

***¡Los Filtros Luchan!*¹ A Case Study of Lawyering and Participatory Democracy: Participatory Lobbying as a Strategy for Working with Marginalized Communities²**

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Abstract

This thesis examines the participatory lobbying of Puerto Rican Statute #232 of August of 2004, which was a joint endeavor by members of low-income communities, headed by members of the Los Filtros community, and the community development section of the University of Puerto Rico's School of Law Legal Aid Clinic. The case study seeks to bring to the forefront the voices of the members of the Los Filtros community who participated in the lobbying of the bill regarding their perceptions about the process and its relationship to law, politics and democracy. It highlights the unexplored potential of participatory lobbying as a strategy to open spaces of participatory democracy.

Participatory lobbying can be a valuable strategy for lawyers working with marginalized communities. This type of lobbying can claim an important place as a strategy within what have been called "law and organizing" approaches to lawyering, which focus on promoting empowerment of marginalized groups. It differs from more traditional public interest lobbying since, in this alternative type of lobbying, members of marginalized communities are the driving force in the process and lawyers serve a supporting role.

Key words

Community Lawyering; Collaborative Lawyering; Rebellious Lawyering; Law and Organizing; Participatory Democracy; Lobbying; Participatory Lobbying; Puerto Rico

¹ "¡Los Filtros Luchan!" is a rallying cry used by members of the Los Filtros community. It translates as "Los Filtros Fights!"

² I have previously written about the crafting and lobbying of Statute #232, the literature on "law and organizing" approaches, and the potential of lobbying as a strategy for working with marginalized communities. See Morales-Cruz (2006) and Morales-Cruz (2007) (revised English translation of 2006 article). This thesis builds on that work by expanding the discussion on "law and organizing", including criticisms to these approaches, and more fully exploring the connection between "law and organizing" and theories of democracy. It also draws distinctions between traditional public interest lobbying and what I call "participatory lobbying". More importantly, the thesis presents for the first time excerpts from interviews of the members of the Los Filtros community who participated in the lobbying of the bill.

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1. Introduction

Participatory lobbying can be a valuable strategy for lawyers working with marginalized communities. By the term lobbying I am referring to the process of seeking to influence the legislative bodies to adopt a piece of legislation-in other words-a statute.³ What I label "participatory lobbying" serves as an example of how representative democracy can be used to open spaces of participatory democracy.

This type of lobbying can claim an important place as a strategy within what have been called "law and organizing" approaches to lawyering (Cummings 2001), which focus on promoting empowerment of marginalized groups. It differs from more traditional public interest lobbying since, in this alternative type of lobbying, members of marginalized communities are the driving force in the process and lawyers serve a supporting role.

This thesis examines the participatory lobbying of Puerto Rican Statute #232 of August of 2004 ("Statute #232"), which was a joint endeavor by members of low-income communities, headed by members of the Los Filtros community, and the community development section of the University of Puerto Rico's School of Law Legal Aid Clinic. The case study seeks to bring to the forefront the voices of the members of the Los Filtros community who participated in the lobbying of the bill regarding their perceptions about the process and its relationship to law, politics and democracy. It highlights the unexplored potential of participatory lobbying as a strategy to open spaces of participatory democracy.

2. "Law and Organizing"

2.1. Introduction

In August of 2002, I started the community development section at the University of Puerto Rico School of Law's Legal Aid Clinic.⁴ After graduate studies abroad, I returned to Puerto Rico with the idea of opening a section in the clinic dedicated to providing legal services to low-income communities. My inspiration to embark on this project came from professor Lucie White. In 1988 professor White wrote a groundbreaking article challenging progressive lawyers to focus on empowering the communities with which they worked. This type of lawyering has been called by some "law and organizing" (Cummings and Eagly 2001).⁵

³ The term lobbying has also been used to refer to the same process regarding administrative agencies and their regulations, as well as to trying to influence other public officials regarding their decisions. Additionally, lobbying can refer to seeking to influence legislative or administrative bodies to repeal, or not to repeal, a statute or regulation and to attempting to influence a public official to reverse a decision.

⁴ Professor Carmen Correa Matos, an attorney who is a professor of Finance at the University of Puerto Rico School of Business Administration, worked with me as a co-professor during the first three years of the community development section. Her specialization in community economic development was of tremendous value to our work together.

⁵ I have decided to use the term "law and organizing" because it highlights what has been the source of most controversy about these types of practices: the combination of traditional legal strategies with other types of strategies with the purpose of encouraging political mobilization and organizing. However, I prefer terms such as "community lawyering" (Tokarz *et al.* 2008, Trubek 1998) and "collaborative lawyering" (Piomelli 2000), which do not focus on formal organizing as a strategy, but more on the non-hierarchical collaborative relationship between lawyers and members of the communities with the aim of promoting empowerment which is, in my opinion, the core of these approaches.

"Law and organizing" approaches can also fall within the realm of what has been called "cause lawyering"(Sarat and Scheingold 2005). However, the term "cause lawyering" is so broad that it encompasses lawyering that is different from the types of lawyering discussed in this thesis; mainly in that it does not necessarily value the importance of the collaborative non-hierarchical relationship between lawyers and members of marginalized communities. "Cause lawyering" has been described as "[a] heterogeneous category, encompassing lawyers who devote their entire professional lives to a single cause as well as lawyers who are less closely identified with any cause (Hillbink 2003), it is characterized, in the United States and elsewhere, by its difference from conventional, client-centered advocacy (see Simon 1978)" (Sarat and Scheingold 2005, p.1).

Cummings and Eagly (2001, p.447) have described "law and organizing" approaches in the following manner:

"Unique to the law and organizing paradigm is its insistence that lawyers can advance social justice claims and shift power to low-income constituencies through a particular type of legal advocacy—one that is intimately joined with, and ultimately subordinate to, grassroots organizing campaigns. This model both builds upon and departs from previous discussions of law and social movements by presenting sophisticated theoretical analyses and concrete practical examples of how legal advocacy and community organizing can be integrated as a credible social change strategy. In general, this new framework offers a vision of social change directed by community-based organizations in which lawyers are ancillary to the definition and implementation of a transformative agenda. Accounts of law and organizing suggest that progressive lawyers should de-emphasize conventional legal practice and instead focus their efforts on facilitating community mobilization."

Lucie White and Gerald López are considered the theoretical founders of these approaches. Additionally, Jennifer Gordon's work with undocumented immigrant workers is often discussed as an example of "law and organizing" (Cummings and Eagly 2001). In the following sections of this chapter, I will discuss their contributions to the field.

2.2. Lucie White: Three Images of Lawyering

Professor Lucie White (1988) has described three images of progressive lawyering: 1) "the contest of litigation", 2) "law as a public conversation" and 3) "lawyering together toward change". In the first image of lawyering, the "contest of litigation", the lawyer designs and wins lawsuits that will promote the interests of clients (White 1988, p. 755). He or she "'translates' client grievances into legal claims" (White 1988, p. 755). Within this image, the lawyer's role does not involve questioning the structure of the law, asking whether it prevents the lawyer from translating client's grievances into legal claims. This lawyer tries to use the courts as a mechanism to redistribute power to marginalized groups. It is an "essentially traditional professional role" in which "the client is in the background" (White 1988, p. 756).

White (1988) warns us that this image of lawyering sometimes does not take into account the difficulties that courts can have fashioning remedies, particularly where institutional practices are questioned. Additionally, she states (White 1988, p. 757):

"In order to get into court, litigants must present their claims as similar to precedent claims that courts have already accepted. In order to get relief, litigants must propose remedies that are coextensive with these confined claims and that can be feasibly administered by the courts. The result of these pressures is the oft-observed risk that litigation will co-opt social mobilization. Through the process of voicing grievances in terms to which courts can respond, social groups risk stunting their own aspiration. Eventually, they may find themselves pleading for permission to conform to the status quo."

In the second image of lawyering, "law as a public conversation", the lawyer recognizes that litigation can sometimes help to redistribute power (White 1988). Nonetheless, this effect is "secondary to law's deeper function in stimulating progressive social change" (White 1988, p. 758). More importantly, in this image litigation is "public action with political significance" (White 1988, p. 758). White envisions "law and its practice" as a "discourse about social justice" which has "cultural meaning" (White 1988, p. 758).

In this image of lawyering success is not measured by whether the lawsuit is won (White 1988). It is measured by "whether the case widens the public imagination about right and wrong, mobilizes political action behind new social arrangements, or pressures those in power to make concessions" (White 1988, pp. 758-759). The lawyer, thus, designs the case having in mind as an audience the subordinated group and the wider public (White 1988). The litigation must be coordinated with

any political action that the lawsuit might help initiate (White 1988). Lawyers seek to persuade the judge and at the same time mobilize public opinion (White 1988). White warns us that this type of lawyering cannot respond to subordinated clients who have a "more realistic assessment of their options" or a "more guarded interpretation of their own suffering" (White 1988, p. 760).

Finally, the third image of lawyering presented by White is "lawyering together toward change" (White 1988). This image of lawyering combines pedagogy and strategic action. White (1988 cited Freire 1970 and De Lauretis 1984) is inspired by Paulo Freire's popular education theory and the feminist methodology of consciousness raising. Both show how a critical consciousness can emerge among oppressed groups as they reflect together about their situation (White 1988). This is a learning practice that is non-hierarchical "in which small groups reflect together upon the immediate conditions of their lives" (White 1988, p. 761). It is a "dialogic process of reflection and action" (White 1988, p. 761). In this model, nobody monopolizes the teacher role (White 1988). However, an "outsider" with professional skills can have an important role to play (White 1988, p.762). The lawyer who assumes this role must, according to White, above all else, have humility.

The strategic work entailed by this image of lawyering must help the group "devise concrete actions that challenge the patterns of domination that they identify" (White 1988, p. 763). This work is a process where "the group learns to interpret their relationship with those in power as an ongoing drama" instead of a static condition (White 1988, p. 763). They must learn how to design specific acts of resistance, which reveal the wrongness of the positions of the oppressor to itself and to the public (White 1988).

