s insight. It consists of two key points:

First point: From the insight that **global inequity is both the starting and central issue of human development,** this paper extrapolates as **its central theory that the entire lobby process, whether at the global or state level, is FOUNDED on the fundamental conflict between those who benefit from this global inequity and therefore want to perpetuate it – and those who are victimized by this global inequity and therefore want to dismantle and replace it** with a more just and equitable global economic / political / cultural system.

For the beneficiaries and defenders of global inequity (the so-called “First World”), the global lobby process has one main purpose: Perpetuation and expansion of their immense wealth through the perpetuation of extreme global inequity.

Conversely, for the victims and opponents of global inequity -- the poor in Third World countries (i.e., excluding the wealthy local elite partners of the global elite) -- the global lobby process has one main purpose: Eradication of poverty through the eradication of global inequity.

Unfortunately, in a world where the rich are strong and the poor are weak, the conflict or contest is **highly lopsided in favor of the wealthy and powerful defenders of inequity.** The impoverished victims of inequity are often too weak to put up any effective opposition to global inequity.

All other lobby issues, all other aspects of the lobby process, are subordinate and peripheral to the ruling elite's central objective of preserving the global social order founded on extreme inequity which benefits only them and destroys billions of lives.

All the lobby tools, strategies, and tactics **employed by the beneficiaries** of global and national inequity – tools ranging from economic, political, cultural, and military -- **are essentially components of one global conspiracy driven by one logic and one overarching objective: *The preservation and expansion of global and national inequity to ensure the preservation and expansion of the First World's immense wealth and global domination.***

It is **for the preservation of this global inequity** that its defenders have built **nuclear arsenals as the ultimate “global lobby tool”** to **“persuade” everyone to accept this inequity** (the insane aspect, though, is that even the nuclear owners or powers will die once the nuclear bombs explode).

It is for the preservation of this global inequity that its defenders have created the global lobby tool called **“globalization”** wherein poor nations are threatened with exclusion from international trade and credit if they refuse to “agree” to the onerous terms of the General Agreements on Tariff and Trade (GATT) administered by the World Trade Organization (WTO). Globalization is **designed to ensure the expansion and consolidation of the global business monopolies** of the First World's multinational corporations (MNCs). Globalization is **another form of state capture (ironically with the “official consent” of a poor nation which signs the GATT) wherein rich nations capture a poor nation's entire economy by pressuring it to remove its tariff protections and open up to cheap imports**, creating a situation where it becomes cheaper to import goods than to produce them locally, thus wiping out local manufacturers and agricultural producers who can't compete with the cheap imports, in turn leading to thousands of company closures and the loss of millions of jobs. The imported products are cheaper because the industrial and agricultural producers of the First World enjoy economies of scale, more sophisticated production technology, plus subsidies from their rich governments which enable them to sell even at below-cost prices (to ensure the destruction of local manufacturers and agricultural producers who have no subsidies and can't compete with below-cost imports). As a result, bulk of global trade income is monopolized by the First World while Third World economies become perpetual dumping

grounds for First World products and a cheap source of labor and raw materials.

It is for the preservation of this global inequity that its defenders have created the clever global lobby tool called the **“debt trap,”** so Third World nations will forever be mired in debt, **forever allot the biggest portion of their national budgets to endless interest (not even principal) payments, and therefore be forever weak, subservient, and dependent on the First World.** In the same manner that at the level of individuals, a debtor who is unable to pay his debts is forced to silently accept even the most humiliating treatment from the creditor, so too with nations. Often, the debt trap is more effective than overt physical threat in ensuring a nation’s timid subservience.

It is for the preservation of this global inequity that its defenders have implemented the lobby strategy of **“state capture” by cultivating partnerships with the local ruling elite of poor countries,** so they will betray their nation’s and people’s interests in favor of the interests of their foreign masters.

It is for the preservation of this global inequity that its defenders have invented the lobby tool called **“global war on terrorism”** to coerce the entire world to accept this global inequity, based on the explicit threat of US President George Bush that **“If you are not with us, then you are against us.”** The implication of the threat is that all who oppose the prevailing global inequity (which has the US as primary beneficiary and defender) is either a terrorist or a terrorist supporter. Since the doctrine of **“global war on terrorism”** justifies US invasion of any country that is considered a terrorist or terrorist supporter, then any nation (especially weak nations like Iraq and the Philippines) are open targets for US invasion.

