

William A. Galston

An old debate renewed: the politics of the public interest

Writing in 2006, Michael Tomasky – a well-known liberal intellectual and former editor of *The American Prospect* – created a stir by urging the Democratic Party to embrace a politics of the common good. Decent and forward-looking governance is only possible, he argued, when citizens are called upon to “look beyond their own self-interest and work for a greater common interest”; only then can they believe they are contributing to a project larger than themselves. In Tomasky’s narrative, it is not difficult to understand why Democrats came to replace such a politics, which dominated the New Deal era, with an emphasis on individual and group rights, tolerance, diversity, and social justice. Nor was it inevitable that these two traditions had to clash. But in practice they did, diminishing the capacity of the Democratic Party to speak on behalf of

the nation and opening the door to a generation of conservative dominance.

Tomasky’s article struck a chord. The proliferation of earmarks – narrowly focused line items in the federal budget – suggested that ‘special interests’ were running amok, sealing corrupt bargains with venal legislators at the people’s expense. The common interest or good offered a standard for judging and repudiating these excesses. On a higher plane, a renewed politics of the common good promised an antidote to ever-increasing political discord and polarization. And a new generation of young adults was entering the political arena, disenchanted with the politics their baby-boom parents had bequeathed them but searching nonetheless for a new kind of practical political idealism. (Many of them rallied around Barack Obama, attracted by his invocation of one America as an alternative to warring Red and Blue states.)

In advancing his thesis, Tomasky gestured toward political philosophy: “[T]his idea of citizens sacrificing for and participating in the creation of a common good has a name: civic republicanism.” He cited Jean-Jacques Rousseau’s *Social Contract*, James Madison’s juxtaposition of self-serving factions to the public good, and Harvard theorist Michael Sandel’s lament for a vanished

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political economy of citizenship, covered over by consumerism and Keynesian economics. Overlooked in this narrative, however, was a more recent episode in American political science – a debate over the ‘public interest’ stretching from the mid-1950s through about 1970 – during which many of these issues were discussed. The vicissitudes of that concept cast a new light on our current situation.

Consider the views of four eminent political scientists, all writing in the early 1960s. After declaring that “there is no public interest theory worthy of the name,” Glendon Schubert rejected the view that there could or should be such a theory. Frank Sorauf dismissed prior discussion of the topic as “semantic chaos” and argued that participants did not even agree on what they were trying to define: “a goal, a process, or a myth.” For their part, Robert Dahl and Charles Lindblom contended that the public interest “is usually left totally undefined Often enough a precise examination would show that it can mean nothing more than whatever happens to be the speaker’s own view as to a desirable public policy.” All agreed that there was no remedy: the concept was so vague, so contested, and so mired in subjectivity and partisanship as to admit of no objective and meaningful specification. Gesturing toward Gilbert and Sullivan, Sorauf suggested that the public interest was worthy of inclusion on a list of ambiguous words and phrases that “never would be missed.”

These sentiments are representative of a broad vein of skepticism that had swept over political science. The post-war ‘behavioral revolution’ sought to reconstruct the academic study of politics along the lines of the natural sciences and economics. Facts were one

thing, norms quite another. Scholars could study facts objectively, but only by rigorously excluding norms (including their own ‘biases’) from the sphere of inquiry. The then-popular philosophical doctrine of logical positivism (of which A. J. Ayer’s *Language, Truth, and Logic* was the canonical text) nourished this view. The positivist creed taught that only two kinds of propositions were meaningful – logical (that is to say, tautological) and empirical. To the extent that morality made claims beyond definitions and observable facts, its assertions were literally meaningless.

Which did not mean random or without significance, however. Logical positivism fit snugly with emotivism, the thesis that morality expresses aspects of individual subjectivity. According to philosopher Wayne Leys, emotivists contended that one component of many words is “an emotion, attitude, or sentiment that . . . has been associated with the words in the experience of the person [using them].” These emotive meanings differ in kind from the “objective or factual meanings on which scientific agreement can be achieved.” The public interest, then, was an empty conceptual vessel into which individuals could pour their own emotional meaning. From this standpoint, ‘X is in the public interest’ is a covert, if often rhetorically effective, way of saying ‘I like X.’

