

Ірина ЛАНТУХ
ОХОРОНА ПРАВ НЕПОВНОЛІТНІХ ВІД ПРОЯВІВ
БУЛІНГУ: ПОНЯТТЯ ТА СУТНІСТЬ

Анотація: проблема булінгу – сучасна, гостросоціальна. На неї не можна заплющувати очі, адже жорстокість часом переходить усі допустимі межі. Травля, або булінг (іноді також використовується термін «мобінг»), - це складний соціальний феномен, що мав місце, ймовірно, протягом усього періоду існування людини, її життя в колективі. Найчастіше він визначається як систематична цілеспрямована агресивна поведінка за умови нерівності сил чи влади учасників. Ключові характеристики - навмисність, регулярність, нерівність сили або влади.

Вперше, поняття булінгу з'явилося ще у XX столітті, проте його значення є відносно сучасним. Булінг є доволі серйозною проблемою нашого суспільства, оскільки як вже зазначалось, дане поняття полягає у агресивному поведженні однієї людини чи колективу до іншої. Дискусії щодо даної проблеми почали активно проводитися у продовж останніх тридцяти років на міжнародному рівні. Багато науковців з усього світу прагнуть всебічно розкрити дану тему та встановити найбільш якісні шляхи боротьби з даним поняттям.

На жаль, переглядаючи статистичні дані, ми встановили, що в Україні рівень булінгу є доволі високим, майже 89% школярів зазнають цькування з боку однокласників чи дорослих. При чому близько 40% замовчують дану проблему, оскільки соромляться розповісти про те, що над ними знущаються. Загалом у світі понад третини школярів віком від 13 до 15 років стали жертвами булінгу, при чому дівчата частіше зазнають саме психологічного тиску, а хлопці частіше зустрічаються з погрозами та фізичним насильством. Окрім цього, близько 37% дітей заявили, що булінг можливо зупинити шляхом залучення дорослих, тобто батьків. Саме тому у даній статті ми прагнемо розглянути такі питання, як: «Що таке булінг та як з ним боротися?».

Ключові слова: булінг, спостерігач, травма спостерігача, буллі, жертва.

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SCIENTIFIC APPROACHES TO THE DEFINITION
OF LOBBYISM AND ITS BASIC CONCEPTS

Abstract. In Ukraine, the phenomenon of lobbying is outside the legislative field, despite the general trend towards institutionalization of instruments for involving citizens in the national policies formation and implementation. The article analyses various approaches to the lobbying definition, compares the positions of scholars, and encyclopedic sources. As a result, the own concept is defined, as an activity of individuals or legal entities and/or their associations, aimed at representatives of public authorities, related persons, to influence certain actions or omissions in the rule-making process.

Keywords: lobbying; civil society; government relations.

Relevance of the study. The rapid democratization of society and the development of civil society institutions in the world should be accompanied by the inclusion of these actors in all processes of decision-making in the public administration sphere, which is possible only with the institutionalization of lobbying. We trace the trend in a world where in the life of

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developed democracies the role of lobbying is growing every year.

However, in Ukraine today such a phenomenon has not acquired an institutional character, so now lobbying is the opposite, complex, multifunctional system associated with shadowy forms of interaction between public authorities, "pocket" institutions of civil society and business. Therefore, the issues of not only the actual institutionalization of lobbying in Ukraine, its concept, mechanisms of application, forms of functioning, but also of the theoretical justification of lobbying remain open in the context of the functioning of public authorities.

The concept of "lobbyist" originated in the second half of the XIX century in Great Britain and the United States of America. These countries developed the systems of representative democracy, which provided collegial and procedural decisions consisting of many stages. Some of them had the opportunity to appeal to parliament and members of the government to address important public issues. Therefore, lobbyists were persons interested in promoting certain draft laws, as well as persons who directly addressed the heads or members of committees or other units of public authorities. As the strict regulations did not provide for the presence of outsiders in the meeting rooms, members of such "groups of pressure" were in the lobby, so they were called lobbyists.

In the context of the understanding of lobbying the particular interest is provided by the periods of its formation in the historical and political retrospective. In "Features of the Process of Forming the Institute of Lobbying" R. Matskevich identifies the following milestones [11]:

1) Religious (2nd half of the XVI century) is associated with the great influence of religious organizations on the adoption of significant socio-economic and political decisions by government agencies;

2) Secular (1st half of the XVII century) – associated with the process of discussing and making the necessary diverse decisions during secular (formal and informal) meetings;

3) Parliamentary (mid-XVII century) – associated with the active work and political rise of the British Parliament;

4) Debatable (1st half of the XIX century) – associated with the beginning of a heated political debate in the US Congress;

5) Group (mid-XIX century) – associated with the formation and development of group political interests in the US Congress;

6) Political and legal (2nd half of the XIX - early XX century) – associated with the negative content and qualification of lobbying as bribery.

For outlining the main problems of lobbying in the modern world and Ukraine, first of all, it is necessary to define the concept of "lobbying" in its interpretation, noting all the factors and aspects of the functioning of such a phenomenon in the modern world.