White (1988, p. 765) posits that "fluency in the law" which she describes as a "deep practical understanding of law as a discourse for articulating norms of justice and an array of rituals for resolving social conflict" is beneficial for the type of work that she describes:

"An understanding of law as discourse on norms will help [the "outsider"] work with the clients to deepen their own consciousness of their injuries and their needs. Knowledge of the law's procedural rituals will give the group access to a central arena for public resistance and challenge."

The lawyer must be aware of how familiarity with the law might limit his or her strategic imagination (White 1988). White suggests collaborating with "outsiders" trained in other fields.

2.3. Gerald López: "Rebellious Lawyering"

In his book "Rebellious Lawyering: One Chicano's Vision of Progressive Law Practice", UCLA law professor Gerald López (1992) challenged progressive lawyers to abandon a hierarchical "regnant" style of lawyering and to embrace a non-hierarchical, dialogical "rebellious" lawyering practice. López defines lawyering as "problem-solving" that "requires persuading others to act in a compelling way" (López 1992, p. 39). For him, everyone has lawyering skills which one can use for oneself ("self-help"), others ("lay lawyering"), or a client ("professional lawyering") (López 1992, p.39).

According to López (1984), law is a culture composed of storytellers and audiences. The lawyer knows better than the client about law's story and argument strategies within that story. The clients, on the other hand, know more about "the culture in which they, the law, and their difficulties coexist" (López 1992, p. 50). They should work together in a non-hierarchical relationship, in which the lawyer does not reign over the relationship, in a mutual learning/teaching process (López 1992). López (1992, p. 57) emphasizes that formal legal strategies should not be privileged, but

neither should any type of strategy, and lawyers should strive to "demystify" lawyering by making it accessible to others.

In sum, according to López (1992), lawyers should reorient their work and focus on teaching self-help and lay lawyering. He views education as central to mobilization and lawyering.

2.4. Jennifer Gordon: The Workplace Project

Jennifer Gordon founded The Workplace Project, a workers center in Long Island, New York, in 1992. She used a "law and organizing" approach to work with undocumented immigrant workers, combining organizing techniques with individual legal representation provided by a legal clinic (Gordon 1995). One of The Workplace Project's main successes was the passage of the New York Unpaid Wages Prohibition Act (Gordon 2007a). In further work, she has insisted that lawyers should not be the "protagonists" in "law and organizing" approaches (Gordon 2007b).

The campaign for the adoption of the New York Unpaid Wages Prohibition Act, as described by Gordon (2007a), shows how lobbying can be used as part of a "law and organizing" approach. However, the experiences as narrated relate very specifically to the particular statute that was lobbied and to the challenges that immigrants as a group had in the process. Gordon (2007a) does not delve into how participants in the lobbying process perceived lobbying as a strategy, which is one of the aims of this thesis. Her account is more a descriptive one of issues that were particular to the New York Unpaid Wages Prohibition Act. This thesis will focus on lobbying as a process as perceived by members of a low-income community.

Having reviewed different visions of what have been called by others (Cummings and Eagly 2001) "law and organizing" approaches, I will proceed to examine some of the criticisms leveled against them.

2.5. Criticisms to "Law and Organizing" Approaches

"Law and organizing" approaches have been criticized for several reasons. Orly Lobel (2007) has criticized "law and organizing" for placing too much emphasis on what she calls "extralegal activism". She is skeptical of the turn to "lay lawyering" and what she describes as moving away from the legal arena and formal legal norms. Lobel (2007) posits that "law and organizing" approaches reject legal reform as a path to social change and focus more on process than on results.

However, as Cummings (2007a) commented, Lobel too easily distinguishes between legal and extralegal activism. The line between these is not so clearly drawn in "law and organizing" work. Moreover, lawyers who engage with "law and organizing" approaches do not focus exclusively on process, that is, on promoting empowerment among the groups with which they work, as claimed by Lobel (Cummings 2007a). These lawyers also focus on achieving substantive change for their clients; in many instances, substantive legal change. Although they are cautious regarding the possibilities of traditional legal reform strategies to achieve social change, they do not discount them, but rather, supplement them with political mobilization and other creative uses of the law.

Others have criticized the fact that these approaches are concerned with the local and do not address structural injustices (Cummings and Eagly 2001 cited Blasi 1994, Simon 1992, and Handler 1994). Some "law and organizing" efforts have broader social change goals, such as the example of the campaign for the New York Unpaid Wages Prohibition Act, led by the Workplace Project (Cummings and Eagly 2001). As Cummings and Eagly (2001, p. 487) suggest: "[t]he challenge facing law and organizing practitioners is to build upon these efforts in order to define more precisely the ways community-based organizing can change broader political and economic structures to benefit marginalized communities".

This thesis presents participatory lobbying as a strategy that has a valuable potential as part of "law and organizing" approaches. It is a strategy that can be used to bring about legal reform, which is a key concern for Lobel (2007) about "law and organizing" approaches; but, even more importantly, it has the potential to invigorate democracy by encouraging members of marginalized communities to participate actively in the legislative process, thus, creating new spaces of participatory democracy.

3. Participatory Democracy and Lobbying

3.1. Introduction

The connection between "law and organizing" and participatory democracy has not often been discussed. Ascanio Piomelli (2006) has argued that the roots of "law and organizing" or what he calls "collaborative lawyering" approaches are found in notions of Athenian and Jeffersonian democracy, as well as in the work of John Dewey.⁶ However, not much attention has been given to how particular strategies can help to create spaces of participatory democracy. As this thesis will attempt to show, the use of participatory lobbying as a strategy is an example of how representative democracy can be used to open spaces of participatory democracy that have not been fully exploited within "law and organizing" approaches.

3.2. Theories of Democracy

Traditional notions of representative democracy strongly tie "the concept and the practice of democracy" (de Sousa Santos 1994, p. 1209) to the voting processes held by which citizens elect representatives to the executive and legislative levels of government. Under this "concept and practice of democracy", the voting process is the key to democratic participation.

On the other hand, deliberative democracy theorists give great emphasis to deliberation. Joshua Cohen (2009, p. 328, quoted Habermas 1973) argues for "a deliberative democracy in which citizens address public problems by reasoning together about how to solve them-in which, at the limit, no force is at work, as Jurgen Habermas said "except that of the better argument.""

Other approaches to democracy, such as the one elaborated by Laclau and Mouffe (2001), value difference and highlight antagonism and plurality in democracy. They embrace a concept of "radical democracy" that is critical of deliberative democracy's hope of achieving consensus, which can serve to oppress those who have different opinions (Laclau and Mouffe 2001).

Boaventura de Sousa Santos (1994) advocates for a radicalization of democracy by creating more spaces of participatory democracy⁷. He grants importance to the active participation of people in the democratic processes. Santos (1994, p. 1209) argues for "the proliferation of political interpretive communities" and the need to expand the concept and the practice of democracy by incorporating "direct participatory (or base) democracy".

He claims that the "hegemonic model of democracy (liberal, representative democracy)" only offers "low-intensity democracy" (Santos 2005, p. ix). One of the features of liberal representative democracy is the "increasing distance between representatives and the represented" (Santos 2005, p. ix). Santos and Leonardo

⁶ See also, Piomelli (2009,) and Gordon (2005) (stressing the importance of internal participatory democracy within The Workplace Project).

⁷ For a discussion of the possibilities of counter-hegemonic work for lawyers in the age of global governance referring to theories of democracy, see Morales-Cruz (2011) (essay originally prepared for the "States, Markets, Societies and Global Governance" course, taught by professors Noé Cornago and Igor Filibi during the International Institute for the Sociology of Law 2010-2011 Master's Program).

Avritzer (2005, p. lxvi) have identified "two pathologies of contemporary representative democracy":

"the pathology of representation (citizens do not feel represented by their representatives) and the pathology of participation (citizens stop participating in elections because they are convinced that their vote is irrelevant)."

They advocate deepening democracy by combining participatory democracy and representative democracy. Santos (2005, p. x) refers to participatory democracy in the following manner:

"It engages mainly subaltern communities and social groups that fight against social exclusion and the trivialization of citizenship and are propelled by the aspiration to more inclusive social contracts and high-intensity democracy".

Participatory lobbying aspires to bring people from marginalized communities actively into the legislative process. It is a participatory democracy strategy in which members of these communities become heavily involved and actively contribute to the democratic processes. It can help to address the two pathologies of representative democracy identified by Santos and Avritzer (2005) by helping to close the distance between representatives and citizens and by encouraging participation of people in democratic processes beyond the elections. But, before describing participatory lobbying, it will be helpful to contrast it with more traditional public interest lobbying.⁸

3.3. Traditional Public Interest Lawyering vs. Participatory Lobbying

In Chai Feldblum's seminal article (2003), "The Art of Legislative Lawyering and the Six Circles Theory of Advocacy" she presents a theory developed after years of work as a legislative lawyer and a clinical professor of a legislative advocacy clinic in a law school. Legislative advocacy includes as its main activities the drafting and lobbying of a piece of legislation.⁹ Lawyers play a central role in Feldblum's theory as in most other descriptions of legislative advocacy work.¹⁰ In these accounts,

⁸ I am not claiming that these pathologies are fully "cured" in the case of participatory lobbying. The economically marginalized have more difficulty making themselves heard (procedurally and substantively) in courts and legislative bodies in the hegemonic model of democracy (liberal, representative) than those who have many economic resources. I argue that participatory lobbying creates opportunities for the voices of the marginalized to be heard and for collective empowerment that have not been fully explored.

⁹ The core of lobbying is the process of engaging in conversation with legislators or members of their offices in order to persuade them (Feldblum 2003, p. 796): "The lobbyists are "information carriers" and "persuaders." In an effective advocacy effort, information flows two ways. A good lobbyist conveys his or her advocacy message to the intended audience (usually a staff person) clearly, simply, and effectively. A good lobbyist also hears, elicits, and understands the particular concerns and objections raised by the staff person (or, more rarely, a legislator) and is able to convey that information back to the strategist."

