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The Ethics of Political Lobbying: Power, Influence,
and Democratic Decline

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Lobbying poses an urgent threat to democracy. The problem is not principally one of a lack of transparency, or that lobbyists comprise a secret cabal of anti-democrats at the heart of the democratic system, or even that lobbying is a form of corruption (Parvin, 2016). The problem goes deeper and wider, and its solution requires nothing less than a fundamental re-ordering of the modern state, and a winding back of nearly a century of democratic decline. Moreover, it requires action on the part of an institutional regime which is now dominated by powerful lobbies who have proven themselves unwilling to permit necessary reform.

The story I tell in this piece is controversial and, I have been told, depressing. But it is a story borne out by nearly a century of empirical work produced by social and political scientists. It is also a largely untold story, at least among Anglo-American political and democratic theorists, many of whom who are largely pre-occupied with questions concerning citizen participation and deliberation (Sabl, 2015). My story is *controversial* because it suggests that the debates which dominate contemporary democratic theory are not in fact as central or as pressing as many democratic theorists believe and that the growth in interest in deliberation, for example, has squeezed out other, bigger structural issues which pose a far more significant threat to democracy in the contemporary era than deficits in certain forms of deliberation or widespread participation. It is *depressing* because it describes the emergence of a problem that contemporary democracies do not have the resources to resolve, or so it seems. So deep is the problem, and so tightly ingrained is it in the practice of contemporary democracy, that it may be irresolvable. It is

currently irresolvable. Whether it remains so depends on whether political theorists, social and political scientists, and politicians grasp the issues and work together to seek real change. For reasons I outline later, this is unlikely.

Lobbying poses a complex, macro-level threat comprising three parts. Furthermore, it poses not a single threat but a dual one: a first and second order threat to democratic theory and practice which all political philosophers should consider a priority. Let me unpack these two sentences before presenting my case in more detail. There are two levels at which we might examine the ethics of lobbying in democratic states: the *macro* and the *micro* level. Macro level analysis would discuss the appropriate role of lobbying in democratic politics broadly conceived, and would seek to determine whether, and to what extent, *unelected* organisations should be able to exert pressure on *elected* decision makers. Micro level analysis would examine in detail the behaviour of lobbyists themselves and the techniques that they use to influence decision-makers and evaluate them against some independently determined ethical standard. Micro level analysis is only useful if there are found to be no systemic threats to democracy posed by lobbying at the macro level. If lobbying is just contrary to democratic theory and practice then *any* techniques that unelected organisations might use to exert pressure on elected representatives would also be contrary to democracy. Lobbying *is* a problem at the macro level. Hence, my discussion herein only tangentially addresses the techniques employed by lobbyists, and focuses instead on macro level questions about the general role that lobby organisations play, and should play, in liberal democratic states.

For many, the answer is obvious: lobbyists have little or no role to play in liberal democracies. In a representative liberal democracy power is legitimised through the transfer of sovereignty from citizens to political bodies through elections, they say. In such a system, it is not clear how or why *unelected* groups and organisations should be able to

influence the development of public policy, or what the status of such entities should be vis-à-vis states, governments, legislatures, and citizens (Lessig, 2011; Miller & Dinan, 2007).

But lobbying is an important component of democratic life. The commitment to liberal freedoms of assembly and speech which are supported by democrats of all stripes combine to permit citizens to join with like-minded others and to collectively seek to influence decision-makers (Levy, 2014). Furthermore, democratic citizens are broadly assumed to be able to contribute financially to support these groups' ability to influence politicians on their behalf. Citizens are free to join with one another in an attempt to pressure governments to advance their interests, just as they are free to pay a pressure group, trade association, or trade union to do so on their behalf. Many democrats have emphasised the central need for individuals to be able to affect change through collective action and pressure politics (Cohen & Sabel, 1997; Dryzek, 2012; Habermas, 1996; Young, 2002). Even lobbying's harshest critics acknowledge that the ability of groups and individuals to lobby their elected representatives as well as other organs of the state, is 'central to a healthy democratic system' (Cave & Rowell, 2014, 9).

Developing a coherent position on lobbying thus requires us to balance these opposing concerns. But how might we do so? The answer is not obvious. Philosophers and political scientists have long disagreed over the appropriate role of private interest groups or 'factions' in political life, and in democracy more specifically. Some have emphasised their benefits (Benhabib, 1996; Dahl, 1989; Fraser, 2004; Hirst, 1994; Putnam, 2001; Tocqueville, 1835-1840), and lobbyists themselves have often defended their role in providing important information to over-worked politicians (Chari et al, 2012; Lessig, 2011; Zetter, 2014).

More often, however, factional interests have been seen as a potential threat. Neo-pluralists, Neo-Marxists, and others have criticised the pluralists' optimistic vision of a self-policing polyarchy, arguing that the capitalist economy will cause certain interests (like those of businesses) to become dominant (Lindblom, 1977; Lowy, 1979; Miliband, 1969). Many libertarian and classical liberals have also criticised lobbying on the grounds that it undermines free markets (Aidt, 2016). Others still have questioned the positive role of civil society groups and their compatibility with democracy (e.g. Boyd, 2004). Further back, Plato and Aristotle both believed that private interests jeopardised political stability and, hence, the just state (Plato, 2007; Aristotle, 2015). Hobbes saw factions as the enemy of the state and the cause of potentially ruinous conflict, and Rousseau believed that they undermined the general will (Hobbes, 2008; Rousseau, 2012). Plato, Aristotle, Hobbes, and Rousseau shared the view that it was necessary to impose quite considerable constraints on individual liberty in order to diminish the role and influence of factions, or to eradicate them.

For the framers of the American constitution, and for James Madison in particular, however, factions posed a very different problem (Madison, 2017). In the Federalist No. 10 Madison argued that factionalism posed a fundamental challenge to freedom and equality, and to securing the common good. However, he also recognised that factions were a *consequence* of freedom and equality and hence, rejected *both* the claim that constraints on individual liberty were a justifiable cost to dealing with them *and* that states should seek to eradicate them. Factions, he believed, were an inevitable product of liberty and human diversity: free citizens will develop divergent interests which they will seek to advance over the interests of others either individually or collectively. As we cannot destroy factions without first destroying the conditions of liberty which give rise to them, we instead need to structure social and political institutions in such a way as the emergence and activities of factions can be managed in accordance with liberty, equality,

and justice. Madison believed this required three things. Firstly, impartial representative institutions capable of adjudicating conflicts among competing factional interests. Secondly, reducing social and economic inequalities in order to ensure political equality for all citizens (Madison, 1792). And thirdly, encouraging citizens to form factions in the hope that this would produce a proliferation of many small groupings would protect against the rise of large dominant groups.

