
RISKS OF UNDUE INFLUENCE OF PRIVATE INTERESTS IN THE DEBATE AND APPROVAL OF BILLS OF LAW

A study performed by Transparencia por Colombia with the support of National Endowment for Democracy

Presented by Marcela Rozo

Background

- A previous study on corruption, governance and institutional performance developed by WBI and the Vicepresidency of the Republic of Colombia in 2001, showed that state capture is perceived by most of the interviewed as a serious corruption problem in Colombia.
- It was important to establish the characteristics of the problem to identify possible measures to combat it.

Objectives

- To offer inputs that contribute to the identification of undue influence risks in the process of law debate and approval.
- To propose measures aimed at the strengthening of the legitimacy of the legislative power.

Methodology

- ✓ Selection of three processes that were particularly vulnerable to undue influence:
 - ✓ Tax law
 - ✓ Dissolution of the National TV Commission law
 - ✓ Bankruptcy law
- ✓ Reconstruction of the participation of different actors during the debate and approval of the laws (where applicable)
- ✓ Gathering of testimonial information from participants in each process (Congressmen, advisors, lobbyists, experts in the studied processes from the public & private sectors)
- ✓ Building up of the risk map

Risk map main categories

The conducts identified through the analysis, performed either by private agents or even by public officials, were classified in eight risk categories:

1. Lack of transparency
2. High discretionality
3. Loopholes & non attendance of the Congress internal rules
4. Non attendance of predefined procedures
5. Insufficient definition of conflicts of interests
6. Undue practices associated to the political culture
7. Technical weaknesses of congressmen and their teams of advisors
8. Unruled use of lobbying

Suggested Measures

1. Redefine the conflict of interests, and adjust its regulation
2. Establish a regulation for lobbying.
3. Introduce timely public accountability on political campaign financing
4. Guarantee transparency and effective access to the information of Congress
5. Demand more sustained bills of law
6. Guarantee quality and effectiveness of technical assistance to Congress
7. Adopt an attend rules for the designation of **ponentes**
8. Strengthening of political parties and their group work to assume unified positions in voting.
9. Work towards an effective citizen participation (i) in the debate of the bills of law and (ii) in monitoring how rules are effectively abided by in legislative processes

Elements for debate I

- Legitimate and illegitimate influences can be distinguished when those benefits received by a group of interest are fully quantified and it is established that this group will adequately compensate society for the particular benefit this group has received, thanks to the use of an influence
- Undue influence causes huge costs and perverse effects on society: it undermines the confidence of citizens in formal institutions, motivates individuals to pursue their own interest disregarding common welfare and affects negatively the values code of society as a whole
- Illegitimate or undue influence finds favorable conditions when rules for the interaction between groups of interest and authorities who make decisions are not clearly established.

Elements for debate II

- Transparency and clearly defined regulations are fundamental to control illegitimate influence: rules for conflict of interests, lobbying, participation in debates and documents submission, together with timely and sufficient publicity of the application of those rules, are needed.
- Adequate and operational checks and balances are needed, with an effective judiciary, watchdog agencies, and a motivated and acting civil society overseeing the decision making processes in complex public decisions.

www.transparenciacolombia.org.co

mrozo@transparenciacolombia.org.co