The experience of totalitarianism reinforced this skepticism. Antidemocrats on both the left and the right had appealed to organic conceptions of society. Individuals were parts of a greater whole, and the good of the whole represented a harmony of interests. Conflict within a society was a disease; the cure was a purgative administered by public authority on behalf of the body politic. Understandably, the defenders of liberal democracy reacted by questioning the

*An old
debate
renewed*

possibility of a social whole, however understood. There was, then, no ‘public’ of which an interest could be predicated; to insist otherwise was a dangerous mystification. There were only individuals and aggregations of individuals, each with interests that conflicted with others. Far from being a disease, conflict was inherent in social life. The absence of overt conflict was evidence, not of harmony, but rather of repression.

To invoke the public interest was also to suggest the possibility of concern for society as a whole. Many political scientists doubted that such motivation was a human possibility, and most were sure that it was without force in the real world of politics. Instead, they argued, society was divided into a myriad of interest groups, all jostling for the greatest possible share of advantages, as each defined them. The underlying assumption, or hope, was that interest-group competition was to politics as market competition was to the economy. (This conception raised, without resolving, the problem of specifying the political equivalent of economic efficiency.) In any event, ‘interest-group liberalism’ became the dominant public philosophy.

During this period, not surprisingly, Madison’s *The Federalist*, No. 10, was often cited. It took a leading critic of interest-group liberalism, Theodore Lowi, to point out the crucial bowdlerization: Madison had defined the group (“faction”) as “a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.” Modern political science, Lowi observed, had taken over the first part of Madison’s definition while discarding his distinction between group aims and the lasting

interests of the community as a whole. In this way, the interest-group liberals of the 1950s and 1960s blunted the critical moral edge of the Founders’ constitutional realism.

Political practitioners – and academics outside political science – were on the whole far less skeptical. The rise of the administrative state entailed a substantial delegation of decision making to executive-branch bureaucracies and administrative agencies. How were their products – rules and regulations – to be assessed? Inherent in the act of delegation was a gap between the letter of the law and administrative power. Simply put, the drafters of rules and regulations enjoyed substantial discretionary power. A wide range of decisions would be consistent with the underlying law, which therefore could not be used to choose among them.

One way of narrowing the gap was to specify administrative procedures, which came ultimately to include arenas of public participation. If a proposed rule complied with established procedures and was not obviously inconsistent with the underlying statute, it enjoyed presumptive validity. But this procedural norm did not capture what conscientious agency officials understood themselves to be doing when drafting the rules in the first place. While aware that proposed rules would have to withstand scrutiny from stakeholders and the general public, they claimed to be guided by concern for the long-term interests of the community as a whole. Indeed, many enabling statutes mandated such concern by requiring regulators to act “in the public interest.” If the concept was as empty as political scientists said, how were administrators supposed to comply with it?

This problem could be, and was, generalized. Richard Flathman, a philoso-

pher influenced by Ludwig Wittgenstein, offered a characterization of political life of which normative judgments were an integral part: “Determining justifiable governmental policy in the face of conflict and diversity is central to the political order; it is a problem which is never solved in any final sense but which we are constantly trying to solve . . . We are free to abandon the concept [of the public interest], but if we do so we will simply have to wrestle with the problems under a different heading.”

One of the many ironies of American intellectual history is that logical positivism came to dominate social science at the very moment that philosophers were rejecting it. W. V. Quine’s famous 1951 article, “Two Dogmas of Empiricism,” turned the tools of analytic philosophy against the foundations of the positivist creed. Wittgenstein’s late masterwork, *Philosophical Investigations*, first published in 1953 after his death, undermined the positivist account of language his early work helped create. The pragmatic tradition of C. S. Peirce and William James continued in the writings of John Dewey and inspired a steady counterpoint to positivist dualisms that flowered in the postanalytic writings of Richard Rorty.