I apply Madison's theory of factions to contemporary democratic states in order to reveal the problem with lobbying and what, if anything, might be done to tackle it. The lived reality of democratic politics in the contemporary era should lead us to be much more pessimistic than Madison was about the general role of vested interests in political life and about the prospects of finding political solutions to the problems they pose. The problem for democracy posed by lobbying is precisely that states have not implemented, and now arguably *cannot* implement, Madison's three point plan to make factions compatible with democracy. Liberal democratic states should be committed to protecting the individual liberties which give rise to lobby organisations, and they should also ensure that any such emergent groups are able to influence the political agenda. However, these fundamental commitments impose duties on states to also ensure that lobby organisations emerge and operate in ways which are consistent with wider democratic principles. They have not done so, and Madison's theory helps us understand how: they have failed to ensure that representative institutions remain impartial with regard to conflicts of private interest, they have failed to ensure the background distribution of resources which necessary to prevent the disproportionate concentration of political power in the hands of economic elites, and they have failed also to encourage the proliferation of interest groups capable of representing the interests of a wide range of citizens.

This is what I meant when I said that the problem posed to democracy by lobbying has three aspects. I outline each of these aspects in turn in the next two sections in order that, by the end, we are in a better position to understand both the nature and scope of the problem, and its implications for democratic theory and practice. My overarching claim is that liberal democratic states have experienced profound changes over the past three quarters of a century that have resulted in a concentration of vast and disproportionate powers in the hands of corporations and lobby organisations which represent the wealthy. They have also fuelled widespread citizen disengagement, and declines in trust and the social bases of grassroots politics which have marginalised citizens, and poorer citizens in particular.

Furthermore, I argue, these changes have entrenched lobbying as a *first-order* and a *second-order* threat to democracy – that lobbying is not a single threat but a dual one – that renders it uniquely problematic and intractable. Lobbying poses a *first-order* threat to democracy for the negative effects that it has had, and continues to have, on the ability of states to operate in accordance with democratic principles. But it also poses a *second-order* threat to the capacity of liberal democratic states to reform themselves in ways which rectify the problem. While it is possible to identify possible first-order strategies which would help bring the lived reality of democracy into line with democratic principles (as I do in section 3), the nature and scope of these changes suggests that there is now almost no possibility of these reforms being implemented.

Two definitions before we begin. For the purposes of this piece, I use Chari & Kritzinger's definition of a *lobbying* organisation, 'whether motivated by economic, professional, or public concerns, as "any group, or set of actors, that has common interests and seeks to influence the policy making process in such a way as their interests are reflected in public policy outcomes"' (Chari et al, 2012, 3). Many different organisations lobby decision

makers, so our definition needs to be broad enough to encompass them all. Also, it needs to capture all the many different activities in which these organisations engage (Parvin, 2007).

I define *democracy* in broad terms, as a system of government in which all citizens are understood to be politically equal in two connected senses: (a) all citizens should enjoy a the ability to influence the course of political decision making through their participation in the democratic system, and (b) no individual or group should be excluded from the process of decision making, or their concerns ignored, on account of the fact that they are a minority. This basic commitment to political equality connects with, and facilitates, the democratic state's ability to ensure the liberty of its citizens via self-government. Citizens excluded from the democratic system, or whose views are systematically marginalised, are not self-governing and, hence, are not free. Democracies are thus charged with (a) protecting the liberty and equality of all individual citizens against the tyranny of dominant factions and majorities, and (b) ensuring that political decisions track the will of the people, while also (c) holding this will subject to constitutional and legislative checks. I henceforth refer to these two principles – of freedom and equality thus understood – as 'democratic principles'.¹

1. From government to governance: the rise and scope of lobbying.

Lobbying is not merely the preserve of big business or corporations: it is practised by a wide range of organisations in the public, private, and third sector, including NGOs, think tanks, trades unions, campaign organisations, charities, and trade associations (Parvin, 2016). It is also not a niche activity: it is a central aspect of democratic decision making in Britain, Europe, and the USA, and the conduct of politics at a global and international level. This is the first aspect of the problem. Lobbying is now so ingrained in the political system

and so central to the core activities of the modern state that it has forced many political scientists to re-think their understanding of democracy from the ground up (Baumgartner, 2009; Berry, 1999; Bevir, 2010; Rhodes, 2017). Political philosophers must do so too.

For liberal democratic states have experienced profound change in the past three quarters of a century, change which exerts pressure on widespread assumptions about democratic theory and practice as well as conventional understandings of the state and its relationship with citizens. These changes are associated with two inter-connected developments: widespread declines in citizen engagement and a rise of elite governance (Parvin, 2009, 2011 & 2018a). Mainstream democratic theory has long presumed and required the presence of a flourishing civil society which acts as a bridge between citizens and their representative institutions, and builds democratic capacity (Knight & Johnson, 1998; Parvin, 2015; Putnam, 2001), as well as a generally politically active citizenry. Civil associations are a prerequisite of grassroots political activism: they mobilise citizens, educate them about political issues of common concern, and also provide a conduit through which the dispersed concerns of members can be brought together and communicated to decision makers (Cohen & Sabel, 1997; Habermas, 1996; Whiteley, 2012). Grassroots associations and broad-based membership organisations facilitate effective representation. They have also long provided an important source of expertise and useful experience on which states have drawn in the process of identifying and resolving political problems (Dryzek, 2001; Fung, 2015; Goodin, 2012; Hirst, 1994; Landmore, 2017; Young, 2002). Democracy, many theorists suggest, might best be understood as a 'system', or a linked collection of 'multiple publics,' in which citizens pool their on-the-ground experiences and concerns and communicate them up to government via 'representative' organisations and groupings (Mansbridge, et al, 2012; Benhabib, 1996; Fraser, 2004).