Recent publications review. A number of works by Ukrainian scholars were devoted to the theoretical and methodological development of lobbying, as D. Bazilevych, M. Banchuk, O. Binetskyi, A. Bykobets, V. Brustynov, O. Voynych, I. Voronov, M. Gazizov, Y. Ganzhurov, V. Hotsuliak, O. Hrosfeld, A. Denysiuk, O. Diaghilev, O. Karpenko, N. Lapin, V. Lapkin, V. Lepekhin, M. Lopata, A. Lyubimov, R. Matskevich, M. Muntian, M. Nedyukha, V. Nesterovych, O. Pavroz, V. Sumska, E. Titomirova, P. Tolskykh, A. Trofymenko, V. Fedorenko, D. Chernohatniy, and others. Among foreign scholars who have devoted their research to the issue of lobbying should be identified Ch. Weiss, Ch. Endrein, D. Truman.

Discussion. A significant number of legal scholars, such as O. Diaghilev, V. Nesterovych, A. Lyubimov consider the definition of lobbying in terms of the legal system and note the need for legal legalization. Thus, O. Diaghilev notes that lobbying is a set of norms that require legalization, based on the inalienable constitutional right of citizens to participate in the public affairs management, and are regulated at the legislative level arising in the process of protecting their interests through methods of influence on public authorities and local governments not prohibited by law [1].

V. Nesterovych considers lobbying exclusively in the legal sphere, without taking into account its social aspect. In his opinion, lobbying is a set of legal norms regulating the process of legitimate influence on authorities clearly defined by law, as well as on their officials by duly registered and accredited persons in order to secure their own interests or the interests of third parties in the regulations to be adopted [14].

The definition of "lobbying" by A. Lyubimov is quite thorough. In his understanding, lobbying is a set of norms governing the interaction of citizens, public associations, organizations, enterprises specializing in lobbying, other subjects of legal relations with public

authorities to influence the decisions of interest for lobbyists to actively defend their interests [10]. As a consequence, we conclude that lobbying is a set of rules governing the legitimate activities of citizens, who aims to protect their own interests.

There is another vision of the definition of lobbying as a social and communicative phenomenon formed between the public and public authorities, with a predominant political aspect, by the group of philosophical scholars of the school of parliamentarism such as O. Karpenko, M. Nedyukha, Y. Ganzhurov, V. Sumska, M. Lopata, E. Titomirova, M. Muntian, and others.

O. Karpenko considers the concept of "lobbying" exclusively from the social aspect. He notes that lobbying is a widely recognized means of the formal and informal influence of interest groups on government structures in order to make the decisions they need; the purposeful influence of political and social forces on the legislative, executive, and state authorities in order to satisfy their interests [6].

Also, there is a noteworthy interpretation of "lobbying" in the scientific works of M. Nedyukha, who interconnects to the concept of lobbying and the communicative aspect. According to him, lobbying is one of the most common forms of influence of voluntary associations of people (interest groups) on the authorities in modern democratic societies; an extensive system of offices and agencies of monopolies or organized groups under the legislature and government, which exert pressure (from persuasion to bribery) on the latter to make decisions (adoption or blocking of parliamentary consideration of certain laws, government orders, subsidies, etc.) in the interests of organizations they represent [13].

If we consider "lobbying" as the communication process, we should also dwell on the works of Y. Ganzhurov, who recognizes lobbying as a necessary phenomenon in the relationship between the state and society. According to him, lobbying should be seen as an integral part of political communication, which provides a mechanism for direct communication and feedback between society and the state. The processes of decision-making, the mechanism of influencing public opinion, defending one's own position, - all this, in a broad sense, can be perceived as a phenomenon that corresponds to the concept of "lobbying" [5].

On the basis of a thorough theoretical analysis, V. Sumska gives a broad definition of lobbying. In particular, she represents it as the activity of individuals, including individual entrepreneurs, their associations, advisory bodies established under public authorities or local governments, legal entities and their associations, carried out in the manner, not prohibited by law, and aimed at exercising a legal influence on public authorities and local governments, their officials during the adoption, amending, revoking their decisions, other than the individual ones, in order to consolidate lobbyists own interests or the interests of third parties [16]. It is obvious that in this definition the scholar represents lobbying as a legalized form of communication. However, we must not forget that in most countries of the world, lobbying does not have an institutionalized status, but always exists where there are power relations.

M. Lopata proposed considering lobbying as an attempt of organizations or individuals to influence not only the adoption, rejection, or amendment of laws in the parliament, but also as an attempt to influence government administrative decisions, relying not only on elected deputies but also on various political parties, governmental and non-governmental institutions, and public support through the media [9].

In "Public Relations" E. Titomirova suggests that lobbying should be understood as the interaction of legal entities and individuals with the authorities, the purpose of which is to influence the development and adoption by these bodies of legislation, administrative, political, and other decisions of their interests or interests of their customers [17].

In his scientific works, M. Muntian adds the term "groups of pressure" to the definition of "lobbying", which gives it a modern reflection of the process. In his opinion, lobbying is a form of legal influence of "groups of pressure" on the management decisions of state bodies in order to satisfy the interests of certain social structures (organizations, associations, territorial formations, strata of citizens, etc.) [12].