This was the context in which Flathman was able to insist that normative concepts such as the public interest were not only practically necessary but also philosophically possible. Writing in 1966, he inveighed against the view, common among social scientists, that “Logical Positivism reigns supreme in philosophy . . . This belief is mistaken, and to dispel it is important to the general issue of the status of value theory in political science and the social sciences generally [as well as] to the particular problems of theory about the public interest . . .”

Establishing the possibility of a coherent account of the public interest was far from showing that such an account actually existed. In a remarkable effort to clarify the concept, two philosophers – Wayne A. R. Leys and Charner Perry – surveyed seventy-five lawyers, philosophers, and social scientists. They reported a radical heterogeneity of views. Some respondents held that the public interest is purely formal: “Whatever is the object of duly authorized, governmental action.” Others offered substantive criteria: variously, the public interest as the outcome of appropriate procedures, as the maximization of individual interests, or as a normative concept of public order not reducible to any aggregation of individual interests.

Summarizing not only the results of the survey but also his own views, Leys wondered why it was necessary to choose among these views. The public interest, he said, might well be multi-dimensional: governance in the public interest will be motivated by equal concern for the interests of all, respect for fair procedures, and a norm underlying every vision of a good society – namely, aversion to needless conflict. To be sure, these dimensions will not always point in the same direction; in making specific choices, it will often be necessary to strike a balance (or establish priorities) among them, an inherently contestable process. But to say that the public interest, so conceived, cannot resolve all political controversies is not to say that it cannot clarify them and help establish the range of acceptable resolutions.

Nonetheless, each of Leys’s dimensions raises complex problems. Consider what might seem a straightforward idea – the public interest as maximizing the aggregate of individual interests, with the interests of each individual

*An old
debate
renewed*

given equal weight. This idea guided more than 150 years of utilitarian philosophy, not to mention decades of welfare economics. But writing in *NOMOS*, the annual publication of the American Society for Political and Legal Philosophy, Richard Musgrave (a prominent welfare economist) explained its fatal flaw: “Traditionally, economists have tended to answer these problems [of determining solutions that are efficient, and thus in the public interest] by arguments involving interpersonal comparison of utilities. The efficient solution was that which maximizes total utility, where A’s gain in utility exceeds B’s loss . . . [But] the ‘new welfare economics’ . . . has rejected the possibility of interpersonal utility comparisons.” It thus becomes impossible to talk about maximizing utility across a group of individuals.

In place of aggregation, economists have embraced (some would say retreated to) a different conception of efficiency and the public interest – namely, courses of action that make some individuals better off and no one worse off. But this approach is no less flawed. In the first place, few, if any, public actions will ever satisfy this criterion. While it is reasonable to suppose that voluntary contractual arrangements between A and B leave the consenting parties better off, or at least no worse off, it is at best remotely possible that individuals in a society would unanimously consent to a single course of action.

This fact has led some to propose a fallback position: a policy can be considered to be in the public interest if the winners it produces could fully compensate the losers, while still leaving the winners better off than under the status quo ante. (Trade agreements that increase GDP are often justified in this manner.) But the losers are unlikely to derive much satisfaction from hypothet-

ical compensation and will hold out for the real thing if they can.

Suppose they are made whole. This leads to a second objection. As Musgrave himself observes, the criterion presupposes that individuals assess their well-being in absolute terms only and not relative to one another. For if there is a relative component, someone else’s gain may worsen my position by expanding the gap between us. Those who criticize open markets on the ground that they increase domestic inequalities are using a contestable standard. But what is the basis for deeming it more contestable than the alternative, such that the latter represents a more adequate conception of the public interest?

The third objection goes deepest: the no-harm criterion assumes that the status quo is itself morally acceptable. But as the philosopher Virginia Held pointed out in *The Public Interest and Individual Interests* (1970), “If the initial distribution is highly unjust, it may be that one would wish to consider it in the public interest for some, in fact, to lose . . .” A fair comparison between the status quo and alternatives to it cannot begin by awarding current conditions a morally privileged status.