Civil society has declined and changed in ways which undermine democratic theory and practice, however. Numerous factors have combined to weaken traditional associational bonds and reduce the number and influence of grassroots associations. As a consequence, representative organisations have slowly *replaced* citizens in the democratic system (Putnam, 2001; Parvin, 2016). This has in turn led to a decline in traditional civic life in many states, but also declines in citizen engagement and trust (Parvin, 2015; Putnam, 2015; Skocpol, 2004; Skocpol & Jacobs, 2005). A recent survey found that only 17% of UK citizens now 'trust the government to put the needs of the nation first', compared to 38% two decades ago. Meanwhile, trust in the credibility of politicians is now at 9%, with disproportionately low levels of trust, participation, and political knowledge reported among citizens at the lower end of the wealth and income distribution (Apostolova et al, 2017; Hansard Society, 2017). And while there was never a 'golden age' of associational membership, empirical data collected over the past half-century nevertheless shows a marked decline in citizens' willingness to join a range of associational groups over that period. Membership of political parties in the OECD countries has fallen precipitously since the mid-1950s, for example. In the UK, the combined membership of the two largest parties – Conservative and Labour – currently stands at around 676,000, a drop of nearly 2.5m since the 1950s. Despite recent rises in the membership of smaller parties and also the Labour party, party membership remains very unpopular among British citizens, with only 1.4% of the UK's eligible voters currently a member of any party (Audickus et al, 2018). Trade union membership has also fallen from around 13m in 1979 to around 6.2m in 2017 (UK Dept. of Innovation and Skills, 2015). These declines are perhaps even more surprising than they seem, given that the UK population is actually growing by 6% a decade. Many millions of citizens eligible to vote in general elections fail to do so, and even fewer vote in local and European elections or the newly-established elections for local authority mayors and Police and Crime Commissioners (all of which see average turnouts of around 30%). The number of people

registered to vote fell by 1.5m in the five years between 2011 and 2016. In the US, turnout in mid-term and Presidential elections remains low, with only 55% of voters casting a ballot in the 2016 Presidential election, and 36% doing so in the 2014 mid-terms. Declines in turnout over this period are most notable among 18-24 year olds (around 10%), and the number of 18-24 year olds registering to vote has fallen by 14%. And like in Britain, membership of political parties and trade unions, as well as other markers of civic activism, group membership, and grassroots political action are all in decline (Berry 1997; Macedo et al, 2005; Putnam et al, 2005; Skocpol & Jacobs, 2005).

The business of politics, once connected to citizens by mechanisms that made sense to them, and by bridging organisations and associations that they identified with, now stands adrift from them. States and citizens have reacted in their own ways. *States* have retreated further from citizens and looked elsewhere for the epistemic insights that were once provided by citizens through grassroots organisations, driving citizens to the margins of political life (Parvin, 2016; Baumgartner, 2009). *Citizens*, internalising their marginalisation, have disengaged from politics and become resentful toward their representatives and the democratic system in general. Citizens have become marginal and cut off from the business of democratic life and, importantly, have come to *understand themselves* as marginal and cut off from the business of democratic life (Hansard Society & Electoral Commission, 2017; Macedo et al, 2005; Mair, 2013).

Grassroots and traditional associations still exist, but the citizens who compose their memberships are not the active citizens for whom these organisations were created (Mair, 2013; Parvin, 2015). They are citizens who have seen their role in the democratic system, and the value of their political participation, eroded by the liberal state's retreat into elitism. Grassroots organisations have tended to rely on a wide and often dispersed, but active and enthusiastic, membership. Such groups have found it increasingly difficult to rely on

the continued support of members who are realising that the traditional mechanisms of representation offered by these organisations are increasingly ineffective, and who are increasingly viewing the requirements that they tend to make of members in terms of participation and time as too onerous (Skocpol, 2003; Stoker, 2006). Just as representative democratic systems have become increasingly unable to rely upon their citizens to engage in the forms of political behaviour that they require in order to function as intended, so the groups charged with representing citizens' concerns in the democratic process have become increasingly unable to rely on those citizens who constitute their memberships to engage in forms of behaviour which these groups need in order to represent their interests effectively (Achen & Bartels, 2016; Hay, 2007; Schlozman et al, 2012; Skocpol, 2003). Across many liberal democratic states, including the UK and the USA, grassroots organisations have declined in size and strength as the communities which historically provided their core constituencies have all but disappeared (Putnam, 2001; Skocpol, 2003, 2004 & 2005; Whiteley, 2012).

As civil and associational life has declined, and as political engagement among citizens has diminished, representative citizen associations and organisations have had to adapt to the rise of new forms of governance in which decision making and policy formation are the product of deliberations among elite actors rather than between states and their citizens, and in which expertise, not strength in numbers, is the new currency (Fischer, 2009). As liberal democratic states have transitioned away from a model of *government*, in which elected representatives make policy decisions in consultation with citizens, to a model of *governance*, in which policy decisions are made by a community of state and non-state actors at the elite level, decision making and policy development have been driven ever further from citizens, and ever higher into an elite hierarchy populated by experts and insider groups (Bevir, 2010). Consequently, the effective representation of citizens' interests in these processes by representative organisations and groups has

required an ability on the part of these groups to engage with this expert community in terms that the members of *this community* understand, rather than in terms understood, and expressed, by their *own* members.

Hence, many organisations that had traditionally relied on direct action and grassroots activism to affect change shifted in the late 20th Century toward a more centralised approach focused more on legal advocacy and professional lobbying (Parvin, 2016). In the USA, for example, 'where it once made sense to try to get things done by first gauging the opinions of grassroots association members, and influencing officials and representatives in the localities and states, it now made much more sense for civic activists to aim their efforts at national media and engage with staffs or agencies in Washington' (Skocpol, 2003, 201-202). Similarly, in Britain Greenpeace focuses less now on direct action and more on broader public affairs, media and lobbying campaigns than they once did, as does Friends of the Earth, Amnesty International, and many others (Berry, 1997; Jordan & Maloney, 2007).