¹⁰ See, e.g., Glennon (1998) and Grant (2001). Descriptions of legislative advocacy work performed in clinics in law schools in the United States resonate with Feldblum's model of legislative lawyering in which lawyers play a protagonist role. See, e.g., Duquette (1997), Massey and Rosenbaum (2005), Karin and Runge (2011).

In 2008, Jacobs (2008) identified fourteen legislative advocacy clinics within law schools in the United States. These clinics, like the Federal Legislation Clinic that Feldblum started at Georgetown University Law Center, are exclusively dedicated to legislative advocacy.

See, e.g., the description of the *Yale Law School, Legislative Advocacy Clinic*. Available from <http://www.law.yale.edu/academics/1217.htm> [Accessed 9 September 2011].

Barry (2002, p. 1094) has offered the following description of the work performed in legislative advocacy clinics, which highlights their focus on the role of the lawyer:

"Legislative advocacy clinics seek to develop lawyering skills that are significantly different from those used in traditional litigation. Legislative advocacy requires students to identify the issues, reduce them to a legislative remedy, and learn the drafting and lobbying process. Issues synthesized for consumption by legislators are several degrees removed from the people affected. The legislative process and the power of legislation to respond to societal problems is something that students should understand and be able to employ."

Wizner and Aiken (2004, p.1008) have expressed the risk that this type of work is too often "lawyer-driven" or "non-governmental organization-driven" and "therefore may convey to students the wrong message about the correct motivation for doing the work, which is to use the legal system to struggle for

constituents write letters to legislators and meet with them, but do not have a primary role within the lobbying process, which is mainly organized and controlled by professional lobbyists, who, in most cases, are lawyers.¹¹

The type of lobbying that is described in this thesis, by contrast, gives a primary role to the people who will be directly affected by the given piece of legislation. They are active participants in the crafting process of the bill, which must inevitably rely to some extent on the knowledge of the lawyer, who can translate the grievance of the group into a legal claim. In the lobbying process, however, lawyers and non-lawyers are placed in a more equal position. Legislators will want to listen more to what their constituents have to say, rather than to the lawyers, which in turn gives power to members of marginalized communities participating in a lobbying effort. Their voices are the first ones heard during the visits to legislators, public hearings, and press conferences. They are the driving force in what I have called a "participatory lobbying" process.

Participatory lobbying can be a valuable strategy within "law and organizing" approaches since this type of lobbying aspires to be a non-hierarchical collaborative process that can help to promote an empowerment process. As I have previously written, in litigation lawyers are in control of the process (Morales-Cruz 2007, 2011). When they engage in participative lobbying, members of marginalized communities gain power as they become advocates for themselves and argue about the law and how the law should be. Their voices are independent from the voices of their lawyers. (Morales-Cruz 2007, 2011).¹²

Within "law and organizing" strategies, lobbying is a strategy that is both openly legal and political.¹³ The drafting of a piece of legislation requires what White has referred to as "fluency in the law" (White 1988, p.765). The lobbying of the statute is a highly political matter. In participatory lobbying, like the one described in this thesis, the boundaries between the legal and political are purposely questioned. Participatory lobbying can help to bring about not only substantive legal change for marginalized groups, but, more importantly, can potentially radicalize the hegemonic model of democracy (low-intensity, liberal and representative) by bringing the marginalized into the legislative process.¹⁴

Participatory lobbying can serve as an example of what Boaventura de Sousa Santos has called "high-intensity democracy" (Santos 2005, p. x). It has the potential to radicalize representative democracy by opening a space of participation for marginalized communities. It challenges liberal democracy's low-intensity version of democracy, which confines participation of citizens to the voting process.

social justice for the poor, not to empower lawyers to determine in the abstract what is in the public interest".

¹¹ The lobbying of the New York Unpaid Wages Prohibition Act does not seem to fit this description because of the primary role that immigrant workers from The Workplace Project played in the lobbying process (Gordon 2007a).

Many "grassroots lobbying" efforts are not necessarily examples of what I have called "participatory lobbying". Participatory lobbying aspires to not only promote participation of people who are not lawyers or professional lobbyists in lobbying processes, but to have members of marginalized groups become the protagonists of a lobbying effort.

¹² For a brief description of how lobbying by low-income communities can serve to enhance the democratic discussion about poverty, see Morales-Cruz (2010).

¹³ I do not mean to imply that litigation is not political. Law is, after all, another battleground where political struggles are fought (Kennedy 1997). However, participatory lobbying might help to give marginalized people a more politicized and malleable view of the law. This could gradually help them to develop a more critical perspective and encourage them to mobilize in order to provoke change.

¹⁴ The use of lobbying as a strategy has limitations in the United States (Karin and Runge 2011). Lawyers from the Legal Services Corporation cannot engage in lobbying activities (Bennett 1998). There are also restrictions on how much lobbying tax-exempt organizations can do. (Karin and Runge 2011). However, these limitations do not apply to all practice settings. It is important also to note that lawyers in other countries might not have the same restrictions. There are now many clinical legal settings in different parts of the world and public interest law firms that could devote more attention to lobbying as a strategy.

Participatory lobbying can help to empower members of marginalized communities to navigate and influence the legislative process. This type of lobbying is fundamentally different from traditional public interest lobbying and other types of professional lobbying which fit into a low-intensity representative model of democracy. It is driven by members of marginalized communities who engage in the lobbying effort as political subjects; as participants in a democracy. Participatory lobbying can create a space of participatory democracy by "recovering the public and civic dimension of politics" (Sader 2005, p. 453)¹⁵.

In the next chapter, I will narrate my experience as the attorney involved in the participatory lobbying process of Statute #232.

4. The Case of the Los Filtros Community

4.1. Introduction

When I started the community development clinic, I did not choose the type of substantive practice that we would develop.¹⁶ I had been exposed to a new process of lawyering, the one described and theorized by White and López, but decided not to select a particular substantive problem that we would address. As advocated by Ashar (2008), our practice developed according to the needs of our clients.

As it turns out, we ended up addressing the issue of housing. Several groups from low-income communities came to the clinic because they were facing eviction threats. The first one to arrive was the residents' council of the Los Filtros community. As lawyers, we engaged in a joint project with these groups to address the problem of gentrification in Puerto Rico, that is, the displacement of low-income communities from urban areas.

Our main aim in working with members of the communities was trying to promote an empowerment process, guided by the theories developed by White (1988) and López (1992). As Boaventura de Sousa Santos (2004) suggests, political mobilization had to increase even when we resorted to law. We engaged in a mutual pedagogical process with them in which different types of knowledge were valued: our knowledge as attorneys was just as valued as their knowledge about their surroundings, their eviction threat, and politics, for example. We strived to develop a non-hierarchical relationship with them. Frequent presence in the communities and work with professionals from other fields, such as architects and social workers, were a crucial part of our work.

Our legal strategies were developed with the hope of trying to encourage the political organizing of the groups. We viewed law as another arena where political battles are fought (Kennedy 1997) and shaped our practice according to the needs of our clients (Ashar 2008).

One of our purposes as lawyers was to try to remain as silent and invisible as possible. The voices that were most heard publicly were those of the members of the marginalized communities.¹⁷ As lawyers, we spoke publicly on a very limited number of exceptional instances, when we sought to validate claims made by them with the power of the legal discourse and our privileged position as lawyers. But we avoided this because of the risk of silencing the voices of the people from the communities.

¹⁵ Sader (2005, p.453) is referring to "initiatives of participatory democracy".

¹⁶ I am no longer in charge of the community development section of the University of Puerto Rico's School of Law Legal Aid Clinic, but have continued working with the Los Filtros community and other low-income communities facing the threat of eviction on a *pro bono* basis. I use the pronoun "we" to refer to our work because from its inception it has been a joint project that includes students, former students, and the communities.

¹⁷ For a similar discussion focused on the role of the lawyer doing counter-hegemonic work with marginalized communities in the age of global governance, see Morales-Cruz (2011).

We also believed that lawyers could play an important role in helping to radicalize people's perception of the law. Having a lawyer openly state that the law is not equal to justice, can have a powerful effect on people from marginalized communities. Even though many already know this to be the case, a lawyer, with his or her knowledge about the law and professional status, can play an important role in trying to help people embrace political mobilization more openly in order to promote social change.

Our work in the community development section and, more specifically, in the crafting and lobbying of Statute #232, sought to create spaces of participatory democracy and mechanisms through which to institutionalize participation. We were working in conjunction with members of low-income communities so that their voices could be heard and taken into account not only by their elected representatives, but also by society as whole.

4.2. The Threat of Eviction from a Socio-Legal Perspective¹⁸

As already mentioned, the first group that approached the community development section of the Legal Aid Clinic was the council of residents of the Los Filtros community. Their community was facing the threat of displacement because the Municipality of Guaynabo had planned to expropriate¹⁹ their land, along with that of several other low-income communities.

Los Filtros is located in roughly twelve acres of land, surrounded by some of the most expensive neighborhoods in all of Puerto Rico. Guaynabo, where the community is located, is the municipality with the highest income *per capita* in Puerto Rico (Colón-Reyes 2007 cited U.S. 2000 Census Bureau statistics).

As we were told by community members, roughly ninety years ago people started arriving in the community as construction workers for a water filtering plant that is located at the very top of the community. Thus, the name "Los Filtros" was created, given the proximity of the community to the water filtering plant.

The community has a rural lifestyle. Due to the proliferation of urban sprawl, it is now located in the middle of suburban Guaynabo, on a green covered hill. The view from the top of the hill is impressive. One can see the cruise ships coming in and out of the Bay of San Juan, the capital of Puerto Rico, which is adjacent to Guaynabo.

Originally, members of the community did not have title to the land, but were given so in 1979 by the state government (Morales-Cruz 2007). An expropriation by the municipal government would take away their title to the land and leave them with no accessible and affordable housing options. In order to better understand the problem faced by the Los Filtros community, it is useful to survey the legal and political background of the controversy.