When we turn our attention to Leys’s second dimension of public interest – fair procedures – parallel difficulties emerge. Procedural fairness is an abstract concept that admits of a large (perhaps indefinite) number of specifications, each of which encodes some understanding of the principles and goods at stake. Procedural definitions of the public interest will be sensitive to the specification of procedures – majoritarianism, constitutional democracy, deliberative democracy, even the output of rule-governed bureaucracies. In law and ordinary politics – as well as in theoretical debates about deliberative de-

mocracy, public reason, and expertise – arguments about procedures cannot be disentangled from substantive considerations. And if we try to short-circuit these arguments by stipulating adherence to ‘established’ procedures, we repeat the mistake of privileging the status quo.

This brings us to substantive accounts. In the fall of 1965, Daniel Bell and Irving Kristol launched a quarterly journal, *The Public Interest*. They acknowledged the obvious objections: totalitarians and autocrats had cloaked their abuses in lofty solidaristic language, while prominent social scientists denied both the existence of interests transcending individuals or groups and the motivation to go beyond one’s own interests.

Bell and Kristol were undaunted. At the very least, they argued, the public interest requires policies based on knowledge rather than prefabricated ideological accounts of social reality. And they unabashedly endorsed Walter Lippmann’s definition: “The public interest may be presumed to be what men would choose if they saw clearly, thought rationally, acted disinterestedly and benevolently.” Seeing clearly meant realistically assessing basic facts and structures, undistorted by passion, hope, or preconception. Thinking rationally meant understanding both instrumental relations (if I do X, the likely consequence will be Y) and substantive relations (A is more urgent, or important, than B). Acting disinterestedly meant giving no more weight to one’s own interests (or to the interests of one’s family, tribe, coreligionists, or fellow partisans) than to the interests of others, while acting benevolently meant affirmatively caring about meeting others’ needs and concerns.

Lippmann’s account was not procedural; it was not particularly democratic; it was certainly not pluralistic. It suggested that all right-thinking, rightly motivated individuals (“prudent men”) would converge on roughly the same conclusions as to what the public interest requires. Those who disagreed with the prudent men were confused, either about the human conditions that defined the public interest or about the best means for promoting those conditions. Lippmann tacitly distinguished between true and false understandings of interests, individual and collective. While it is hard to dismiss this distinction altogether, it raised the risk of abusive authority against which antitotalitarian theorists such as Isaiah Berlin were warning.

Lippmann’s thesis glossed over the loose-jointedness of concepts such as rationality. There were two difficulties, reflecting the two senses of the term. In statements of the form ‘X would be in the public interest,’ X usually stands for an action – a proposed policy – rather than an end-state of affairs, and is asserted to be a means to attaining that end. But given the uncertainty of human affairs, equally rational individuals may disagree whether X, as opposed to Y or Z, is the course of action most likely to achieve the desired result. Rational disagreement abounds in the realm of ends as well: even if individuals agree on a catalog of human goods, they may disagree about their relative weight or priority. Still, it cannot be denied that Lippmann was onto something: whatever the public interest may be, the intellectual and moral virtues he enumerated serve as necessary if not sufficient conditions for discerning and promoting it. And if these conditions do not define a unique conception of the public interest, surely they screen out many misguided options

*An old
debate
renewed*

and focus our attention on a limited set of worthier choices.

Still, one might object, if we are going to place the public interest at the center of our social thought, it would be nice to have a clearer picture of what it is. During the 1960s, many thinkers took a run at substantive specificity. In his precociously comprehensive tome, *Political Argument* (1965), Brian Barry defined the public interest as “those interests which people have in common qua members of the public.” This approach has a venerable history. Thomas Hobbes famously wrote in *Leviathan* that “so long as a man is in the condition of mere nature, which is a condition of war, private appetite is the measure of good and evil: and consequently all men agree on this, that peace is good, and therefore also the way or means of peace” This hard-edged account of common interests is a bit parsimonious for modern tastes. Edgar Bodenheimer, a thoughtful professor of law, spoke for many others in proposing a fuller conception of common interests as “a well-ordered and productive community in which everybody has an opportunity to develop his capabilities to the fullest.” Unpacking this terse definition, we find the following elements: social peace, the rule of law, a productive economy in which the means of self-development are widely shared, and the liberty needed to develop individual capabilities in one’s own way.