The dramatic rise in the number and influence of professional lobby organisations in the USA is most obvious from the 1960s, and was driven in part by the success of the Civil Rights movement and the women's movement in achieving social and political reform through an emphasis on equal *rights* (Skocpol, 2003). As political conflicts increasingly became framed in terms of rights, political organisations reframed their campaign activities within a rights discourse. Consequently, they diverted resources away from the management of relations with members and toward the employment of policy experts, specialist legal teams, political communications operatives, and so on, in order that they might engage more effectively with those majoritarian and non-majoritarian institutions charged with the development of public policies and the protection of civil rights, and the various other non-state organisations which feed into this process (Holyoke, 2014). The

locus of political campaigning expanded, as groups increasingly sought change through the courts as much as they did the government or legislature. And as the tendency to frame political conflicts in terms of rights spread, so did the professionalisation of interest groups and the marginalisation of members from these groups' core activities. While organisations like Greenpeace and Amnesty International continue to enjoy relatively large memberships, they are largely inactive and peripheral. The real business of influence and representation is not conducted through the mobilisation of members to engage in campaigning activities, but is rather conducted via specialist lobbying techniques and strategies, as well as professional legal advocacy, that the vast majority of members do not understand and do not contribute to, except financially.

The scale of the decline in the power and influence of traditional grassroots movements, and of citizens more generally, and the concurrent rise of lobby organisations in contemporary mechanisms of decision making and policy formation in liberal states including, but not limited to, the USA and Britain should not be underestimated (Knoke, 1986). Liberal states have, since the 1960s, witnessed an explosion in the number and diversity of organisations establishing permanent offices in Washington DC, Brussels, and other centres of policy making in order that they could more easily monitor, and contribute to, debates among policy makers, lobby key representatives, and raise their agendas with journalists, at the same time as they have witnessed declines in citizen engagement, participation, and trust (Baumgartner, 2005; Rauch, 1994). There are currently over 22,000 registered interest groups and advocacy organisations based in and beyond Washington DC, and over 40,000 individuals and groups across the US who lobby at the state legislature level. According to the EU Transparency Register, around 11,000 groups and organisations from the private, public, and third sectors are currently 'engaged in activities seeking to influence the EU policy and decision making process' in Brussels (European Commission, 2012; p. 3; European Commission, 2017).

Considerable lobbying activity is also visible at the local and national levels in EU member states, particularly in the major financial and political centres like Berlin, Geneva, and Madrid. However, finding out exactly how many lobbyists work in different states is incredibly difficult, given the number and diversity of organisations involved. In Britain, the political consultancy sector alone employs around 14,000 people and has been valued at over £1.9 billion (Parvin, 2007). The true size and extent of private sector lobbying in Britain remains largely unknown, however, as it includes the activities of a wide range of professionals working in a diverse range of overlapping areas including public affairs, government relations, policy research, media relations, strategic communications, crisis management, finance, and law. Add to this those lobbyists who work *outside* of the private sector in trade associations, think tanks, etc., and we can begin to appreciate the full scale and complexity of the British 'lobbying industry', and also the many ways in which the British democratic system has afforded these groups greater and greater formal access. MPs in the UK may be approached upwards of 100 times a week by lobbyists from a range of organisations and sectors in Britain and beyond and the government regularly consults outside groups when developing policy (Parvin, 2007). Other states, too, have made moves to more fully incorporate unelected representative organisations into the formal system of decision making and scrutiny. In the US, think tanks and 'special interest groups' occupy a very influential place in the legislative process through the various contributions they can make to politicians' election campaigns, their networks, and their lobbyists at the national, state, and local levels. States increasingly draw upon the expertise of international NGOs, charities, and voluntary bodies in the formation and implementation of policies concerning aid, trade, human rights, development, and regularly work with professional bodies, intra-governmental organisations, and research institutes on constitutional questions arising out of relations with other nation states and European institutions.

Furthermore, states increasingly rely on non-state actors to *deliver* policy. In Britain, for example, third sector organisations such as Christian Aid and Oxfam exert powerful influence over government policy in areas such as overseas aid and development. But they also receive considerable public funding in order to help them deliver these policies on the ground. Moreover, many services which were once directly managed by the state have, since the 1980s, been contracted out to private businesses at considerable public cost. The National Audit office has concluded that around 50% of the total money that the UK spends on public services every year is paid to private companies which in turn devote a vast amount of time and resources lobbying governments in relevant policy areas (NAO, 2013).

Recent estimates suggest that the total amount spent by organisations across all sectors on lobbying in the USA alone exceeds \$30b a year. Taken together, hundreds of billions of dollars a year are spent by organisations of various kinds across the world on influencing policy, gaining access to decision-makers, and raising awareness of issues among legislators, the media, and 'stakeholder groups', all while the citizen populations of these same states are more disengaged, inactive, and resentful towards politics and democracy than ever.

2. Lobbying, inequality, and access.

Lobbying is now central to the business of governance in liberal democratic states, then. But this alone is not what makes it problematic. There is nothing intrinsically undemocratic about a form of politics in which unelected organisations are empowered to represent 'special interests' among decision makers at the elite level. The problem is also not that lobbyists comprise a secret and malicious presence at the heart of democracy, or that they

are collectively motivated by some pernicious desire to destroy democracy, despite the fact that it is common for critics to portray them as such (e.g. Cave & Rowell, 2014). Lobbyists are not all motivated to do any such thing, and they are not all corrupt. In fact, the vast majority of lobbying is practiced by 'decent people, people we should respect, people working extremely hard to do what they believe is right' (Lessig, 2011). The problem, as I said in the introduction, is not at the micro level of individuals' behaviour, but at the macro level; it is that all lobbyists are working in a system that no longer ensures the appropriate political conditions for fair access and influence.

It would be possible to explain the changes outlined in section 1 in terms of a neo-liberal power-grab, in which corporate interests used their economic advantage to circumvent the democratic system and forced other organisations to participate in a system in which they were less-equipped to participate, resulting in the decline of these organisations and the marginalisation of citizens (Skocpol, 2003). Alternatively, it would be possible to understand it as a pragmatic response by institutions to citizen disengagement and the increasing complexity of public policy dilemmas (Parvin, 2015, 2016, 2018).

The real challenge posed by lobbying does not in fact rely on either of these explanations being true. Whatever the reasons behind the changes outlined in section 1, their occurrence has resulted in a profound disconnect between citizens and states the effects of which are not distributed equally among citizens. Recall Madison's concerns about factionalism, and his three-pronged solution to resolving them: the establishment of impartial representative institutions, the alleviation of extreme inequalities in wealth, and the encouragement of citizens to create factional groups in order to ensure against domination by large groups. The reason why we should be concerned about the role that lobbying plays in contemporary democracies, I suggest, is because contemporary liberal democratic states have failed to do any of these three things. States have failed to

establish the political conditions necessary for lobbying to remain consistent with democratic principles.

