

Kurt R. Leube

What is the Public Interest and What does it Mean?

*A brief introduction to the V. CEPROM/ECAEF Conference on
'Is the Public Interest really in the public's interest?'*

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“People who intend only to seek their own benefit are led by an invisible hand to serve a public interest which was no part of their intention. I say that there is a reverse invisible hand: People who intend to serve only the public interest are led by an invisible hand to serve private interests, which was no part of their intention”.

Milton Friedman (1912-2006)

Preamble

In view of the current pandemic, yet again the subject of our conference is highly topical. Can, should or must a state mandate its citizens to get vaccinated against Covid-19 in the Public Interest? Is it in the Public Interest to restrain a person's freedom by infringing on some fundamental constitutional rights? Should governments finance the purchase of a rare painting, subsidize the export of wine or rescue a national airline in the Public Interest but at the taxpayer's expense? Is the funding of higher education serving the Public Interest or is it more self-serving than altruistic? In other words, is the Public Interest always in the public's interest?

Introduction

Language always was, is and will continue to be the constant yet unnoticed current that shapes and coordinates our thoughts and words. Sadly yet, it seems as if we barely begin to realize that the intentional alteration of the meaning of words or sayings we grew accustomed to, has grave implications for the fabric of a free society. Above all, it is the politically calculated and covert modification of commonly used terms that seriously weakens the sovereignty of citizens. Moreover, the deliberate changing of the words' meaning critically damages the institutions and conventions of a state.

Similar to other democratic principles, for example transparency or accountability the Public Interest is a political concept. However, with its broad applications that are impacting the rights, health, or finances of the public at large, it proves almost hopeless to pin down exactly what the Public Interest means. More importantly, the slogan provides an ideal opportunity for interventionist politicians constantly on the lookout for new missions that would justify their role and allow them to tamper with society and the economy. It is mainly for these reasons that most politicians, eager to recruit acolytes can easily hide behind this ubiquitous phrase. In other words, the best talkers without much troubles can subvert the institutions of democracy by arrogantly commandeering the meaning of words, by stirring up people's passions and thus shape the Zeitgeist. As a seemingly indisputable and for all intents and purposes irrepressible and almost sacred idiom, the Public Interest thus is a case in point.

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According to John Stuart Mill's well known harm principle, the only purpose for which a government's power can be "rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others". To be sure, most government programs intended to protecting its citizens from physical threats posed by others or responding to and preventing the spread of infectious diseases meet this creed. They may be summarized as being conclusively in the Public Interest and are considered to be among the core duties of any modern state that is centered on the Rule of Law.

From an authoritarian vaccination mandate, obligatory FFP2 masks or 'shelter-in-place' orders to indiscriminately enforced full or partial lockdowns, from a near collapse of critical world supply chains to trillions of dollars in government aid, the political handling of the pandemic for the most part is and was justified by utilizing the currently prevailing Public Interest doctrine. As a result countless democratically questionable vital issues have come into focus. Among them are unconstitutional infringements of civil rights, the seizure of confidential data, of private property of research facilities, the nationalization of health care firms or a ban on market pricing of new vital medications. These measures are revealing the extent to which state control is exerted in the Public Interest over matters that will determine the ultimate human cost of the pandemic. Science, political views and policymaking regrettably have been and still are characterized by biased and conflicting interpretations of the Public Interest concept. Such conflicts matter, not only because each party pursues its own prejudiced view of the Public Interest that may sharply differ from the interpretations of others.

These clashes undermine essential civil liberties, among them notably the freedom of speech. People who cannot speak their mind freely will never be able to think clearly. And no democratic society could nor will prevail when dissent is silenced and opponents are treated as heretics or worse, when they are sidelined as conspiracy theorists. History seems to be replete with examples of nations that abruptly committed some sort of self-destruction. Instead of listening to their critics and discuss the relevant issues with them, today notably the chic and doctrinally loaded movements like 'Woke' or 'Cancel Culture' routinely claim the Public Interest concept in order to silence their sceptics. In a typical revolutionary fabrication to evoke the sort of hysteria necessary for an otherwise rather unpopular agenda, it appears as if they have already hijacked the Public Interest doctrine to back up their thinly veiled socialist aspirations (it is hard to oppress the feeling that they are attracted to socialism because they foolishly believe it means capitalism without the parts they don't like). Is this kind of Public Interest in the public's interest?