Citizens in liberal democratic societies were (and are) likely to agree. But Bodenheimer went on to argue that human beings everywhere were converging on his view. Whatever may have been the case in 1962, it is now harder to argue that Bodenheimer’s irenic and secular account captures universal human aspirations. We may be forced to conclude that the content of the public interest varies, essentially rather than accidental-

ly, among political communities, and among cultural and religious constellations as well. But even if the public interest lacks the universality and bindingness that are thought to characterize human rights, it may nonetheless remain a meaningful and useful standard for public life.

In the years after 1970, discussion of the public interest subsided. Within academia, doubts rose about the possibility of the meaningful aggregation of individual interests. Utilitarianism, which for decades had been a philosophical default position, lost credibility. Meanwhile, theorists such as Kenneth Arrow questioned the cogency of utilitarianism’s longtime political analogue – majoritarian voting. Under many circumstances, it turned out, there simply was no stable or preferred majority; winners were determined by voting rules and procedures rather than individual preferences. Defiance to public majorities was at least plausible. But was it even possible to attach moral meaning to decisions of the House Rules Committee?

Nor was it clear that the public interest deserved a privileged position as the polestar of political morality. In an influential 1958 article, C. W. Cassinelli stated, “The public interest . . . is taken to comprise the ultimate ethical goal of political relationships, and institutions and practices are to be judged desirable or undesirable to the extent that they contribute to or detract from the realization of the public interest.” Indeed, he continued, “that the concept has this particular value connotation is well enough understood, and few problems arise at this level.” But thirteen years later, at the beginning of his magnum opus, John Rawls declared with equal certainty: “Justice is the first virtue of social institutions, as truth is of systems of

thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust." Many philosophers who disagreed with Rawls about the content of justice agreed with him about its primacy.

This shift reflected broader currents in American society. Many critics came to believe that a focus on the public interest – whatever one meant by that – would perpetuate our nation's oppression of overlooked minorities. Standards such as equality and individual rights seemed better suited to articulate outrage and prompt rectification. And while the public interest was something the holders of power served (or failed to serve), dissenters could demand equality, or rights, or justice for themselves and work actively to obtain them. These standards were empowering, while the public interest appeared at best elitist and remote.

And not without reason. The public interest was linked, historically and conceptually, to the administrative state, which as the home of 'establishment liberalism' came under attack from both the left and the right. The New Left argued passionately against bureaucracy and for participatory democracy. And if that dream was unattainable, then second-best was the proliferation of programs not only targeted toward, but also controlled by, different groups. Anything, it seemed, was better than rule by bureaucrats.

Nonparticipation was not the only objection to the administrative state. Bureaucracy embodies not only structure and hierarchy but also a drive for objectivity – the restriction of arbitrary discretionary power in favor of rules with clear empirical standards of compliance.

But among activists and left-leaning intellectuals, the suspicion spread that whatever their content, unitary standards always repressed diversity and that objectivity was nothing more than the subjectivity of the powerful. In reality, they argued, there was an indefinite number of possible perspectives, none of which could rightly claim all-things-considered priority over the others. But because the perspectives of the powerful had dominated politics for so long, it was high time to listen to those of the subordinated. The point was not whether doing so would serve the public interest, the cogency of which perspectival pluralism called into question, but whether the voiceless would at long last be heard.

Arguments of this sort set off a clamorous debate that reshaped American politics for a generation. But there are signs that this long cycle is coming to an end and that there may be renewed appetite for a politics of common purpose. It is in this context that the public interest, along with allied ideas such as the common good, may well receive a new hearing. This opportunity poses a challenge: Is it possible to learn from past difficulties and frame a conception of the public interest that is both defensible and useful?