Because the problem with the story that I have told thus far is the part that I left out: that while it is true that states have retreated from citizens, they have not retreated from all citizens to the same degree. This is the second aspect of the problem, and the one that renders the first especially problematic. The trajectories of democratic reform that I have thus far outlined have had a disproportionately negative impact on the poor. While many citizens feel disillusioned with politics and powerless to get their voices heard, the poor feel it most acutely, and with good reason: citizens of low socio-economic status not only *feel* more cut off from politics but *are* more cut off from politics (Achen & Bartels, 2016; Birch et al, 2013; Skocpol, 2004; Lawrence & Birch, 2015; Macedo et al, 2005; Schlozman, 2012). Not only are such citizens less likely to engage in political activities, they are also less likely to have their concerns represented by lobby organisations. As Theda Skocpol put it in 2003, in the USA, 'the economically disadvantaged continue to be under-represented in pressure politics. Organisations of the poor themselves are extremely rare, if non-existent, and organisations which advocate on behalf of the poor are relatively scarce' (Skocpol, 2003, 54). The situation has worsened since then. Cause-oriented lobby groups 'and professionally managed institutions offer wealthy and well-educated Americans a rich menu of opportunities to in effect hire experts to represent their values and interests in public life' (Skocpol, 2003, 219). Poorer and less well-educated citizens have not been offered, or have not been able to take up, such opportunities. Grassroots associations have typically been more effective at mobilising poorer citizens, representing them, and building their democratic capacity. Their decline, and their replacement with hierarchical lobby organisations more suited to advancing the interests of the better-off, has left poorer citizens more marginalised than better-off citizens (Gilens, 2014; Putnam, 2015; Solt, 2008).

The reconfiguration of associational life and the rise of elite governance have unarguably benefited well-off citizens more than poorer ones, and have benefited the very richest citizens most of all. Many states, especially those in which citizen disengagement and the rise of elite governance are most pronounced, are characterised by vast and growing inequalities in wealth. Income and capital have been distributed upwards from working class and middle class citizens to the richest 1% and even 0.01%, who have seen their share of global wealth quadruple over the past four decades (Parvin, 2017; Piketty, 2014; Thomas, 2017). At the same time as the personal wealth of the richest *citizens* has grown, the wealth held by *corporations* has similarly grown at an extraordinary rate. The world's 10 richest corporations now own more wealth than the poorest 180 *states* combined (Global Justice Now, 2016). Walmart's annual revenue is larger than the GDP of Spain, and if Apple – which in 2018 became the world's first \$1 trillion company – were a state it would have the 16th largest GDP in the world. At the same time, the money that corporations spend on lobbying has risen dramatically. In 2002, for example, Google spent less than \$50,000 on lobbying. Ten years later, in 2012, they spent more than \$18m. Significant increases can also be seen across many other sectors, including health, financial services, and energy.

Non-corporates have not been able to keep pace. For 'every dollar [in the US] spent on lobbying by labor unions and public interest groups together, large corporations and their associations now spend \$34. Of the 100 organisations that spent the most on lobbying, 95 consistently represent business' (Drutman, 2015). In the years between 1998 and 2014, the US Chamber of Commerce alone spent \$1b lobbying for business interests in Washington and, in 2015, the 10 biggest spenders on lobbying in the USA – all of whom represent private sector interests – spent \$64m in a single *three month period* (January to March). Furthermore, in line with the narrative of deep structural change outlined in section

1, inequalities in access and influence have tracked wider inequalities in civic and economic life. As wealth has become increasingly concentrated among a smaller and smaller group of high net worth individuals and in large corporations, so corporations and the organisations which represent the interests of the wealthy have become more central to the business of governance. Meanwhile, poorer citizens have become peripheral and cut off from decision making, and the organisations which represent them have become disproportionately weak, or have disappeared altogether. As a result, the wealthy have been able to consolidate their own dominance and insulate their wealth in ways not open to poorer citizens (Parvin, 2017; Piketty, 2014; Winters, 2011).

States in which corporations and corporate lobby organisations have disproportionate power to influence policy decisions have in general proven themselves to be less hospitable to reforms grounded in liberal egalitarian claims about redistribution, economic intervention, and the alleviation of inequality through reforms in, for example, labour laws, tax laws, minimum wage legislation, and the provision of welfare than states in which the ability of corporations to influence political decision making is weakened (Gilens & Page, 2014; Solt, 2008). The fact that business taxes are so low in the USA, that workplace democracy, labour unions, and workers' rights are weak, and that large corporations benefit from so many opportunities to insulate their wealth through complex legal and economic mechanisms, cannot be disaggregated from the fact that business corporations in the USA are allowed relatively easy access to elected politicians, and are able to influence policy makers through direct lobbying and the financing of election campaigns. Similarly, the fact that in the UK and the EU more generally have stronger labour unions and workers' rights is at least partly due to the fact that lobbying and campaign finance are governed by stricter rules than in the USA.

Nevertheless, the rich in the USA, Europe, and the UK have been able to secure advantageous laws which serve to protect their wealth and increase economic and financial burdens on those further down the wealth and income distribution (Thomas, 2017). Through their greater numbers at the ballot box, but also as a result of their ability to leverage the power of lobbyists and special interest groups, economic elites have been able to shift the tax burden onto the less wealthy, complicate the tax code in such a way as to make its navigation dependent on expensive expert advice not available to poorer citizens, stifle initiatives designed to alleviate social and economic inequality, and establish a complex web of shell corporations and offshore tax havens which allow them to keep their wealth a secret from states and avoid paying tax (Parvin, 2017; Shaxson, 2011; Zucman, 2015).