The irony, though, is that **even the government of President Bush does not have a clear definition of “terrorism” or “terrorist.”** It might help them think more clearly if they ask themselves the following question: **Who is the terrorist – the one who opposes the prevailing global inequity which kills 28,000 innocent children daily, or the one who benefits from this inequity and defends its perpetuation?**

For millions of intelligent Americans who do not agree with Bush, as well as for billions of impoverished Third World citizens, the terrorists are the beneficiaries/defenders of extreme inequity, such as George Bush and those who support his **“global war on terror.”**

Indeed, it is the height of adding insult to injury when the victims of global inequity are also the ones who are branded as terrorists.

Unfortunately, for the **victims/opponents** of this global inequity, the **tragic reality** is that **even the “cheapest” lobby method, e.g., a phone call to Congress, is often beyond the reach of the poor. Between spending five pesos on a phone call to a congressman’s office or using it to buy a pack of noodles to be shared by the entire family, obviously the latter is more important. The thought of lobbying cannot even enter the mind of a father listening to his child crying because of hunger.** If he does try to call or visit his congressman, most likely he can only talk to the secretary.

The blind defense of inequity, in turn, is based on insatiable greed and the attitude that “We don’t care if 28,000 children die every day because of extreme inequity for as long as we benefit from it. We just want to accumulate all the wealth we can get and live as luxuriously as possible.” As the saying goes: “The Earth has enough for man’s needs but not for man’s greed.”

Second point: Since perpetuation of global inequity is directly against human development and human rights, therefore any serious attempt to establish a development-oriented and rights-based lobby process must have as its **central long-term objective the eradication of extreme global inequity.**

Having the eradication of extreme global inequity as central objective of the desired development-oriented and rights-based lobby process **implies that every component, every regulation, every policy, of said lobby process must be evaluated in terms of its relevance to the accomplishment of this central objective.** Thus, the lead advocates of this alternative lobby process must always ask themselves: To what extent does this component or policy promote or hinder the eradication of extreme global inequity? Is it relevant or irrelevant to the attainment of the central objective? Obviously, only components that are relevant and promote the attainment of the central objective should be maintained. All other irrelevant components should be eliminated.

E. CREATING THE RIGHT CONDITIONS FOR RP LOBBY PROCESS: MICRO AND IMMEDIATE ACTIONS/ INTERVENTIONS NEEDED

1. DO NOT ATTEMPT HASTY AND BELATED IMPLEMENTATION OF RA 1827 AND BP 39.

Some parties advocate the immediate implementation of RA 1827 and BP 39, arguing that the delay in implementation has already been too long (48 and 26 years, respectively). However, **hasty implementation of both laws today will most likely bring far more harm than good to the nation.** This view is

based on two considerations: First, **both laws need to be amended** because they have many major defects. Second, the **forces** (religious, business, military, ideological, foreign, criminal, etc.) at work in the Philippine lobby process today are **too powerful, complex, and sensitive to be subjected to half-baked and poorly thought out regulation**. One wrong move in regulating them could lead to a chain reaction of massive opposition and problems too big for the government and nation to handle. We might as well **not disturb the status quo until after the situation has been adequately analyzed and the proper measures put in place to prevent chaotic and unproductive lobby regulation**.

This is not to say, however, that government should be indecisive and fearful in regulating the lobby process. **After appropriate amendments** have been done to RA 1827 and BP 39, government should then **muster the political will to implement the amended laws immediately and fully**. Government must decisively **crush all attempts to sabotage the implementation** of the amended laws.

Proposed guidelines regarding the amendment of the existing lobby law:

- 1.1 Ensure that it provides the appropriate legal framework for a Philippine lobby process and system that is truly supportive of human development and human rights.
- 1.2 Include in basic amendments the revision of the definitions of LOBBYING and LOBBYIST (as proposed in this paper). Ensure that all provisions of amended lobby law are consistent with the revised definitions, e.g., since proposed revised definition of lobbying is that it covers all three branches (not just Congress), therefore lobby regulations/ provisions should cover lobbying in all three branches.
- 1.3 Ensure inclusion of sufficient legal safeguards to prevent unethical, illegal, corrupt, and pro-elite lobby practices/strategies/tactics.
- 1.4 Ensure inclusion of sufficient legal provisions designed to encourage and promote ethical, legal, and pro-poor lobby practices/strategies/ tactics (including greater access to lobby process by poor sectors).
- 1.5 Ensure inclusion of sufficient and strict legal provisions designed to prevent foreign intervention and/or domination of Philippine lobby system and process.
- 1.6 Ensure inclusion of sufficient positive incentives for lobbyists to obey the lobby law.
- 1.7 Ensure appropriate funding for full implementation of lobby law.