Perhaps experience can lead us to agree on some orienting propositions:

1. The public interest points us toward features of a specific, demarcated ensemble of individuals, not to global humanity as a whole.
2. That ensemble is not just an aggregation of individuals. Rather, a public is constituted (sometimes tacitly) through a particular political form that rests on specific assumptions and pursues certain ends rather than others. The public interest derives content, at

*An old
debate
renewed*

least in part, in reference to those assumptions and ends, from which it follows that the substance of the public interest may differ from community to community.

3. The term 'public' refers not only to a formed group of individuals, but also to the dimension of their lives in which they relate to and affect one another to a significant degree. There are aspects of life, often called 'private,' that lie outside the zone in which considerations of the public interest apply. The manner in which the public is constituted helps locate the perimeter of that zone.
4. The 'public interest' typically denotes some broad advantage of the community considered internally. We use a different location – the 'national interest' – to denote the broad advantage of the community in its external circumstances.
5. Human beings cannot live alone and can only live together by attending to, and to some extent accommodating, the interests of others. A stable and peaceful society, and the means to it, is therefore a part of the public interest. These means will typically include institutions and decision-rules recognized as legitimate, an ensemble of shared beliefs and traits of character, and bonds of truce and confidence among members of the community.
6. While we cannot determine the public interest through an aggregative calculus, we can certainly say that searching for the public interest requires us to consider the interests of all, not just a part, even if the part constitutes the majority of the community.
7. The public interest has a temporal dimension that views the political com-

munity as an association intended to persist across generations. It is in that spirit that the Preamble to the U.S. Constitution speaks of extending the blessings of liberty beyond the founding generation to "our posterity." *Après nous le deluge* is in principle inconsistent with the public interest.

8. We typically invoke the public interest as a norm when binding, authoritative action is at stake: a proposed government policy promotes, or fails to promote, the public interest. But we can also judge the acts of other influential social agents – such as foundations, corporations, and unions – against this standard.
9. We are especially inclined to invoke the public interest as a critical norm when we see narrow groups (the 'special interests') pursuing their own advantage without concern for the rest of the community. But this opposition between the part and the whole is not a comprehensive template, because it is possible that the actions of even an overwhelming majority can be inconsistent with the public interest.

There is no guarantee that reflection guided by these propositions will always – or usually – point to a single clearly preferable course of action. Experience suggests that when multiple important public goods are at stake, reasonable and well-informed individuals will disagree about their relative priority or weight, and also about the most effective and efficient means for promoting them. Like other high-order norms, the public interest cannot wholly overcome the uncertainties of deliberating in the real world.

Nor is there reason to believe that the public interest constitutes the single highest ethical standard of public life.

Not that any other norm does either. We will often be challenged to choose among, or balance, competing norms with moral weight: rights, liberty, equality, justice, and the public interest, among others. We may, if we choose, obscure these tensions through definitional fiat, for example, by denying that any action that violates individual rights or contradicts justice can be considered consistent with the public interest. But whatever we say, the same hard choices will remain.

None of this means that the concept of the public interest is either vacuous or useless. Like the common good, it has a critical edge and rhetorical force. It does not require us to ignore our individual interests, but it invites us to refine and pursue them in a larger context – a social world in which others have claims different from, but no less weighty than, our own. It seeks to summon what Abraham Lincoln called the “better angels of our nature.”

While the public interest points toward better political practice, by itself it can neither define nor achieve it. Like the common good, the public interest can help us understand and seek a politics of common purpose. But it can be useful only if those who invoke it do so with a clear sense of its limitations when applied in practice, and with the frank acknowledgement that no normative category can overcome the empirical uncertainties and moral risks of acting in the real world. It is always right to ask how the public interest may be promoted. But that is not a question that social scientists or philosophers or theologians can answer. The answer is worked out in the thrust and parry of political competition. Not better theory, but rather better practice, is the remedy for the ills that befall the body politic.