The failure of liberal democratic states to manage the growth of lobbying in line with democratic principles is demonstrable. Evaluated against Madison's necessary measures we can see that, firstly, representative institutions, as currently configured, are estranged from citizens, and from poorer citizens in particular, and are not impartial but rather embody mechanisms of decision making which give disproportionate voice to corporations and organisations which speak for the wealthy. Inequalities in voice and access are *built into* the structure of contemporary democratic governance. Secondly, states have failed to attend to inequalities in wealth and property ownership, resulting in the co-option of the democratic process by the wealthy, and a lack of democratic responsiveness by elected representatives to the concerns of the poor (Achen & Bartels, 2016; Bartels, 2016; Gilens, 2014; Gilens & Page, 2014; Solt, 2008). Thirdly, states have not encouraged the proliferation of interest groups necessary to guard against the emergence of dominant groups. Instead, they have presided over a decline in the number and influence of civil associations capable of representing the interests of the poor, and a reconfiguration of the public sphere that has left poorer citizens without the associational and other resources

they need to participate reflectively in democratic life, to gain political knowledge, and to communicate their concerns effectively either individually or through representative organisations (Knight & Johnson, 1998; Putnam, 2001 & 2015; Whiteley, 2012). Furthermore, in so far as contemporary democrats are right that democracy should be understood as comprising a collection of 'multiple publics', it is clear that these publics have too become dominated by lobby organisations representing the interests of the wealthy. Through the provision of hospitality, wealthy organisations are more able to engineer opportunities to communicate informally to decision makers, journalists, and other groups than ones with access to fewer resources and fewer networks.

In the first section, I outlined the first aspect of the problem that lobbying poses for democracy: that it is a central component of democratic governance in the contemporary era, practised by a vast number of organisations and individuals at the domestic and international levels. In this section, I have outlined the second and third aspects of the problem (and indeed, the issues that make the first aspect a genuine problem): that the form of elitism that has emerged in democratic states is disproportionately weighted towards the interests of the rich. The changes to the civic, economic, social, and political infrastructure of liberal democratic states outlined in section 1 have thus undermined the vision of democracy shared by the majority of democrats inside and outside the academy, including pluralists like Dahl. The idea of a polyarchy in which power is distributed across a range of interest groups and organisations which (a) represent diverse constituencies, and (b) hold one another in check has been superceded by a system in which power is distributed across a large number of organisations which represent a narrow range of interests, and in which vast swathes of the citizenry are left under-represented and unable to form the kind of grassroots organisations on which they have traditionally relied, and which are recognised as central by the majority of democratic theorists.

3. What should be done? What can be done? Lobbying as a first-order and a second order problem.

So what should be done to resolve this problem? And what *can* be done? Numerous academics and politicians have proposed legislative reforms aimed at introducing greater transparency and rectifying inequalities in access and power. While such measures are necessary, they are insufficient. The changes to the deep structure of liberal states that I have thus far described have resulted in a concentration of power in the hands of the wealthy in ways which violate democratic principles of political equality and liberty, and have served to not only exclude citizens from the democratic process, but eviscerate the democratic system of the social, civic, and associational infrastructure that citizens (and poorer citizens in particular) need to participate in the democratic system, to understand themselves as able to participate, or to encourage them to believe that their participation is worthwhile (Parvin, 2015, 2016, 2017). The fact that lobbying is now built into the core business of democratic governance means that tackling the problem requires nothing less than fundamental reform of the core activities of the democratic state. It requires root-and-branch change, involving radical institutional reform as well as a reconfiguration of the civic support mechanisms that democracy needs to operate and flourish.

There are two significant obstacles to reform, therefore: (a) the scale of the changes that would be needed in order to wind back three quarters of a century of democratic decline, and (b) the fact that states are now structurally incapable of agreeing upon, or implementing, such changes. The first is a first-order problem which concerns the concrete challenges posed to the conduct of politics and governance in liberal democratic states. The second is a second-order problem which concerns the ability of these states to resolve these problems. The first-order problem posed by lobbying is complex and wide-ranging. The second-order problem is perhaps intractable. Necessary change has not been

achieved, and will not be achieved, through limited institutional reforms or new laws governing lobbying transparency, although it would also need these things. It would *in addition* require the structural reform of the democratic state, the alleviation of social and economic inequalities, and the rebuilding of civil society from the ground up. In Dennis Thompson's words, it would need both 'constructive' and 'reconstructive' change (Thompson, 2010). The deep structure of the polity would need to be altered, entrenched inequalities would need to be ameliorated, trajectories of citizen disengagement and elitism which have taken place over the past three-quarters of a century would need to be reversed. And all this would need to be initiated and managed by states which are dominated by vested interests that would be resistant to these changes. The private interest groups that currently dominate the democratic system would need to decide collectively to engage in a process of long-term, expensive, and complex reform aimed at reducing their own power.

Powerful lobbies have repeatedly proven their reluctance to relinquish power or to permit reform, however. Proposals to regulate the impact of private money on campaign and party activities in the USA have been consistently defeated, for example. Furthermore, statutory laws governing the activities of lobbyists are rare. Only ten 'political systems throughout the democratic world' have lobbying rules in place: Australia, Canada, the EU, Germany, Hungary, Lithuania, Poland, Taiwan, the USA, and the UK (Chari et al, 2012). Of the 27 member states of the EU, only 5 have national laws governing the activities of lobbyists.

Furthermore, the laws in these countries are often, at best, unfit for purpose and, at worst, counter-productive (Parvin, 2016). Governments in the UK, for example, have over the past 80 years periodically revisited the issue of lobbying reform, usually in the wake of some new scandal (Cave & Rowell, 2014). Each time, lobbyists successfully fought

attempts to introduce statutory regulation, preferring instead a model of self-regulation. The UK coalition's attempt to introduce statutory regulation – via the 2014 Transparency of Lobbying, Non-Party Campaigning, and Trade Union Administration Act - is illustrative. That law, introduced in a speech at the University of East London by David Cameron in 2010 was supposed to shine 'the light of transparency' on lobbying which he famously described as 'the next big scandal waiting to happen' to British politics (Cameron, 2010). Cameron claimed that, if elected, his government would impose tough new regulations on lobbying, including the introduction of a statutory register for anyone seeking to influence government. In its final form, the 2014 Lobbying Act not only failed to tackle the problem, it made it much worse by *increasing* the power of large corporations and wealthy interest groups relative to smaller campaign organisations, charities, and pressure groups (Parvin, 2016). The reason for this is two-fold.