Assuming they act according to a politically correct sense of the Public Interest, regrettably however most self-styled guardians of democratic values, of individual liberty, self-responsibility or tolerance gave way to people who claim free speech for themselves but not for others. At any rate, these predominantly antidemocratic crusades and the current pandemic have renewed heated debates about the moral, legal and economic issues pertaining to the social impact and the consequences of the Public Interest concept.

While pushing several Public Interest doctrines to the forefront, the response of most governments to the pandemic or other major public concerns thus has led to communal conditions and political proposals that bring to mind George Orwell's distressing Nineteen Eighty Four. This novel grows even more haunting as parts of its futuristic agony already became an uneasy reality. The Covid-19 has come to give rise to government controls of and intrusions into individual lives. For good or for evil, a sort of a global 'pandemic police state' apparently relies on large-scale surveillance, denunciation and has covertly amassed executive powers and administrative functions to an extent unthinkable in pre-pandemic times. As political power more often than not multiplies at the expense of the social power enjoyed by free individuals, the effects of these policies and programs most likely will lead to a permanent increase in scale and scope of state control.

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For centuries on end hypotheses, promises and downright guesswork in political philosophy were dedicated to the study of the Public Interest. And yet, common among most philosophers was only the rather naïve and condescending doctrine that in the Public Interest governments ought to serve the people in a way to make them the beneficiaries of their governing. Shaped and politically charged by an ever shifting Zeitgeist, it is no surprise that numerous conflicting interpretations and conceptions of this enticing slogan have evolved over time. Alongside other seemingly insuppressible political mantras, they range from utter platitudes to meaningless clichés to troubling and ill-considered philosophical arguments.

The political ideal to hold the mystical models of the Common Good, the General Welfare or the Public Interest in higher esteem than any individual action, thus seems as old as statehood. By and large, the literature is littered with extensive and contradicting accounts. Among many other sources, we can find this ideal in Plato's Republic where he claims that only indisputable government officials have the wisdom and foresight to determine the Common Good. We also encounter the phrase in the descriptions of various medieval totalitarian systems and in the countless socio-economic regulations during the Mercantilist era to promote national power. Jeremy Bentham's legendary claim that the "greatest happiness of the greatest number ... is the measure of right and wrong" also comes to mind.

Arguably however, Auguste Comte, by no means the inventor of the term, seems to have vastly influenced the underlying philosophy of the current reasoning. In his positivistic philosophy he insisted that social wholes are better known than the elements of which they consist and social theory therefore, ought to start from our knowledge of the directly examined entities. This idea led Comte to consistently suggest that only society as a whole is authentic and the many individuals who are forming the social order are but an abstraction. In other words, individual actions must be suppressed if they do not serve the mysteriously shrouded Public Interest. In such a model, in which the values of the whole society would be equal to those of any particular individual, the Public Interest would have a substantive content, and by definition both the function and the motive of all government officials would be to formulate all their decisions in the Public Interest. Yet, contrary to the view that political actors are supposed to work together to altruistically advance some notion of the Public Interest, the reality frequently proves different.

However, today's most influential applications of this version of the Public Interest ideal can probably be found in Vilfredo Pareto's and A.C. Pigou's works. Broadly summarized, their models assume that the accurate role of any democratically elected government is to operate for the greatest benefit of society as a whole. Accordingly, each citizen implicitly takes it for granted that a society must be viewed as a single entity and thus has a sole set of values that must be condensed into an outline for implementing a detailed policy. This single set of values supposedly makes up the Public Interest and hypothetically represents the will of the people.

This permeating catchphrase over time became riddled with serious semantic traps and acquired an almost mystical meaning that entails a combination of inspiring expectations and appealing conjectures, which keeps arousing the fantasy of social scientists, intellectuals and politicians.

Although, a conceptual definition of the Public Interest ought to play the all-decisive role in determining any government program regarding the Public Interest, a definition or at least an operational classification of this multi-purpose term apparently was and still is of no concern for those who use it constantly. Due to the lack of a clear definition, the objectives which the Public Interest is to serve thus must be confined to some very general, elusive and at long last, empty blueprints. By necessity, these outlines are and will continue to be insufficient to determine any concrete plan, even if we take all the technical means as given.

Due to the fact, that this enticing phrase is loose, ambiguous and politically quite easy to hide behind it, there is no rule book for working in the Public Interest. Thus, it became an integral part of the political dialogue, the body of law, of regulations and the general governance of modern democracies.