After being granted the power of eminent domain, that is, the power to expropriate, in 1991²⁰, several Puerto Rican municipal governments started using this power to displace low-income and middle class people in order to replace their communities with more expensive housing. Los Filtros was one of the communities to be expropriated under this plan by the municipality of Guaynabo.

Expropriation is the taking of private property by the government for a public purpose upon payment of just compensation.²¹ Guaynabo claimed that it was going

¹⁸ For a thorough description of the lobbying process of Statute #232, see Morales-Cruz (2007).

¹⁹ An expropriation, which is also known as the use of the power of eminent domain, occurs when the government takes private property for a public purpose and upon payment of just compensation. See, for example, Constitution of Puerto Rico (Article II, section 9) and Constitution of the United States of America (Fifth Amendment).

²⁰ Puerto Rico's Autonomous Municipalities Act 1991 (21 L.P.R.A. §§ 4051 (c) and 4453).

²¹ See Constitution of Puerto Rico (Article II, section 9) and Puerto Rico's Expropriation Act 1903 (32 L.P.R.A. § 2901 et seq.).

to expropriate the land where Los Filtros is located in order to build "social interest housing". However, many members of the community opposed the proposed housing project for a variety of reasons. Not everyone qualified for the project.²² Others did not want to trade their rural lifestyle, with strong ties to the land, for life in an apartment complex. Additionally, the new apartments would be subject to a mortgage in favor of the Municipality of Guaynabo for a sum of money equivalent to the difference between the value set by the Municipality for their properties and the value of the new apartments. They would have to live in the apartments for many years in order not to have to make payments to the Municipality and to finally acquire full title to the new apartments. If they wanted to sell the new properties, they would have to pay back to the municipality what was owed. Many members of the community strongly opposed having a mortgaged property and saw the project as an effort to displace them by replacing their houses with apartments of a higher economic value. They did not believe that the Municipality of Guaynabo had a valid public purpose to expropriate the community.

We explained to them that the Puerto Rico Supreme Court's interpretation of what represents a valid public purpose for an expropriation was extremely broad. Even making an area more attractive in an aesthetic fashion has been deemed a valid public purpose.²³ This trend to use the power of eminent domain for development that has the effect of displacing low and middle class communities is also common in the United States.²⁴

When we arrived in 2002, the community had just become part of a new initiative that had been started in Puerto Rico in 2001. This initiative is called the "special communities" program. More than 700 low-income communities are designated as "special communities". In order for a community to be designated as a "special community", the following criteria are taken into account: high percentage of illiteracy, high percentage of people living under the poverty threshold, high unemployment rate, families financially supported by only one member, and a long history of unemployment and of neglect in the provision of basic services.²⁵ The aims of the program are to promote empowerment and self-help, as well as to help communities with infrastructure problems.²⁶

²² "[O]nly people with "moderate income" qualified for these social interest housing projects. Neither people less than sixty-two years old who lived alone, nor people who were not citizens of the United States qualified. The manual [where the requirements were established] also stated that if a person did not accept the property value set by the Municipality of Guaynabo, she would not be eligible for social interest housing" (Morales-Cruz 2007, p. 85).

²³ *ELA v. 317.813 cuerdas de terreno*, 84 D.P.R. 1 (1961) (Opinion of the Supreme Court of Puerto Rico).

²⁴ In 2005, the Supreme Court of the United States, in *Kelo v. City of New London, Connecticut*, 545 U.S. 469 (2005) established that economic development was a valid public use in eminent domain cases.²⁴ The Court ruled that it does not violate the U.S. Constitution when the government takes private property for economic development. As a reaction to *Kelo*, more than forty states in the U.S. have adopted legislation or amended their constitution to more narrowly define "public use", thus making it more difficult for the government to take private property by use of the power of eminent domain. See *Eminent Domain Legislation Status Since Kelo*.

Available from: <http://www.castlecoalition.org/legislativecenter> [Accessed 9 September 2011].

The justices that are considered the most "conservative" in the Court dissented. They supported the position of such "progressive" organizations as the N.A.A.C.P. (National Association for the Advancement of Colored People) and groups that protect the rights of the elderly and Hispanic populations. These groups argued that minorities, low-income people and the elderly were particularly vulnerable to eminent domain abuse. The conservative justices, assuming a libertarian position, defended private property to the utmost.

Unlike in the United States, in Puerto Rico municipal governments do not openly state that economic development is their motivation for using the power of eminent domain. They expropriate claiming "revitalization" or the building of "social interest housing". However, the "social interest housing" proposed is, in most cases, neither accessible nor affordable to the people who are displaced by the government. More importantly, local communities are not taken into account in designing the new housing/development projects. This is a carefully designed scheme to increase revenue from property taxes, bolster the construction industry and force low-income people out of highly coveted urban spaces.

²⁵ Act for the Development of Special Communities in Puerto Rico 2001 (21 L.P.R.A. § 967).

²⁶ *Ibid.* § 962.

Community members were under the impression that the statute that created the "special communities" program offered them protection from the use of the power of eminent domain against them by a municipality. They had difficulty in understanding that a municipality could override such an important state program. Also, people from the community did not have a clear idea about the difficulty of challenging in court the "public use" alleged by the government.

4.3. The Crafting of Statute #232

The crafting of the bill was the joint product of the student-lawyers from the community development section of the clinic, the members of the Los Filtros community, and members of other communities who joined the process. We first discussed with members of the residents' council the statutes applicable in eviction cases in Puerto Rico and the interpretation given to them by our Supreme Court.

The students turned to the Statute of Autonomous Municipalities and found a provision requiring that before a municipal government could expropriate land from the state government, it had to obtain a joint resolution from the legislative chambers; that is, it had to seek the authorization of both the House of Representatives and the Senate. This was a special procedure created for expropriation of land belonging to the state government by an autonomous municipality.

After discussion with the members of the residents' council, we decided that we could ask for an amendment to the statute creating the "special communities" program requiring the same mechanism for cases when a municipal government desires to expropriate land located within a "special community". This would provide a public forum by giving the community the opportunity of presenting its position to the Legislative Assembly (Morales-Cruz 2007). We knew that this mechanism would not necessarily halt the expropriation of the community, since the legislative bodies could still approve an expropriation by a joint resolution, but nonetheless we decided to start our lobbying process with a modest proposal for fear of not obtaining anything.

When we started lobbying we were told that public hearings were not mandatory before joint resolutions were adopted, so we added to the bill that eventually became Statute #232 that public hearings had to be held in both legislative chambers before a joint resolution could be passed authorizing an expropriation by a municipality of land located within a "special community". To further strengthen the bill, we also included that members of the community to be expropriated had to be invited to the hearings.

Further along the process of lobbying, we were able to add a community referendum as a second requirement before expropriation by a municipality of land located within a "special community" can take place (Morales-Cruz 2007). According to Statute #232, before an autonomous municipality can expropriate land located within a "special community", seventy-five percent of those voting in the community referendum have to authorize the expropriation. Additionally, the Legislative Assembly has to adopt a joint resolution in order to authorize the expropriation, after celebrating public hearings in both chambers to which the leaders of the "special community" and the municipality have been invited. The state government office that had been created to establish and promote the program for "special communities" was to establish the procedure for the community referendum.

4.4. The Lobbying Campaign

Before the lobbying process was started, the students and I invited to our class a political science professor who shared his knowledge about lobbying processes with us. Members of the Los Filtros residents' council, my students and I received

orientation from several advisors to legislators about legislative processes and lobbying strategies.

The lobbying campaign lasted from early 2003 until August of 2004. All the offices of the representatives and senators were visited by teams composed of students, members of the Los Filtros community, members of other "special communities" in Guaynabo facing the same threat as Los Filtros, and members from "special communities" located in other municipalities who were also facing the threat of expropriation by their municipal governments. This coalition of communities was formed before the lobbying process started: the Coalition of Communities United against Expropriations and Abuse, known as CCUCA (Morales-Cruz 2007).

Community members and students, with the community members spearheading the effort, explained the bill to the legislators and argued for its adoption. They carried a short list with important points that had been jointly developed to make sure that all issues that we wanted to bring before the legislators were addressed at each meeting.

Both the CCUCA and the students participated in public hearings in the House of Representatives and the Senate. The CCUCA always testified before the clinical section did, purposely, to make sure that they were the protagonists of the process.²⁷ People from the communities learned how to write their presentations for the public hearings. We supported them during the writing process.

During the public hearings, members of the communities were able to present alternative development plans that the Community Design Workshop of the University of Puerto Rico's School of Architecture had designed after consultation with community members. The community development section of the Legal Aid Clinic was able to serve as a link between some of the communities and the School of Architecture.

Throughout the eighteen months that the lobbying campaign took place, members of the Los Filtros community and the CCUCA marched together, protested together, held numerous press conferences and participated in radio and television programs (Morales-Cruz 2007). Thus, the lobbying process was combined, effectively, with political mobilization outside the legislative arena.

The community development section of the Legal Aid Clinic always limited its participation in press conferences in order to ensure that the voices of community members would surface in the public opinion. Members of the press routinely approach lawyers who participate in political mobilizations with the effect of sometimes ignoring the voices of people who have valuable knowledge to share. As lawyers, we found that if we purposely made an effort to assume a secondary role, the voices of the members of the communities who were lobbying were more prone to be heard.

4.5. Aftermath of the Adoption of Statute #232

Statute #232 of 2004 has been crucial in helping to develop a movement against the displacement of low-income communities in Puerto Rico. Members of the communities that participated in the lobbying process were very active in the Puerto Rico Social Forum held in 2006.²⁸ In 2007, the Puerto Rican Bar Association

²⁷ Gordon (2007b) has stressed that lawyers are not the "protagonists" in "law and organizing" approaches.