Firstly, the statutory register only required lobbyists working for private sector consultancy firms to sign up, a group which comprises roughly 1% of practising UK lobbyists. Lobbyists working in-house for large corporations were and are exempt. So while consultants working for corporate and non-corporate clients are covered, in-house lobbyists working for Google, Starbucks, law firms, tobacco and alcohol companies, pharmaceutical companies, investment banks, and trade associations like the CBI are not. Furthermore, the Act only requires a minute fraction of lobbying activity to be reported. Only face to face meetings need to be reported, with no consideration given to any of the myriad ways in which public affairs professionals and campaigners seek to influence policy decisions (e.g. through media campaigns, coalition-building initiatives, etc.) and only meetings between consultants and Ministers or Permanent Secretaries are deemed important enough. Meetings between lobbyists and other government officials including Special Advisers and civil servants more junior than Permanent Secretaries are excluded. To be clear, there are currently over 400,000 full time civil servants working across all government departments,

44 of whom have the title of Permanent Secretary or Second Permanent Secretary. The Lobbying Act therefore succeeds only in 'shining the light of transparency' on the activities of 97 Ministers, 1% of lobbyists, and 0.01% of civil servants.

Secondly, in addition to introducing transparency rules which do not cover the overwhelming majority of corporate lobbyists, the Act imposed strict limits on the activities of smaller organisations like charities, and on the ways trade unions could campaign and raise funds. This is why the Act has been dubbed by critics as the 'gagging law': the Act forbids small organisations from political campaigning at the time that governments and MPs are most receptive - the run-up to a general election - as such campaigning is deemed by the Act as interfering in the electoral process. It also forbids trade unions from engaging in specific forms of political campaigning (inevitably, on behalf of the Labour party).

Recently, the government has introduced new rules in addition to the Lobbying Act which forbid charities, academics, and other organisations in receipt of public funding from seeking to influence government policy (Parvin, 2016). These rules in addition to those introduced in the Lobbying Act combine to silence small organisations, many of which rely on public funding, while enabling large corporations to go about their business with impunity. On the one hand, therefore, Cameron's proposal to bring lobbying under statutory regulation was radical. On the other, it was highly conservative: it misdiagnosed the problem, sought the wrong solution, and introduced even greater inequality into an already unequal system. Similar measures introduced by the European Commission and the US federal government have proven just as ineffective, largely due to proposals being watered down by lobby organisations on their passage through the legislative process.

The wide and deep changes experienced by liberal democratic states that I have outlined thus far have served not only to marginalise citizens, reduce trust in democratic politics,

increase political disengagement, entrench social and political inequality, and fuel the drive toward political elitism. They have also rendered it virtually impossible to implement the deep structural reforms that are necessary to resolve the problem. The elitism that characterises liberal democratic states is now so weighted toward the interests of the wealthy that it is all but impossible for even moderate reforms to make it through the democratic process, let alone the vast and fundamental ones needed to resolve the problem. Liberal democratic institutions do not operate in accordance with democratic principles, and they are structurally incapable of reforming themselves in the ways necessary to make them do so. Cameron's coalition government was not genuinely committed to tackling lobbying (Parvin, 2016). But even if it had been, its plan would have failed. The democratic system has been reconfigured in ways which make the passing of strong, effective legislation aimed at increasing transparency and accountability very difficult. And even if Cameron *had* been able to pass such legislation, it would only have scratched the surface of a problem that affects all levels of democratic governance in multiple complex ways. Transparency legislation is aimed at cleaning up lobbying at the micro level. But the problem, as we have seen, is at the macro level. We thus arrive at an impasse.

On the one hand, it is possible and necessary to identify urgent first-order measures which would improve the situation, and which would help to realise Madison's three point plan. Firstly, as well as introducing genuinely effective statutory regulation of lobbying which covers all lobbyists, we could make representative institutions more impartial by formally introducing citizens' voices at different points in the democratic system through, for example, the use of mini-publics. Conclusions emanating from focus groups, deliberative assemblies, deliberative polls, and other innovations might be formally woven into the activities of select committees, for example, or they could be introduced at a newly-created stage in the legislative process (Dryzek, 2012; Fishkin, 2009; Goodin, 2012; Parvin,

2018b). Doing so would give representative organisations the space to provide representation and expertise, while creating new space for the voices of citizens whose views are not represented by these organisations. Furthermore, the decision making process would need to be reformed to make it more hospitable to differently organised groups. Institutions would need to be capable of incorporating the concerns of different groups which may not be easily expressed through currently privileged forms of communication or within current formal rules.

Secondly, and connectedly, we would need to tackle economic inequality in order to encourage marginalised citizens back into the democratic system and encourage the growth of organisations better able to represent them. Entrenched inter-generational concentrations of wealth and property-ownership would need to be dismantled through higher taxes on income, wealth, and inheritance; market forces, which drive the growth of economic inequality and the concentration of wealth and property among the richest citizens, would need to be subject to regulation and constraint; the private financing of election campaigns and the making of political donations to political parties would need to be severely curtailed, or perhaps even banned altogether and replaced with the public funding of political parties and campaigns (Rawls, 1971; Thomas, 2017). And politicians would need to be forbidden from accepting any hospitality from lobby groups in order to ameliorate the de facto advantages that this gives to wealthy organisations.

Thirdly, the state would need to invest heavily in the long term process of re-building civil society, in particular to support the re-growth of representative organisations capable of representing poorer citizens (Putnam, 2015). That is, in Madisonian terms, it would need to encourage the growth of factional interest groups in order to diminish the structural dominance currently enjoyed by corporations and interest groups representing the wealthy. This would be a complicated and wide-ranging process, and there are feasibility

concerns associated with them that I have outlined elsewhere (Parvin, 2015 & 2018a). Nevertheless, options might include the investment of public money into community projects and other initiatives aimed at building social capital at the local level (Whiteley, 2012), the public subsidy of groups who would seek to organise themselves into grassroots movements (Cohen & Rogers, 1995), and the creation of spaces in which citizens might meet to discuss political issues and communicate shared concerns (Gutmann & Thompson, 2004).

Such measures would together go some way in bringing into line democratic practice and principle, and recalibrating the public sphere in a way that is in line with a Madisonian vision for the fair and just management of factional interests. Impartial institutions, supported by a more equal citizenry, would work with a diverse community of interest groups and associations capable of representing the interests of their members at the elite level while holding one another in check. Lines of communication between the citizenry and state institutions would exist, meaning that states could more effectively track the will of the people. Democracies would thus better fulfil their dual need to (a) discover, exercise, and constrain the popular will through appropriate legislative and constitutional measures, and, hence, secure the liberty of citizens through self-government, and (b) ensure the political equality of all citizens by better including the voices of all citizens in the democratic process and protecting against the emergence and entrenchment of dominant factions.