1.8 Ensure sufficient safeguards to protect the independence and integrity of the office and officials tasked to implement the lobby law in all three branches. Find ways to protect the tenure and budget of said officials from political machinations. Ensure that said office has all the basic resources it needs to fully implement the law, including full punishment of violators.

2. **PREEMPT OPPOSITION THROUGH PARTICIPATORY PLANNING**

Preempt potential opposition to lobby regulation by getting legitimate lobby players involved in the formulation of amendments to RA 1827 and BP 39, as well as the drafting of the Implementing Rules and Regulations (IRR) for the amended laws.

This suggestion is based on the assumption that legitimate lobby players will not oppose the implementation of a law that they helped formulate. (*NOTE: Only “legitimate lobby players” will be consulted, i.e., for obvious reasons, illegal lobbyists for criminal syndicates will be excluded.*)

The importance of this suggestion cannot be overemphasized. Legitimate lobby players will most likely refuse to cooperate in the implementation stage if they are not fully involved / consulted in the planning stage. Without their cooperation, lobby regulation will most likely fail.

To motivate the lobby players to give their inputs, unite them on the lofty objective of “Reforming the RP lobby process to make it a tool for equitable income distribution, human development, and human rights.”

This objective will hopefully appeal to their nobler aspect and get them to set aside their narrow self-interests for a higher cause.

3. **PUBLIC PRESSURE THROUGH NATIONAL CONSENSUS**

Mount a sustained nationwide campaign to make the citizenry aware of the relevance of the lobby process to the improvement of their daily lives. Conduct nationwide consultations through mass media to get inputs / suggestions from ordinary Filipinos on “How to reform the RP lobby process to make it a tool for equitable income distribution, human development, and human rights.” Get the youth / students involved in the advocacy through school-based symposiums. Tap NGOs and POs to help. The central objective of this strategy is to create a groundswell of public opinion in favor of lobby reforms.

4. **ORGANIZE A SMALL “LOBBY PROCESS REFORM -TECHNICAL WORKING GROUP (LPR-TWG)” THAT WILL SPEARHEAD THE LOBBY REFORM EFFORT**

The **immediate main task** of the **LPR-TWG** will be to come up with a **strategic plan on how to reform the Philippine lobby process.**

The **first problem** the plan should consider is **how to handle the massive opposition** that will most likely come from the powerful and deeply entrenched beneficiaries of the present unregulated lobby process.

While the need to reform the lobby process is urgent, it should be done very carefully, without undue haste. It is not advisable to rush headlong into implementing the existing lobby law, as an attempt to make up for the 48 and 26 years delay in implementing RA 1827 and BP 39, respectively. Hasty and poorly planned implementation of both laws could lead to problems that will be too big for government and the nation to handle. There are too many powerful beneficiaries of the present unregulated and corrupt Philippine lobby process (both givers and recipients of bribes). Their stakes are too high – millions to billions of pesos or dollars – and they will fight desperately against lobby reforms that threaten their interests.

The **LPR-TWG** should be **initiated and headed by the Congressional Planning and Budget Department (CPBD)** as a logical offshoot of CPBD’s role in initiating and commissioning this study on the Philippine lobby process.