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As mentioned above, we can assume that most Public Interest regulations are meant to protect consumers from harm resulting from irresponsible or fraudulent behavior or preventing the spread of infectious diseases among countless other purposes. However, except in emergencies most of these regulations are usually neither designed nor implemented in a socio-political vacuum. Rather, these rulings emerge in a communal environment populated by public as well as private self-interested political actors who possess the authority to coerce private citizens to do as they say. This source of power has significant value to those who can influence and control it. In other words, the same lobby groups, which might be the target of regulations will often have the strongest interest in attempting to manipulate rulings or guidelines for their own benefits. However, when coalitions of private interests are able to influence and control the content of regulations, they will produce benefits for them instead of serving the Public Interest. This makes any society, but in particular its citizens or consumers at large regularly worse off and results in a decrease of competition and an increase in costs. Therefore, we ought to reconsider the decisive difference between an organization and a democratic society. The latter is “the result of human actions, not of human design” (F.A. von Hayek) and is made up of independent people who are neither aware of a shared common purpose, nor do they knowingly serve it. A society is a complex but unplanned system of values and actions, a pattern of reconciled aims, not shared ones. Thus, a society of sovereign people is distinguished by a spontaneous order and by scale-free networks. Organizations on the other hand are hierarchical systems and are purposefully created, managed and monitored by human beings. To reiterate, social orders, associations or societies are the undesigned product of an evolutionary development. They are orders which have grown without anyone intending it. Spontaneous growth occurs when individuals and groups with limited knowledge interact with other individuals and groups, giving rise to unplanned patterns of behavior and institutional forms. In view of that, today’s democratic societies can only be defined as complex, yet unplanned systems of reconciled, but not shared values and actions. Only during the slow but continual advancement of the human mind, individuals began to differ sufficiently to develop previously unarticulated social rules and behavior to the extent that deviate behavior could be corrected. Thus, in order to function properly, every society (democratic or not) requires a minimal consensus entailing some basic rules, which allow its members to survive, communicate and predict the reactions of others to unknown social situations. These “rules of just conduct” are in large parts end-independent rules and are rarely written down or identified as a minimal consensus, nor are they the outcome of an election or have ever intentionally been drafted. They are the “result of human action, not of human design” and suggest not only an implicit agreement on these basic rules. These creeds hint at the tacit approval of guidelines regarding individual behavior and decision-making. However, the fact that not all fellows obey them does not invalidate their central importance and structural necessity.

Thus, a democratic society can neither be explained as a whole with a single purpose, nor can it be viewed as an organization in which people are not allowed to use their own unique knowledge of time and place for their own purposes. To recap, a society of free and independent people can only be defined as a complex, yet unplanned system of reconciled, but not shared values and has no mutual purpose or core curriculum. In other words, a society which does not approve of individual freedom and choices and which takes a common interest for granted, resembles authoritarian organizations in which every member follows orders and

ought to be concerned with the completion of an assumed collective goal. Hence, it seems inconceivable that in a democratic society any policy that violates the minimal consensus with regard to the society's own unwritten "rules of just conduct" could be described as serving the Public Interest.

A tentative Conclusion

As it is impossible to know what we ourselves will or even might be thinking any number of years from now, we will never be able to make an educated guess of what infants now in the cradle will be considering when they will ever have a chance to vote. Thus, there is no point in playing with any notion of an imaginary plebiscite to discover the meaning of the Public Interest. Taken together, individuals neither have the knowledge of how much they might contribute to the Public Interest, nor do they intend to promote it.

However, with lots of caveats and caution we may at best attempt to summarize the Public Interest not only as a situation in which men would choose if they saw clearly, thought rationally and acted without prejudice or benevolently. It could also be described as a set of values oriented toward the assumed needs, desires, or interests of large numbers of people. In today's democratic societies we may at least in essence distinguish three main functions of the concept.

First, in politics the term Public Interest can predominately be used as a method with which individual citizens not only evaluate whatever actions the government considers. Citizens can also discuss their judgments and opinions with their fellows and potential beneficiaries of particular government actions.

Secondly, the Public Interest implies that there exists one common good known and appreciated by all members of society. Thus, the political appeal for the Public Interest and peer pressure may well be used as a tool to motivate all those who are hard-pressed by public bullying to act against their own will or interest.

And as a third function, perhaps we will be able to perceive the Public Interest as being employed as a guide to and a sort of check on politicians whose public policy actions or decisions have no explicit mandate from the electorate. In a representative democracy it seems especially this last function that proves tempting and convenient for political representatives: In hindsight they could not only easily hide behind the Public Interest. With no troubles at all they also know well how to exploit this magic phrase in order to boost their own reelection bid.