²⁸ The Puerto Rico Social Forum is a local version of the World Social Forum. According to its Charter of Principles, "[t]he World Social Forum is an open meeting place for reflective thinking, democratic debate of ideas, formulation of proposals, free exchange of experiences and interlinking for effective action, by groups and movements of civil society that are opposed to neoliberalism and to domination of the world by capital and any form of imperialism, and are committed to building a planetary society directed towards fruitful relationships among Humankind and between it and Earth." *Charter of Principles, World Social*

held a conference dedicated in its entirety to the issue of displacement of low-income communities. In 2008, judges in our national system participated in a seminar about poverty and the "special communities" program in which this statute was highlighted. Finally, in 2009, the Puerto Rico "Zero Evictions" Coalition was formed. It is part of an international organization called the "International Alliance of Inhabitants" (*Alianza Internacional de Habitantes*), which works against the displacement of low-income communities from urban areas. The Coalition was formed by members from the communities with which the community development clinical section had worked and other communities facing the threat of displacement. This is an example of how we have tried to link our struggles with other local, national, and international struggles, as suggested by White (2008).

The main organizations of mayors in the island, as well as the mayor of the municipality of Guaynabo (where Los Filtros is located), have lobbied the Legislative Assembly and have exerted pressure at the executive level with the purpose of repealing Statute #232. The first attempt to repeal the statute was in February of 2005, less than six months after it had been approved. Since then, several bills have been introduced to eliminate Statute #232.

However, these attempts to repeal the statute have not been successful mainly because members of the coalition of communities, including members of the Los Filtros community, have been able to block these efforts by lobbying. They have successfully mobilized politically to stop these efforts. The summer of 2006 was a particularly striking instance since both legislative bodies had voted to repeal Statute #232. However, at the last moment, the coalition was able to make a senator reconsider his vote and withdraw it, thereby blocking the repeal of the statute. The most recent attempt to repeal the statute was during the last months of 2010. Once again, members of the Los Filtros community effectively mobilized with other members of the coalition to block this effort.

In September of 2007 the Municipality of Guaynabo filed a case in court trying to achieve in the court system what it had not been able to achieve in the Legislative Assembly. It is asking that the court invalidate the designation of all the "special communities" in Guaynabo. If granted, the Municipality would not have to comply with the participatory procedures required by the statute that the coalition of communities lobbied so hard to get approved. Whenever we have a hearing in court, members of the "special communities" in Guaynabo fill the courtroom. Usually they hold press conferences on the day of the hearing and invite the press to attend the court session. The struggle against expropriation is, therefore, an ongoing process.

5. Methodology

5.1. Introduction

The previous chapter of this thesis was based on my observations as the lawyer who participated in the crafting and lobbying process of Statute #232 with members of the Los Filtros community. This approach is similar to participant observation research methodologies that have been used in the field of anthropology.²⁹ The following chapters are based on interviews that I conducted with members of the community.

Forum. Available from: http://www.forumsocialmundial.org.br/main.php?id_menu=4&cd_language=2 [Accessed 9 September 2011].

²⁹ See, Tarlock (2001) arguing that the work of a particular lawyer can be considered that of a participant observer ("participant-observer lawyer"). Although I by no means consider myself an ethnographer, the participant observer methodology is the one that most resembles my relationship with the community of Los Filtros. I never, however, considered myself a researcher in the community. The narrative in chapter 4 is based on a previous article that I wrote in 2005, almost two years after we started the lobbying process, and less than a year after the adoption of the statute (Morales-Cruz 2006).

For a long time I had wanted to talk with the members of the Los Filtros community who participated in the lobbying of Statute #232 about their experiences during the lobbying process. After all these years, if I were to claim that the members of the Los Filtros community who participated in the lobbying campaign for Statute #232 are more empowered, I would be openly labeled as biased by many due to the fact that I am the attorney who has worked with them for all of these years. However, it is important to point out, as previously mentioned, that Statute #232 has suffered several attacks and attempts to repeal it. Fortunately, thanks to the efforts of people from the communities protected by it, headed by members of the Los Filtros community, it has survived and continues to be part of Puerto Rican Law. They have learned how to navigate and influence the legislative process.

In this thesis I hope to be able to present the voices of the members of the community who actively participated in the lobbying process of Statute #232 and their reflections on the lobbying process experience. During my research the only works that I encountered that described the experiences of non-lawyers in a participatory lobbying strategy were those by Jennifer Gordon regarding the New York Unpaid Wages Prohibition Act (Gordon 1995 and 2007a).³⁰ However, Gordon's writings deal more with the lobbying dynamics of that particular act. She gives great importance to the challenges faced by immigrants as lobbyists and not to the dynamics of the lobbying process as such.

5.2. The Choice of Qualitative Research Methods

Since I wanted to present the voices of members of the Los Filtros community regarding the participatory lobbying process, I chose qualitative methods for my research: more specifically, in-depth semi-structured interviews that would allow the interviewees to express themselves regarding the broad topics that I wanted to explore: their perceptions about lobbying and its relationship to law, politics and democracy. It was initially clear to me that I wanted to ask them about democracy. I wanted to explore how they related democracy to the lobbying process. I decided to also inquire about law and politics because of their close relationship and importance in "law and organizing" approaches, which continually question the boundaries between the legal and the political.

I have been influenced by postmodern, postcolonial, and some feminist approaches which question the notions of objectivity and emphasize context and contingency.³¹ Therefore, I did not perceive myself as a researcher who was setting out to collect objective data. Rather, I was aware from the beginning that my own perspective was going to inevitably influence my research. My main aim in conducting this research was to bring to the forefront the voices of the members of the Los Filtros community who participated in the lobbying process of Statute #232 regarding their perceptions about the process and its relationship to law, politics and democracy.

I was inspired by the work of anthropologists such as Shannon Speed (2006, p.70), who has argued that critically engaged activist research "provides an important approach to addressing the practical and ethical dilemmas of research and knowledge production".³² It can address the politics of knowledge production and work to decolonize research processes (Speed 2006). Rather than seeking to avoid

Ever since I started working with low-income communities in 2002, I have kept an informal journal documenting my work with the communities, which I used as the basis to write the article in 2005.

³⁰ Lobbying has been used as a strategy in work that can be described as located within the "law and organizing" approaches tradition, mostly in struggles for workers' rights. See, e.g., Ansley (2008), Cummings (2009 and 2007b), and Cummings and Boucher (2009). However, no detailed descriptions are offered about the experiences of the non-lawyers involved in the lobbying and how they perceived the process.

³¹ See Speed (2006 cited Lyotard 1984, Said 1978, Haraway 1988).

³² By "activist research", Speed (2006, p. 71) means "the overt commitment to an engagement with our research subjects that is directed toward a shared political goal".

the tensions inherent in research, activist research engages with them, making them a productive part of the research, she claims. Speed (2006, p. 74) stresses that most anthropologists significantly engage with the communities that are the subject of their research and states that some consensus has been reached in anthropology of incorporating reflection about how the researcher's position affects the knowledge that he or she produces:

"Critiques of anthropological authority and feminist standpoint theory have given us a heightened awareness of the socially situated nature of our knowledge production. Understanding the inherent inequalities of research relationships, we have reached some consensus in anthropology of the importance of "situating ourselves"-incorporating a reflexive consideration of how our positioning affects the knowledge that we produce. This includes considerations of power and authority in the relationship with our research subject.

...

To the extent that such research [explicitly activist] is possible it will certainly never be without contradictions. An explicitly activist engagement, when maintained in tension with critical reflection, forces us to address these contradictions, even if the conclusions generated are always partial, contingent, and subject to debate (as they are in all research)."

I embraced this approach in my research. It was important to be self-reflective about the bias that is present in me since I actively participated as an attorney in the crafting and lobbying of Statute #232. Also, I reflected about the fact that the community members that I interviewed were also biased by the fact that they played a central role in its lobbying process and have played a crucial role in blocking its repeal. Statute #232 has a particular importance for us. We have been working together for close to ten years. My aspiration has been to establish a collaborative non-hierarchical relationship with them, but this is an ongoing tentative process. As Lucie White (1988, p. 769) has written: "[w]e have no choice but to proceed tentatively, attentively in our work, never escaping from the uncertainty of our action".

What some could question about my research-my strong involvement with the interviewees-has advantages in addition to those discussed by Speed (2006). The fact that I was so involved in the crafting and lobbying of the bill provided me with certain insights and connections to the community that potentially would have been missing from the work of any other researcher. Moreover, the interviewees felt comfortable talking because they trusted me.

I decided to ask the interviewees questions about the lobbying process as such and asked them to focus more on lobbying as an experience rather than concentrating on the specific details of the lobbying of Statute #232, with the hope of distancing myself from my own role as a lawyer. I told each of the interviewees that my main purpose in conducting the interviews was bringing out their voices, their experiences about lobbying as a process: thus, there was no such thing as a "wrong" answer to any of my questions. I strived to intervene as little as possible, to allow them to feel free to express themselves.

5.3. The Interviews

I conducted in-depth semi-structured interviews with all the members of the community who participated in the lobbying process of Statute #232. I interviewed seven members about the lobbying process and the history of the community. One of the members who was part of the lobbying campaign passed away some years ago and another one was not available for interview. A third one moved away from the community and is now living in the United States.

Some of the people that I had originally thought to interview reminded me that they had only attended public hearings in the Legislature, but had not met with

legislators or with members of their offices, which is the core of the active lobbying process. I was able to interview all the members of the community who visited the offices of the legislators as part of the lobbying process, with the exception of the three people that I mentioned before. I chose to interview only members of the Los Filtros community even though there were people from other communities who also participated in the lobbying process, since the crafting and lobbying effort was initiated in the Los Filtros community and I had to consider the constraints imposed by the requirements for this thesis.³³

The interviewees were three men and four women, with ages ranging from late 40's to late 60's. I advised all of the interviewees that their names would not be included in my thesis and that their identities would be kept confidential. In this way, I was able to obtain their informed consent. All of them have been given fictional names.³⁴

The interviews varied in length. Some of them lasted twenty minutes; others, nearly an hour. Interviews were conducted and recorded in Spanish. I later listened to the recordings several times, transcribed the parts that I included in the thesis, and finally translated those parts into English.

