

Business Lobbying Goes Global

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Melissa J. Durkee, *Astroturf Activism*, 69 **Stanford L. Rev.** (forthcoming 2017), available at [SSRN](#).

Citizens for Sensible Control of Acid Rain. Consumers for World Trade. The American Forest and Paper Association. The Turkish Confederation of Businessmen and Industrialists. These are a few of the 4600 organizations that are formal, registered consultants to the United Nation's Economic and Social Council. They are also examples of the mode of corporate access to international lawmaking that is the subject of [Melissa J. Durkee's](#) excellent article, *Astroturf Activism*.

At the heart of *Astroturf Activism* is a nuanced description of institutionalized corporate participation in international lawmaking. It takes readers behind the curtain at the United Nations to examine a system of registering non-governmental organizations (NGOs) as consultants with a special advisory role. The article's pithy title captures a central concern: that businesses lobby international lawmakers through "'astroturf' imitations of grassroots organizations," using "nonprofit NGOs as front groups to advance business interests through the U.N. consultancy system." Despite the title, however, the author resists simple identification of NGOs as the good guys and business as the bad. She suggests here and in other work that business participation can sometimes be beneficial, lending expertise or breaking "geopolitical logjams."

The article convincingly challenges the idea that NGOs are all classic public interest organizations. It reacts in part to a literature that has praised the NGO as a democratizing force, lumping all non-state organizations together. In illustration, the article quotes a former UN Secretary-General, who praised the rise of NGO consultants as "global people-power." Drawing on a mix of materials, including the UN Economic and Social Council's own library of resources, the author elaborates a more complicated category that includes trade groups and business-controlled NGOs.

Cynics may nod along knowingly, unsurprised to hear that the "Citizens for Sensible Control of Acid Rain" NGO was formed by coal and electricity companies. But even cynics will find this article worthwhile. It analyzes *institutionalized* participation in international law making. This is not just lobbying, but rather a formal legal structure that permits and even encourages lobbying. Moreover, this is not just lobbying, but rather a formal legal structure that incentives *hidden* participation and fails to leverage positive participation by business.

The article also convincingly argues that the formal access rules are obsolete. They originate in a period when few businesses operated across national boundaries. The article persuades us that the rules have not caught up with the rapid growth of global business. In particular, they do not account for multinational business entities, which have the ability and desire to influence lawmaking on a global scale.

The nuance of this project is also its challenge. Because it does not altogether condemn business participation, pinpointing the problem with the current system can be difficult. Does its harm lie in the content of the resulting law? Is the lack of transparency a problem in itself? How non-transparent is this system? Does the Council really think that Citizens for Sensible Control of Acid Rain is a grassroots organization? At what point do the business donations—on which NGOs rely—turn them from the natural green stuff into astroturf? The difficulty of articulating the problem also carries over to potential solutions. The article briefly sketches two approaches, increased disclosure and direct access for individual businesses, but wisely treats them as signals of future work to be done.

These open questions do not detract from the article's many strengths. Indeed, they are only possible and provoked by the article's rich study, thoughtful analysis, and compelling story of corporate involvement in the making of international law in our modern, global context.

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