Ideally, the LPR-TWG’s membership should be composed of representatives from the **three branches of the Philippine government (legislative (HOR and Senate), executive, judicial), lobby consultants / practitioners, NGOs and POs, business sector, and religious leaders from both Christian and Muslim faiths.**

5. **LOBBY REFORM PLAN BASED ON CONSULTATIONS WITH LOBBYISTS, LOBBY-TARGETS, AND ALL AFFECTED SECTORS**

The LPR-TWG should conduct a series of **consultations** (both public and private / confidential consultations) with the **key stakeholders** in the Philippine lobby process **as inputs to the Lobby Process Reform Plan (LPRP).** Full and active participation of representatives of **poor sectors should be ensured and maximized.**

The LPRP should contain at least the following:

- 5.1 **List of specific reforms** that need to be done in the Philippine lobby process to make it an effective tool for the promotion of human development and human rights in Philippine society.
- 5.2 **List of basic amendments** that need to be done to RA 1827 and BP 39 to ensure adequate legal bases and budget for said reforms.
- 5.3 **Concrete action plan** (strategies and tactics with clear timetables) on how to accomplish said lobby reforms – including concrete action plan on how to **fast-track passage / enactment of amended lobby law and amended foreign agents law.**
- 5.4 **“Force field analysis”** or identification of forces / sectors who will be for or against lobby reforms; likewise, scenario-building regarding possible anti-reform strategies and tactics of reform opponents, and formulation of appropriate counter-strategies.

6. PUNISH NON-IMPLEMENTATION

While all laws have penalties for violators of their provisions, **there is no penalty provided for assigned enforcers of a particular law who fail to enforce said law**, either out of ignorance or sloth. **Maybe it’s time for Congress to set penalties against said enforcers.**

Legislators assume execution by the assigned officials, usually from the Executive Branch. This is a faulty assumption. **The embarrassing aspect here for Congress is that implementation of the lobby law is one of the very few instances wherein implementation of a law has been assigned to Congress.**

7. CONGRESS OVERSIGHT / INVENTORY OF LAWS

As part of its **oversight responsibility**, **Congress should do an inventory and assessment of all existing laws** to determine, first of all, whether the assigned officials are even aware of their assignments. Said officials should submit formal reports on how they have implemented their assignments, what they have accomplished.

Civil society should help in this inventory and assessment of implementation of existing laws.

Government should impose severe penalties (e.g., fines, expulsion, and/or imprisonment) on officials assigned to implement the lobby law if they fail to implement it properly. Set up oversight office to check on them.

8. PROACTIVE IMPLEMENTATION

Require the lobby regulation officials to **implement the lobby law in a proactive** manner. They should **not just wait for lobbyists to register; they should actively seek out, arrest, and punish violators of the lobby law** (e.g., lobbyists who do not register; also, registered lobbyists who violate provisions of the lobby law).

9. HELP MARGINALIZED SECTORS ORGANIZE STRONG VOTING BLOCS

The power of a solid voting bloc has been long proven by the Iglesia ni Cristo (INC), which votes as one for the candidates endorsed by the INC leadership. All national and local candidates literally line up at the INC national office for INC endorsement during elections, and are always fearful of incurring the ire of INC.

This principle should be taught to marginalized sectors so they will have better chances in the lobby contest. Supporters of lobby reforms from the private and public sectors should help marginalized sectors organize themselves into strong voting blocs on key issues affecting their respective sectors, e.g., agrarian reform for farmers, gender rights for women, etc.

10. ANNUAL REPORT

Require the lobby regulation officials to submit to the Filipino people at least an annual report on the state of the Philippine lobby system/process. The summary of the report should be published in national newspapers and the full text should be published on the Internet. **The report should contain at least the following:**

- 10.1 List of registered lobbyists (hired hands and their employers/principals / financiers); what they are lobbying for; amount of lobby budget; how they used the lobby budget; what strategies/tactics they used; what they accomplished; identities of public officials they approached.
- 10.2 What the lobby regulation office accomplished during the year, including the identities of violators of lobby law who have been arrested and punished, as well as measures taken to help poor sectors increase their meaningful participation in the lobby process.

11. CIVIL SOCIETY SHOULD ORGANIZE A CITIZENS LOBBY OVERSIGHT COALITION (CLOC) WITH THE FOLLOWING MAIN FUNCTIONS:

- 11.1 Monitor implementation of the amended lobby law (ALL), especially compliance by senior government officials who might abuse their power to support certain lobby interests (including their self-interest).
- 11.2 File impeachment/expulsion cases against government officials who violate the ALL.
- 11.3 File criminal charges against private and public lobbyists guilty of violating the ALL.
- 11.4 Monitor the public officials assigned to implement the ALL. If said officials fail to do their job, the CLOC should take the appropriate actions to pressure them to do their job, ranging from public exposure to filing cases for dereliction of duty against said officials.
- 11.5 Take positive action, e.g., give awards / commendations to public officials who implement ALL well, and to lobbyists who obey the ALL, exemplify positive lobbying practice, and should be held up as models for other lobbyists to emulate.
- 11.6 Help government implement ALL by providing intelligence information re lobbyists who fail to register and/or report accurately