After listening to the tapes several times, I decided to select and transcribe the parts that I felt best represented the interviewees' answer to the question posed. My voice is, thus, inevitably present in the selection of quotes. In many cases, particularly in the questions related to the definition of lobbying and the relationship between lobbying and law, politics and democracy, I was able to transcribe the interviewee's entire answer to a particular question. The fact that I limited my questions to cover five broad topics and interviewed a small number of people helped me to be able to include many quotes from the interviews. I was not able to transcribe the interviews in their entirety due to lack of financial resources.

I asked participants to explain to me what they understood lobbying was, to share with me some of their experiences during the lobbying process of Statute #232, and to describe how they related lobbying to law, politics and democracy. I chose not to provide a definition of any of these terms.

I will present quotes taken directly from the interviews that I conducted. I hope in this way to be able to share with the reader the perspectives of the interviewees about the lobbying process. I have grouped their answers by topic following the order in which the questions were asked and have chosen to include as many direct quotes as possible since one of the aims of this thesis is to highlight their voices. However, my voice is inescapably present in the selection of quotes and in my translation from Spanish to English of the quotes selected. I have made limited comments to try to be as respectful as possible of the interviewees' voices. It is a daunting task to attempt to present the voices of others.³⁵

³³ As I previously discussed, many members of the Los Filtros community participated in the activities surrounding the lobbying campaign of Statute #232, such as attendance to public hearings, press conferences and protests. This thesis is focused on the voices of the members of the community who participated in the core of the lobbying process, which are the visits to the offices of the legislators. Additionally, I would like to clarify that not all members of the community supported the activities of the residents' council. However, a vast majority supported the council, which had been elected in a community assembly. Most residents participated in different activities related to the campaign against expropriation. When we started working together, in 2002, the community was composed of more than one hundred and twenty families. Around twenty-five to thirty families later moved to an apartment complex offered by the Municipality, which was constructed in an empty plot of land adjacent to the community.

³⁴ There is the possibility that some people in Puerto Rico could identify one of the interviewees. However, I specifically warned the interviewee about that possibility and he/she expressed no concern about it and expressly agreed to the interview.

³⁵ I am aware that my own interactions with the interviewees affected the process. I do not include excerpts of my interactions with them, which I tried to limit, as I have already explained. I did not ask the interviewees further questions about my interpretation of their answers due to the timing and length

6. Voices from Los Filtros

6.1. Introduction

In the following sections, I will present portions of the answers of the questions posed to the interviewees. There were five broad topics covered during the interviews: 1) definitions of lobbying, 2) perceptions about the lobbying process, and the relationship between lobbying and 3) law, 4) politics and 5) democracy.

6.2. "How would you explain what lobbying is?": "Talking" with Legislators

"Talking" and "dialogue" were mentioned by the interviewees when asked to explain what lobbying meant. Participatory lobbying provides the opportunity for the voices of people to be heard and allows them to engage in conversations with the members of the legislative bodies in order to seek to influence them about a piece of legislation.

Marta made reference to "talking" and "listening" when describing the lobbying process. She also mentioned that they, the members of the Los Filtros community, were asking for something from the legislators and had to "fight" sometimes in order to be listened:

"Well, lobbying, on the one hand, was very good because one would go there and talk to the legislators and had to fight sometimes for them to listen to us...

...

My idea [of lobbying] is that you go to a place like, for example, when we went to the capitol building to talk with people and with the legislators for them to support...is support the right word?...to support Statute 232, to help us make that statute to protect special communities at risk."

Luisa used the word "dialogue" to describe the lobbying process:

"To lobby is to go to have a dialogue with another person..."

For Miguel, to "visit" and "talk" to the representatives was an important feature of lobbying, as well as a way of getting their support. He stressed that he had very little knowledge about lobbying before this experience:

"I did not know what it was to lobby because working was always my thing.

...

This was truly something meaningful for me. I did not know what lobbying was for. I barely knew that it was to visit my representative, the one who represents me, from the municipality and that he is there, in the legislature...

...

For me lobbying was to go there and talk to the representative but it turned out to be something more profound. It was to talk with the representatives from each party and try to more or less win those votes or to get that strength [referring to the support of the legislators] so that they would support what we truly wanted..."

He also referred to lobbying as not only encompassing the legislative level, but also the executive level. Lobbying at the executive level meant that they engaged in a special effort:

"And we did not only lobby in the legislature, we lobbied in La Fortaleza [governor's mansion], in the Executive level, so we were going even a little bit further."

Miguel distinguished lobbying from attendance of public hearings, to which he also gave importance:

constraints of this thesis. But any interpretation of my interactions with the interviewees, or of the interviewees' own interpretations of how I interpreted their answers, would also be subject to debate.

"It was not only the lobbying, but going to those public hearings and expressing ourselves and winning those votes of those representatives from different parties who were the ones that were going to support us so that we could amend that statute."

Margarita referred to "present[ing] a problem". She was angry at the attitude displayed by some legislators, who did not pay enough attention to them. In her narrative she expresses great distrust towards legislators:

"I would say that lobbying is to go to the senators in the capitol building to present a problem that one has in one's community or the main need that one has, but when one goes lobbying one has to be very directed towards those legislators because really there are times that they pay attention well and really there are times when you think that you are wasting your time, that they are deceiving you, turning their back against you..."

...

We went and I lobbied and many times I would leave disillusioned because I said My God! How these people work! People who go lobbying should be prepared to tape [record proceedings]. Say: Look!, Sign here!, you told me this, you offered me that, and you said this other thing. Put it in writing please, because those people, they offer you the world at first and then, there is nothing..."

Carmen, like Miguel, describes her lobbying experience as one where they "visited" the legislators:

"We visited office by office of legislators and people that have to do with the laws and we went office by office asking..."

Manuel made reference to going to the legislature and talking about a statute:

"One goes to the legislature. One goes with a group of people and talks about the pro's and the con's of the statute so that they will pass it in favor or vote against it."

The interviewees made reference to "talking" and "dialogue" as part of lobbying. Their conversations with legislators were sometimes difficult and antagonistic, as is shown by their comments about their struggling to get the legislators' attention and fighting to "win" votes. Engaging in conversations with the legislators seemed to be a crucial part of most of the definitions of the term "lobbying" provided by the interviewees. By engaging in conversations with legislators, they were active participants in the legislative process and were able to influence the legislators' decisions.

6.3. The Lobbying Process: Commitment and Hard Work

For all the interviewees the lobbying of Statute #232 was the first time that they engaged in such an effort. I asked them to think about their experiences during the lobbying process and to mention both the positive and negative aspects.

Marta, for example, remembered crying when she was in the office of one of the legislators, but she also remembered other legislators who helped them:

[a legislator asked] "who did we think we were to tell a mayor what he had to do and I told him if the mayor can come and say that one has to leave [one's house] and one has to leave..."

...

I started crying and crying...

...

and, well, there were also good experiences because there were legislators that helped us and gave us a hand...and helped us to make Statute 232."

Luisa described the experience as a good one because she had never gone to the office of a legislator and some of them agreed with what the community was presenting:

"The experience was good because I had never gone to the offices of the legislators and then we went, and we entered [the office] of a legislator and then [that of] another [legislator] and I met them, and at least the ones we met, they agreed with us."

Pedro related lobbying with learning and becoming more mature. He was thrilled to become involved in the political process and to be able to "help the country":

"What lobbying meant for me...It is like a space opened to learn, to learn about something that the majority of people in Puerto Rico live in darkness about because they have not been able to go through that process of maturity of going into that scenario, if we may call it political, but at the same time it motivates you in that you find the opportunity to make some radical changes in life, radical in the sense that one becomes involved in the political processes that affect and at the same time can help the country, and in this case, low-income communities."

He highlighted the fact that although there were different perspectives on issues, as a result of the process, discussion was able to take place:

"This is the scenario where one can best share different methods for struggling and not merely with people that have the same view, what I mean is that the important thing about this is that they are seeing all the differences, they are opening up a space for discussion."

Pedro referred to lobbying again as a "space", a "space for understanding". He mentioned the responsibility that legislators have towards people to represent them. Accountability of legislators towards people is, it seems, of great concern to him. Additionally, Pedro asserts that lobbying is "essential" and it can be used to change policies and to become more involved in the problems of the country:

"I think that it opens a space for understanding. Lobbying is an important word because it is when we are asking the politicians to comply with their ministerial duty and the commitment that they made to the people that they would be their representatives. In the case of politics, lobbying can be used in many ways. One lobbies to make a claim to different sectors.

...

Lobbying is essential, and we are seeing it more these years in our country where sometimes decisions are taken erroneously or correctly. Well, one can change a policy that comes from the government or that sometimes is born due to some interests. I think that lobbying is essential to get involved in the country's problems."

Another word used by Pedro that can be related to his previous use of the word "learning" is "nourishing", which for him includes both positive and negative aspects. However, the experience made him feel rejected by a group of the population that is used to deciding on behalf of others. He felt that lobbying Statute #232 opened his "appetite" for becoming more involved in politics, to which he referred to as "a mess":

"Having entered into lobbying for me in this case, for Statute 232, meant nourishing myself with good things and bad things.

...

The bad things are...the rejection by a group of people who always lived in a world where they always did things and the people had to accept them...

...

The case of Statute 232 opened horizons and an appetite for becoming more immersed in that mess called politics."

Pedro mentioned that by lobbying he discovered "how vulnerable" the legislators are. He learned that if they, the lobbyists, brought "a clear message" to them they could get "respect":

"When one enters that scenario one sees how vulnerable they are and also how wrong they are, but also one sees something very important: that when one takes a clear message, an articulated message, we have also seen that we have made them respect us, and we took to them such a clear message that we see how Statute 232 was supported by the three political parties because we did excellent field work."