In general, lobbying is seen as causing pressure on public authorities by conducting political communication to protect the interests of individual stakeholders.

It should be noted that in the Ukrainian works on public administration in defining the term "lobbying" much attention is paid to the functioning of public authorities in this process, which is not correct in our opinion. Lobbying concerns not only public authorities but also the public sector as a whole, and namely public authorities are only the subjects of this process. It is also worth noting that lobbying is not a purely legislative, political, communication, or social

process; lobbying works with the harmonious interaction of the above aspects, which is the main complexity of this process.

Considering the development of foreign scientific works in political science and public administration, we note that Ch. Weiss characterizes lobbying as the work of individual citizens, organizations in order to influence the adoption or rejection of the law in parliament, relying on the support of deputies, political parties, non-governmental organizations through the media [7].

The classic definition of lobbying in foreign science is the formulation of D. Truman, who identifies the concept of lobbying and interest groups; he notes that interest groups are groups consisting of people who are guided by certain interests and views in order to influence other social groups. Groups that use government organizations to achieve their goals are political interest groups [18].

According to S. Finer, lobbying is any activity of organizations that influence public authorities in order to promote their own interests, and these organizations, unlike parties, can not take responsibility for power in the country for themselves [4].

Attention should be paid to the opinion of the scholar F. Farnel, who notes that lobbying is a productive intervention in economic and social processes using political methods and tools [3].

He emphasizes that lobbying helps to strengthen the foundations of tolerance in society. L. Zetter in his scientific works considers lobbying as a process of finding ways to influence the government and its institutions by informing the public about political issues on the agenda [19].

So a distinctive feature of the views of foreign scholars is that they reflect the concept of lobbying from a positive point of view, noting the benefits of such activities for society through increased public involvement in these processes. In their turn, Ukrainian scholars reflect lobbying exclusively as a negative process that takes place in the public space, as it primarily refers to illegal practices of influence of interest groups on the authorities.

Encyclopedic literature, in particular the legal encyclopedia, understands lobbying as a set of legal norms governing the participation of citizens, groups of citizens, public associations, organizations, enterprises specializing in lobbying, other subjects of legal relations with public authorities that influence the adoption decisions necessary for lobbyists [8].

The encyclopedia of public administration states that lobbying is the activity of social groups and individuals who defend their special political interests; groups of pressure on the legislature and the executive powers [2].

The Political Encyclopedia highlights the concept of lobbying as a legal form of influencing the government and states that lobbying is an element of the political process in democratic societies, which does not involve direct bribery of government officials, and does not go beyond the law [15].

It should be noted that at the legislative level the concept of lobbying has not yet been defined in Ukraine: despite the registration of a significant number of draft laws aimed at defining and regulating lobbying, as of 2021 the relevant Law of Ukraine has not been adopted.

At the same time, scholars in Ukraine and around the world are still debating the definition of the subject of lobbying (interest group or group of pressure), the object of lobbying (only parliament, or executive bodies, local governments and their officials, other bodies public authorities, and possibly assistants and advisers to officials), as far as this phenomenon fits into the legal and moral norms of society, as well as whose interests are affected by lobbying (public, customer or their own).

Examining the works of domestic and foreign scholars and definitions in encyclopedic sources, we include the following features to the concept of lobbying:

- aimed at public decisions, regulations, legislative procedures and actions of the state, and stakeholders;
- related to communication in public space between stakeholders, the public and public authorities;
- aims to influence public authorities;
- consists in informal representation of interests in public decisions.

Also, Ukrainian and foreign scholars focus on the scope of lobbying as an object, mostly noting the negative consequences or both positive and negative consequences. Instead, encyclopedic sources outline only a framework for lobbying, defining its key features, such as the activities of individual groups to influence the authorities.

Conclusions. After analyzing the interpretation of the concept of "lobbying", we

determined our own scientific definition, based on the experience of scientists, the state of development of social relations, and the place of such activities in state-building processes. Accordingly, lobbying is the activity of individuals or legal entities and/or their associations, aimed at representatives of public authorities and related persons, in order to exert influence to commit certain actions or omissions in the rule-making process. In this case, lobbying activities include not only self-directed communication but also the preparation, planning, coordination, research, or any other ancillary work to form the basis for the decision being lobbied.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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Інна МАРКУС

**НАУКОВІ ПІДХОДИ ДО ВИЗНАЧЕННЯ
ЛОБІЗМУ ТА ЙОГО ОСНОВНІ ПОНЯТТЯ**

Анотація. В Україні явище лобіювання знаходиться поза межами законодавчого поля, незважаючи на загальну тенденцію до інституціоналізації інструментів залучення громадян до формування та реалізації національної політики. У статті аналізуються різні підходи до визначення лобізму, порівнюються позиції науковців, енциклопедичні джерела. Таким чином, власне поняття визначається як діяльність фізичних чи юридичних осіб та/або їх об'єднань, спрямована на представників органів державної влади, пов'язаних осіб з метою впливу на певні дії чи бездіяльність у процесі законотворчості.

Ключові слова: лобізм; громадянське суспільство; державні відносини.