12. REQUIRE GOVERNMENT RESEARCH AGENCIES TO PROVIDE ONLY TRUTHFUL AND CURRENT DATA

The nation's top leadership should give categorical orders to NSCB and NEDA and other government research / planning agencies to stop window-dressing vital socio-economic data so we can plan properly and stop fooling ourselves. Lobbyists cannot lobby for right policies and programs if they have no access to timely and accurate data.

F. CREATING THE RIGHT CONDITIONS FOR RP LOBBY PROCESS: MACRO AND MEDIUM/LONG-TERM ACTIONS NEEDED

1. LEVEL PLAYING FIELD: SAME RULES NOT ENOUGH

It is not enough to have the same set of rules for all lobbyists. The capabilities – financial, political, technical, educational -- of the lobbyists have to be fully considered as well.

Even under the same lobby rules, the poor have no chance of beating the rich in the lobby contest, just as it is **pointless to pit a gigantic NBA team against a pygmy *barangay* team, even though the same basketball rules apply.**

How to create a level playing field for the Philippine lobby process? This is a very difficult question which requires a separate study. This paper can only identify the right conditions needed. It is not the forum for a detailed discussion of the specific strategies and tactics towards the attainment of each condition. The most this paper can do is to give general suggestions which should be validated and explored further by other studies.

The initial suggestions this paper can offer are:

1.1 Face the challenge of building authentic democracy

The task of building authentic democracy is enormously complex. Another study is needed to cover the topic sufficiently. The following suggestions cover only a very small fraction of the aspects that need to be covered.

Relative to building democracy, one of the main suggestions of this paper is for government to legislate and implement **electoral and campaign finance reforms.**

Essentially, said reforms entail the following actions:

- 1.2 Reduce cost of political campaigns** to make them affordable even for poor candidates. One possible strategy is to let government shoulder bulk of campaign costs (like the practice in the US and some European countries).
- 1.3 Computerize** national and local **elections** to minimize/ eradicate cheating by candidates
- 1.4 Educate voters** to help them vote more wisely; likewise, education of candidates to make them more honest and competent public servants.
- 1.5 Eradicate/reduce vote-buying and selling.**
- 1.6 Implement fully all election-related laws,** especially the immediate disqualification of candidates who disobey said laws. If we end up disqualifying all candidates, then all the better.
- 1.7 Reorient** voters and candidates from personality-based politics to **party / program / ideology-based politics.** One possible way of doing this is to **abolish individual candidates from national and local elections. Instead of voting for individuals, voters will be asked to vote for political parties, based on the composition, track record, ideology, and program of government being offered by**

each party. The number of seats that a party can occupy in Congress will be based on the percentage of total votes it gets nationwide. The party will then appoint specific party members to occupy the seats it has won. One possibility is to give the party with the highest votes the right to appoint one of its members to be the nation's president or prime minister.

- 1.8 Implement anti-dynasty provision of 1987 constitution. As first step, Congress should pass enabling law, then IRR should be issued.
- 1.9 Make the candidate's program of action/governance a prerequisite for candidacy
- 1.10 Make it illegal for an incumbent president to run for the same position without resigning from the presidency (i.e., to prevent a repeat of what President Arroyo did, when she ran in the 2004 election without resigning as president, and was therefore allegedly able to use government funds and resources for her campaign, which allegedly led to what she called a "fiscal crisis," i.e., the near bankruptcy of the government after she allegedly used government funds for her campaign).
- 1.11 Make public debates to present platforms or programs an absolute requirement. Ban all acts that trivialize the electoral process (e.g., dancing and singing)

1.12 **AMEND OR SCRAP PARTY LIST LAW**

Unless the Party List law is amended to end the joke of token representation, it might be best to scrap the Party List system altogether. If all the party list representatives can do is make noise, they might as well do it outside Congress. Doing so will save millions of pesos wasted on useless party list representation. It will also end the cruel illusion that the interests of the poor are being protected and represented in Congress. At the very least, it will expose the true nature of Congress as a tool for elite rule.