He talked about how lobbying enriched them because it made them stronger, because they were no longer ignorant about the process. Legislators are equated to gods from Olympus that are forced to "come down" and talk to mortals when people lobby:

"There were few negative things because even the negative part was enriching because it gave us fortitude. It gave us...it opened us, it took us away from that ignorance in which we lived, that everything had to be through the representatives, through the politicians. They were always thinking about the people. And maybe that negative part was the rejection from some politicians that saw people that are foreign to that world enter it. Having sometimes received like a bucket of cold water, being rejected...it made us want to keep going, in a more forceful way, and at the same time we see how they come down from their Olympus and then we enter into the wars of the mortals. There is a "people" ["un pueblo"] that is learning and I think that those negative moments gave somehow force to that lobbying movement."

For Pedro, he was "marked for life" by the lobbying process. He gave importance to being patient and persevering in the effort, not giving up, even though they had been warned by many that it was impossible to get the legislature to adopt the statute:

"One of the things that I can say that have marked me for life is how that statute was lobbied and how there was patience with the statute, how many people along the way told us that we would not get there, the same people who were supposed to benefit from that statute, how they fell along the way, they left...I think that quantity was important but more important was the quality and the people who put effort and that is a mark that all of the ones who worked, everyone, every person that participated in that lobbying and was able to have that statute signed, I think that it is like an autograph that each one of us carries in our heart as a reminder that we were an essential part of what today protects more than seven hundred communities and we are talking about a million people who live in them."

According to Miguel, lobbying was difficult and hard work that was "spectacular":

"It was not just one time that we lobbied, there were different phases. And it was work that to me was impressive and spectacular because it was a spectacle every time that we went to those hearings and we had to face the representatives from the Popular Party, from the P.N.P. Party, you know, it was not easy, but it was something new and we truly gave a hundred percent."

For him, it was challenging work to which he devoted many long hours. He suffered personal consequences because he lost two jobs as a result of the process. Miguel described lobbying as a battle that can be won by fighting and having conviction:

"I remember that it was many days, many hours. Because of the lobbying I lost two jobs because my bosses were calling me and I was there, in the battle.

...

But I learned that when one sets oneself on something and fights for it, one gets it by having faith, and looking in one direction..."

According to Miguel, it is important to be persuasive and to relate the problem to a larger group of people:

"I would say that the act of lobbying, the positive side to it, is that one goes there and brings the problem that people are going through. Because those people they do not look to a particular community, but to people. One has to win over each of those persons that are there to win their vote so that when they go to vote they vote in favor of what we ask them to."

He expressed mistrust towards the legislators and stressed how unpredictable the lobbying process seemed to be:

"You cannot trust anyone there, one day they can say one thing and the next day or the day of voting something else might happen. Truly, there, you do not have any friends there. You have to be positive and win people and the day of voting when they are going to pass something they might do their job, but in terms of what can happen or cannot happen, there is nothing for sure. You go and do your work with the lobbying, you try to do the best that you can to win over those people but they make the decision."

Margarita also expressed distrust about legislators. She accused them of not taking their job seriously:

"Legislators, one votes for them, places them there, let's say, in power, and when one needs them they are not there or they turn their back on you or, like I told you before, they say "Yes, we are going to honor what we told you", but they do not. I saw legislators in sessions who are earning money paid by the people of Puerto Rico and we are giving away that money as a gift because they are not taking things seriously. They have no respect."

According to Margarita, legislators are not "doing a good job" and many are "liars". She complained about the fact that they earn a lot of money and do not work hard enough. A lack of discussion during the voting process is another one of her concerns. However, Margarita encouraged people to go to the Legislature to lobby and "listen in":

"I understand that they are not doing a good job, that we are paying them plenty of money and we see that, and we are earning very little and we have to work hard to survive. We work hard...Then you see a person sitting there to earn a salary for sitting there and doing nothing. That bothers me. There are times when I want to stand up and say Hey! How much do you make? You are not doing anything and I feel very sad. I would say to many people to visit the capitol building and go lobbying, that they should go to sessions when they hold them and go and listen in.

...

They have this thing that they say, "approved" [referring to what the legislators say when they vote in favor of a statute]...They say "approved" and one does not even know what they are approving, what one hears is like mumbling..."approved", "approved"...It shows a lack of respect, because things should be...I tell you, this bothers me. I say to myself "What are they approving?...if the people who are present have not been able to hear anything. And that happens when there are people present. I think that when there are no people present, they just say "approved" and get out of there fast.

...

To me legislators are liars. They are people that, in my opinion, there might be, among all of them, maybe, there might be one [that is not a liar]...Because this is like a bag of apples. You buy a bag of five pounds of apples, and out of the five pounds, three might be rotten. Maybe there [in the Legislature] more than three are rotten. Out of twenty legislators, for example, if you can take out three [who are not "rotten"], it is saying a lot... the ones who are truly really working...because they [in general] are not working, they are showing a lack of respect to all Puerto Ricans, to everyone in this country."

She stressed the fact that they devoted many days and nights to the lobbying effort and made many sacrifices during the process:

"We lost many days, many nights, until late in the early morning hours...being there without eating."

Margarita, however, mentioned that she liked lobbying because it was a shared experience with a group of people. But, she reiterated her distrust of legislators:

"I liked lobbying, I liked going to the capitol building, it was a beautiful experience with all the group of people, we were always together and meeting people from other communities that also lobbied. When I was there, we were paid attention to, but later, when we turned our backs...it was something different...I left with a whole other impression."

For Carmen, lobbying was both a positive and negative experience because many legislators wanted to help them, while others did not:

"I felt very flattered because many of the people that we went to lobby agreed with us and that is why we could make the statute because many agreed to give us their signature..."

...

There were legislators that said no. Well, it is like everything in life, there are negative things and positive things."

Finally, Manuel saw lobbying as a way to help the community:

"One helps the community when one lobbies."

Passion, commitment and hard work are reflected in the narratives of many of the interviewees when describing the lobbying process. For Pedro, their lobbying work was "like an autograph that each one of us carries in our heart". It was difficult work that they described in many occasions as a struggle, a fight, and stressed how many days and long hours they devoted to it. Several of them expressed distrust of legislators and understand that they have to be accountable to people.

In the following sections, I will present how the interviewees responded to questions asking them how they related lobbying to law, politics and democracy.

6.4. Lobbying and Law: Lobbying as a Right

In Spanish the word for "law", "derecho", can mean both "law" and "right". When asked about the relationship between lobbying and law ("derecho"), most of the interviewees chose to interpret "derecho" as "right".³⁶ They made reference to what they perceived as their "right" to lobby.³⁷

Marta identified lobbying as a right to "ask for something":

"One lobbies to ask for something, for something that one wants them to give to you. Well, then, I view it [lobbying] as the right that one has to ask for something. It is the right that one has to go...to go lobbying."

According to Luisa, lobbying is also a right. She mentions the fact that they hold the legislators accountable by lobbying:

"It is a right that we all have and then one goes to the legislators and tells them: Look, remember that we are all paying attention to that. Remember! And then they have a meeting over there. They talk to one another: "Look! Those people are paying attention to what we do, you know that we have to act regarding this matter"."

Pedro also related lobbying to rights, but only in the case of communities. He mentioned that on other occasions lobbying was related to economic or personal interests. This distinction is interesting, as he perceived their lobbying as not motivated by interests, but by rights that they had or wanted "to seek". He referred

³⁶ I cannot derive meaning for myself if I substitute "law" for "right" when I translate "derecho" to English in all of the narratives but one, which I specifically distinguish, that of Miguel.

³⁷ The right to lobby stems from the right of the people to petition the government for a redress of grievances, which is enshrined in the Constitutions of Puerto Rico and the United States of America. See, Constitution of Puerto Rico (Article II § 4) and Constitution of the United States of America (First Amendment).

to their lobbying as a right and as a process for gaining or enforcing rights in order to validate their enterprise. For Pedro, in order for rights to be recognized, one has to exert pressure through lobbying:

"In the case of communities the word lobbying is to seek a right, precisely. In other occasions lobbying is done looking for other interests, economic interests, personal interests. In our case we were forced to lobby in order to enforce our rights. If that had not been the case...one can make a claim for one's rights, but if one does not start a process of exerting pressure through lobbying even if rights are guaranteed...We would not have achieved them without the lobbying so that those rights could be claimed and recognized and acquired...What I am referring to is that there are rights but if one does not claim them one is not going to get them unless it is through efforts such as the word lobbying."

Miguel mentioned that lobbying is intrinsically related to law. He talked about law in general, not about a "right to lobby". Law allowed them to enter the lobbying process and helped to guide them through the process:

"Lobbying without law is not lobbying, because one has to recognize that it [law] takes one there [to the Legislature]. Law also helps us to prepare more about what we really...what direction we want to take and what we should say or not say to fulfill our objective."

Margarita also related lobbying to a right:

"They are related because we lobby in order to obtain a right to a statute."

Carmen referred to struggling and fighting for what is theirs. Her vision of rights seems to not be a purely legalistic one:

"We have a right to struggle and fight for what is ours."

Manuel also used images of battle and struggle by talking about defending "what is ours":

"A right is how you defend yourself. If you lobby, you are defending what is yours, what you believe in and if you have a right, well, you are going to defend what is yours, what you believe in."

Most of the interviewees seemed to view their lobbying as a right that they had; others, identified lobbying as a right that they had to "fight" or "struggle" to defend themselves. The latter image resonates with the notion of antagonism as an important part of democracy defended by radical democracy theorists (Laclau and Mouffe 2001).

6.5. Lobbying and Politics: A Partisan View of Politics

When asked about the relationship between lobbying and politics, some of the interviewees seemed to refer to politics as only related to political parties; that is, they had a partisan view of politics. Several had a negative view of politics, as something that should not be brought into the lobbying process. Others, like Marta, related politics to the fact that the municipality wanted to evict them:

"One goes looking for something that has to do with politics, to lobby so that they will help us, so that they will not evict us from the neighborhood."