On the other hand, we need to recognise that it will be all but impossible to implement these reforms in the current political context. The second-order problem posed by lobbying constrains and stifles the implementation of first-order solutions. The institutions charged with the responsibility of agreeing and implementing reform are the very same institutions that are now dominated by corporations and organisations which lobby for the wealthy. States have allowed economic inequalities to translate into political inequalities, wealthy

organisations to eclipse poorer ones, and a narrow range of interest groups to replace the broad citizenry in the democratic process. Citizens could in theory seek change from below, but citizens are now peripheral to the democratic process, marginalised, disengaged, and lacking the civic infrastructure to mobilise or to challenge from the grassroots. States might be theoretically able to foster social capital and the emergence of grassroots movements capable of applying pressure to the established order, by implementing the kind of reforms outlined above, but only once this established order has acquiesced to such measures, and only once the dominant actors have accepted that they should be subject to greater pressure. Structural reform can only begin once those who currently comprise the structure allow it to. And even if such agreement *were* possible, the kind of radical action needed to wind back three quarters of a century of democratic decline would be far-reaching and would take generations (Parvin 2015 & 2018).

4. Conclusion.

We can now grasp more clearly the problem posed to democracy by lobbying, and also what I meant in the introduction when I described it as a macro level, three part problem at the first and second orders. Changes in the deep structure of liberal democratic states have marginalised citizens, fuelled political disengagement, and afforded significant power to unelected lobby organisations. Lobby groups have eclipsed citizens in the democratic process, concentrated political power in the hands of the wealthy, and captured the political system in such a way as to make reform very difficult, if not structurally impossible. Liberal democratic states have failed to manage the rise of lobbying in line with democratic principles. States have protected groups' formal rights to assemble and to push for change, as is their duty. But they have failed to ensure that these rights can be meaningfully exercised by all citizens. In presiding over a decline in civil society, and the social bases of grassroots politics, liberal states have failed to ensure the conditions

necessary for poorer citizens to assemble or to communicate their concerns to decision makers. The practise of lobbying in liberal democratic states renders these states unable to make good on their commitments to political equality and freedom as self-government.

The fact that contemporary democratic states are (a) characterised by deep and far-reaching political inequalities associated with even deeper and more far-reaching social and economic inequalities, (b) that these inequalities have led to a concentration of political power among those at the top end of the wealth and income distribution, (c) that it is possible to identify possible solutions to these problems, but that (d) these solutions face complex and perhaps even insurmountable political obstacles to their implementation reveals the scale of the problem, and the scale of our helplessness before it. I said in the introduction that lobbying is arguably the most urgent of all political problems currently faced by liberal democratic states. It is hopefully now clear why I believe this is the case, and why political philosophers who are otherwise divided by deep normative disagreements can and should unite in recognising it as a priority and working together, as well as with political activists, politicians, and the wider policy making community to seek opportunities for real and profound long term change. For lobbying is the problem that lies behind and exacerbates all others: the problem that needs to be resolved before any of the other problems that concern political philosophers can be addressed. Libertarians will not get the free markets they want while corporations can leverage their economic advantage to stifle competition (Aidt, 2016). Democrats will not get the politics they want while democratic regimes are crippled by distrust, citizen disengagement, and forms of governance dominated by socio-economic elites (Parvin, 2017; Thomas, 2017). Epistocrats will not get the informed governance that they seek while political power is distributed according to how much money and structural influence a group or individual has rather than how much they know (Brennan, 2016; Somin, 2016). And egalitarians have little hope of reducing economic inequalities, increasing workplace democracy, or

ensuring the fair value of the basic liberties while the wealthy groups that would bear the costs of these proposals are the ones driving, or stifling, economic policy change (Anderson, 2017; Baramendi et al, 2011; Piketty, 2014; Rawls, 1971; Rich, 2017). The practice of lobbying imposes strict feasibility constraints on any normative prescriptions which challenge current democratic practice. Until those constraints are lifted, political philosophers should work together to seek new strategies for dismantling the unequal distribution of power that is characteristic of liberal democratic politics. However, at this stage, it is not clear how this might be done, what this solution might be, where it may come from, or even if such a bi-partisan spirit might be realistically built.

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¹ This definition is not uncontroversial. The history of political thought is replete with alternative and rival conceptions of democracy, and for obvious reasons I cannot engage with them all here. Instead, I present a broad definition which tries to capture what is important in many of these conceptions, and especially in those which are currently most influential in contemporary Anglo-American democratic theory, a definition which states in broad terms ideas of self-government and equality which transcend disciplinary and ideological boundaries. That is, I try to present a conception which is grounded in basic ideas which many theorists from many different political backgrounds have either defended or criticised as necessary components of a democratic regime. My reason for doing so is two-fold. Firstly, I have drawn on democratic ideas shared at the general level by contemporary democratic theorists on the right and left in order that I might convince them that lobbying is a bigger problem than they seem to think, *given their own views about democracy*. Secondly, I have tried to ensure that the conception of democracy I have adopted is non-partisan, and genuinely shared by thinkers on the political right and left. For example, something like the idea that democracy is grounded in, and should ensure, the basic liberty of all citizens to contribute to the process by which decisions are made, and also that the equal capacity to participate is strongly associated with the idea of freedom as self-government, can arguably be found in the work of egalitarian/social democratic democrats (e.g. Chambers, 2009; Mansbridge et al, 2012) *as well as* democrats on the political right like John Tomasi, who has stated that a society is democratic 'to the extent that all members have an equal share of fundamental political power' (Tomasi, 2012; 88). Hayek was a harsh critic of democracy precisely because he shared with many egalitarians and social democrats a vision of what a democratic society would look like (Hayek, 1978). And disagreements among many contemporary deliberative, participatory, epistemic, and other democrats do not turn on whether democracy should be committed to ensuring political equality and liberty as self-government but rather how this project might be best understood and operationalised. In identifying grounding ideas which are widely shared among contemporary thinkers on the political right and left, I hope to offer a general view of democracy which will pass the 'common-sense test' among non-specialists, while not being considered reasonable by specialists.