1.13 **MAKE LOBBY PROCESS MORE AFFORDABLE**

- a. **Socialized Lobby Registration Fees**, i.e., make rich lobbyists subsidize poor lobbyists by making the former pay high registration fees, while allowing the latter to lobby for free or for a very affordable fee.

One possible way of setting the registration fee for rich lobbyists is to make them pay at least **five per cent (5%)** of

the value of the decision or action they are lobbying for.

For example, if cigarette and liquor manufacturers are lobbying for a tax measure which will reduce their taxes by at least one-billion-pesos per year, then they should pay a lobby registration fee of FIFTY MILLION PESOS (5% of P1 billion) which will go to a lobby subsidy fund for poor lobbyists.

- b. **Set up a Free Lobby Assistance Center (FLAC)** which will provide poor lobbyists with free expert lobby assistance and training, as well as financial subsidy for basic lobby expenses, e.g., transportation and food expenses for lobby representative. The FLAC can be a joint undertaking of government, civil society, and the private sector. Bulk of its funding can come from the lobby registration fees collected from rich lobbyists, augmented with funding support from local and foreign funding agencies.
- c. Help the poor **organize** strong cooperatives and people's organizations.
- d. Ensure that all major bills, laws, and regulations are **translated into main Philippine dialects** and disseminated through mass media to general public.

1.14 Mount a serious campaign against all forms of bribery of public officials by lobbyists.

Said campaign should **not be mere lip service or PR gimmicks** wherein small fish are sacrificed while big fish are untouched.

The campaign should start at the very top of the executive, legislative, and judicial branches. The President, her husband and children, her cabinet secretaries, all senators and congressmen, all Supreme Court justices should be fully investigated.

The death penalty for plunder (stealing of at least P50 million public funds) should be fully implemented. Most likely, there will be a drastic drop in corruption after several examples have been made of public officials convicted of plunder being given lethal injection.

Punishment should not be limited to those who accept bribes. **Lobbyists who give bribes should be equally punished.**

2. PROVIDE LOBBYISTS WITH MAXIMUM DEMOCRATIC SPACE

Democratic space is an absolute prerequisite for a development-oriented and rights-based lobby process. How can individuals or organizations lobby if they are afraid of getting killed whenever they criticize government officials/policies and the ruling elite.

The question of how to expand democratic space in the present Philippine political setting is ticklish and complex.

There are basically three possible reasons for the apparent inability of government to solve and stop the killings of activists and journalists:

First, a president unintelligent enough to covertly order the killings of activists and journalists.

Second, a president who is against said killings, has ordered them stopped, but is faced with a police and military force too incompetent or unwilling to carry out his/her orders.

Third, a president who is against said killings, but cannot order the killings stopped out of fear that rightwing extremists in the military and police organizations will mount a coup against him/her, on grounds that he/she is a communist sympathizer and therefore a threat to national security.

Under the first reason/scenario, the obvious option is to find ways to have such a president impeached before he/she brings the nation to total ruin.

Under the second scenario, the president should immediately fire the police and military officers who cannot or do not carry out her orders within deadlines set. She should keep on firing until she finds someone who fully carries out her orders.

Under the third scenario, the president should look for military and police officers intelligent enough to support her move to stop the killings. She should also call on media, church, civil society, and the general citizenry to support her purge of extreme rightists in the military. She should then move decisively to purge the military and police force of the extreme rightists.

3. DEVELOP LOBBYISTS AND LOBBY TARGETS WHO ARE PRO-DEVELOPMENT AND PRO-HUMAN RIGHTS.

Government must find ways to educate both lobbyists and lobby targets to make them understand, support, and practice the principle that lobby activities should not focus solely on narrow self-interests, but should have some positive contribution to the task of promoting human development and

human rights in Philippine society. Further, that they should refrain from undertaking lobby activities that are anti-development and anti-human rights, i.e., lobby activities which benefit only the minority and harm the majority. This is one of the most difficult prerequisites, especially when the temptation of big money is present.

**E. **DIAGRAMMATIC PRESENTATION OF PROPOSED THEORETICAL
FRAMEWORK FOR A DEVELOPMENT-ORIENTED AND RIGHTS-
BASED LOBBY FRAMEWORK****

(Please refer to printout of PowerPoint diagram.)

ANNEXES