Luisa appeared to have a partisan view of politics. However, her views about politics did not seem negative, when compared with the answers given by other interviewees. She made reference to the fact that:

"even though they [the legislators] belong to different parties, one talks to them and almost all of them understand what one is trying to tell them even though they belong to different parties."

For Pedro, "political lobbying" was something "hurtful", tied to "buy[ing] consciences", different from the type of lobbying that they did for Statute #232. This type of economic influence within the electoral and legislative processes has

been one of the causes of the loss of faith by many in representative democracy. Pedro stressed the importance of working in collaboration with other people:

"I think that there is a pretty close relationship...because in Puerto Rico the word lobbying has been used for everything...

...

In Puerto Rico political lobbying has turned in many cases into who has the more money, who can buy more consciences...And I believe that nowadays it is so frequent, that it is a public matter. It is no longer something that is hidden, it is evident. We see it when they "twist arms", we see it when they buy consciences...Political lobbying is so hurtful because we see how there is no respect, there is no morality, no integrity, no respect, and I believe and I would say that the difference between the lobbying that we did with Statute 232 was that we did not give any money, we did not have to buy consciences, simply to do our job by claiming some rights, but I think that what gave more strength to that was all the sectors that united to do that lobbying because what one sector could not do, another was able to do. We became accomplices to figure out how to best do our jobs.

...

I would say that the process of lobbying and the political process go almost hand in hand."

Miguel seemed to associate politics exclusively with political parties. However, he also mentioned "political ideologies":

"Lobbying any way you look at it has to do with politics because if you go there to lobby you are going to meet with the three parties involved. You have to go and lobby and visit each one of these representatives that represent each one of those parties. You have to go there to win the approval of each one of them, no matter what party they belong to. You have to be aware that you are going to run into each one of the representatives with different political ideologies."

Margarita associated politics with "politicians" and electoral campaigns and once again, expressed her distrust of legislators, which she referred to as "politicians":

"Lobbying and politics...I had never realized it before, but, I understand that when politicians are close to the moment when politics is coming closer [referring to electoral campaigns and elections], they will do anything for you, but when the moment of truth comes, they are nowhere to be found..."

For Carmen, politics did not permit some representatives to recognize the right of the poor to fight for what belongs to them:

"I relate lobbying to politics specifically because many of those who did not accept to help us with the statute looked at it, like, politically they did not see the right that the poor have to fight for what belongs to him/her."

Manuel perceived politics as something that is not helpful for a lobbying campaign. One should, according to him, not bring in politics when lobbying:

"Those two things for me should not be mixed. They are two very different things. If you bring in politics...If you are going to lobby to defend yourself, don't bring in politics because it is not going to work."

As I previously mentioned, it is my impression that several interviewees seem to have a negative view of politics. Many equated politics with partisan politics, that is, to an affiliation to a political party. Some of them shared the perception that they had a right to lobby and referred to their lobbying as a "right" in order to validate it.

6.6. Lobbying and Democracy: Democracy as a Practice

It appeared that the interviewees tended to relate lobbying with democracy in an easier way than they related lobbying to politics. Many tied their conception of

"lobbying as a right" with democracy. For Marta lobbying is a right included in democracy:

"The right that one has to claim one's rights, like liberty,...that this country has because the democracy that they give to you gives you the right to speak, say and protest."

Luisa tied democracy with dialogue. She also referred to the "right" to lobby:

"Well, there is democracy because one can enter to any office and have a dialogue with any legislator. That is a democracy because we have the right to go and have a dialogue with them."

For Pedro, democracy is not yet complete. It becomes "stronger through lobbying", as lobbying "put[s] democracy into practice". For him democracy is an ongoing practice:

"Democracy is open to interpretation. I think that one must make strong claims to democracy, one has to work on it. I don't think that it is there totally, from a to z, what the word democracy means. I think that democracy is born or becomes stronger through lobbying because it is one thing to talk about democracy but another if democracy is fulfilled, and that is why I think that lobbying forces to put democracy into practice.

It is important to be well prepared for the lobbying process, according to Pedro. This is the way in which democracy can be "strengthened":

"Because, many claims are made...many...but if you do not have a lobbying process in which participants are well prepared, equipped with the knowledge...I believe that it will not be as strengthening [of democracy] as when one goes with a clear mind to then demand what democracy requires. I always say that there are rights, but there are also responsibilities...both parties have to be equally strong in this sense."

Miguel stated that lobbying is a "right" and that legislators use democracy to decide whether or not to accept the group's lobbying request:

"Lobbying is a right and democracy, well, it defends those rights. You go and propose something there and they, through democracy, decide yes or no, you take a proposal and they decide."

For Margarita, democracy involves duties that legislators and citizens have towards each in a reciprocal way. The theme of accountability is strongly present in her narrative. For her, legislators have duties towards their citizens:

"For them and for us it should be to comply with our duty, us, to comply with our duty as citizens towards them, and them, to comply with their duties as legislators towards us."

Carmen described democracy as an experience that she lived when she lobbied. She also attributed to democracy the fact that legislators supported them:

"I feel that there was democracy between the legislators and us because if they had not thought democratically we would not have achieved it." [Statute # 232]

For Manuel democracy and lobbying "go hand in hand":

"I think the two of them go hand in hand because if there is democracy there can be lobbying."

The participatory lobbying effort as experienced by the interviewees served to create a space of participatory democracy for these members of a low-income community. They actively participated in the legislative process by personally engaging in conversations with legislators and seeking to push legislation in their favor. This is one of the aspirations of participatory democracy theories, to move democracy away from a low-intensity representative democracy in which people limit their participation to voting, towards a more invigorated democracy in which people actively participate in the democratic processes (Santos and Avritzer 2005).

As I have already discussed, some of the themes that I identified in the different narratives of the interviewees were: accountability of legislators to citizens (or "people"); distrust of legislators; lobbying as a learning experience; lobbying as a struggle; a view of politics strongly tied to partisan politics (which in many cases was also a negative view); and commitment and hard work as closely related to the lobbying experience.

Participatory lobbying offered an avenue for these voices from marginalized communities to influence the legislative process. It is an example of high-intensity democracy. This is uncommon in a representative democracy in which most people limit their participation to voting during election years and marginalized people's voices are commonly unheard.

7. Conclusion

As was discussed, the literature on what has been called "law and organizing" refers to types of lawyering that highlight political organization and are critical of the exclusive use of more traditional legal strategies, such as litigation, and focus on empowering clients, lay lawyering, and developing non-hierarchical relationships with clients (White 1988, López 1992). Participatory lobbying, that is, a lobbying strategy in which members of marginalized communities play a fundamental role in lobbying a bill, holds a particular place for law and lawyers within "law and organizing" approaches, distinct from the more traditional and criticized use of law: litigation.

Participatory lobbying offers members of marginalized communities the opportunity to learn how to navigate and influence the legislative process. They become the protagonists of a lobbying effort. This kind of lobbying creates opportunities for the voices of the marginalized to be heard. It has the potential to create a broader space of democratic participation for them and can help to promote an empowerment process. Members of marginalized communities gain power as they become advocates for themselves and argue about the law.

Strategies, of course, should be context-specific. Participatory lobbying might not be appropriate in many struggles of marginalized communities. Moreover, it might not achieve the substantive results expected by the groups who participate in the process. However, my hope is to draw attention to a particular type of strategy that lawyers do not usually deploy when working with low-income communities.³⁸

The type of work described in this thesis is an extremely challenging and difficult one. White (1988) and López (1992) are undoubtedly wise when warning us against being too confident about particular strategies or about our collaborative lawyering work in general. As I have told members of the Los Filtros community, Statute #232 could be repealed at any moment. Only their capacity to act together as a political force can prevent their displacement as a community (Morales-Cruz 2007).

The story of Statute #232 provides an example of how representative democracy can be used to open spaces of participatory democracy. It is an instance of what Boaventura de Sousa Santos has called "high-intensity democracy" (Santos 2005, p. x). There is an unexplored potential in participatory lobbying for lawyers working with marginalized communities.

³⁸ This thesis focuses on a lobbying campaign that achieved its objective of adoption of a particular statute. If the campaign had not achieved this aim, the perceptions of community members who participated in the lobbying process would probably be different. However, my argument is that participatory lobbying as a process opens a space of democratic participation for members of marginalized communities. Their voices, which are usually ignored, are brought into the legislative arena in a process that is driven by them, not by their lawyers. Participatory lobbying can teach them how to navigate and influence the legislative arena, which can encourage an empowerment process.

Since one of the aims of this thesis was to present the voices of the members of the Los Filtros community who participated in the lobbying process of Statute #232, Marta's answer when asked why she thought that the Puerto Rican Legislature had not been able to repeal the statute seems a fitting ending for this story:

"I think that [they have not been able to repeal Statute #232] because of the lobbying that we have done. I think that it is because of that, because of the lobbying, because of the pressure that we have exerted over the matter. Every time they say that they are going to repeal it, everyone goes there to protest and the legislators they are, like, a little bit afraid of receiving pressure from people. I think that it is because of that, because of the pressure and because it is a strong law that gave us power, it gave us fortitude, strength..."

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8.2. Legal Materials

8.2.1. Constitutions

Constitution of Puerto Rico (Article II §§ 4 and 9).

Constitution of the United States of America (First and Fifth Amendments).

8.2.2. Statutes

Puerto Rico's Expropriation Act 1903 (32 L.P.R.A. § 2901 et seq.).

Puerto Rico's Autonomous Municipalities Act 1991 (21 L.P.R.A. §§ 4051 (c) and 4453).

Act for the Development of Special Communities in Puerto Rico 2001 (21 L.P.R.A. §§ 962 and 967).

8.2.3. Cases

ELA v. 317.813 cuerdas de terreno, 84 D.P.R. 1 (1961) (Opinion of the Supreme Court of Puerto Rico).

Kelo v. City of New London, Connecticut, 545 U.S. 469 (2005) (Opinion of the Supreme Court of the United States of America).

8.3. Websites

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