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The public interest is defined by priorities, infrastructures, and other elements that promise a thriving, safe society. The state asks people to share transportation networks, legal sanctions, digital systems, or public space with neighbors in good faith. In exchange for these responsibilities is an assurance of reduced collective harms and accrued benefits for all. While the term suggests a singular approach to a shared social good, the public interest can be elusive.

This keyword essay brings attention to power and embedded social hierarchies lurking in the notion of the public interest. A series of illustrations challenges whether the public interest represents a coherent group of people or even a common set of norms. The paradox of the public interest arises when communal projects explicitly or implicitly prioritize some populations over others. In the 19th century, a portion of New York City that would become Central Park was seized through eminent domain from a thriving community of free African American landowners. In a contemporary example, property records in India released as open data emboldened the technical elite to systematically steal land from the disenfranchised. In its quest to govern through quantification, the datafied state may obscure underlying political disagreements over shared resources, dividing populations as much as defining what they have in common.

After reviewing its origins in public interest law, the essay illustrates assumptions often made when invoking a shared social good. Our essay shows

how the rights of marginalized communities can be easily compromised to accommodate majority preferences. By demonstrating this, we challenge an assumption common in the public interest technology community: that a profit-driven private sector can be outsourced to serve the public without compromise. We question whether the datafied state will acknowledge and avoid these inherent conflicts of interest. Our concluding examples represent the possibility of true collective imagination. We show that sometimes the public interest can be served by centering the marginal to improve the common good.

Not in the Public Interest

Many other goals may conflict with the public interest. Ideological interests may limit resources to only those deemed to be deserving. Political interests seek to accumulate power for one population group, such as the United States housing policy, which provided low-cost mortgages for white people only.¹ Property rights empower those who already own material goods, prioritizing those with inheritances. Financial profit often comes into conflict with the public interest. The Michigan government netted over \$60 million through an algorithm aptly named after the legendary monarch who coveted gold — MiDAS, the Michigan Integrated Data Automated System. It did so by assuming most unemployment claims were fraudulent and garnishing taxes of those without work. It is important to note that public interests are not always universal interests. For instance, parents are not the only residents burdened with the expense of municipal schools, because the whole population has an investment in the next generation.

¹ Mehrsa Baradaran, *The Color of Money: Black Banks and the Racial Wealth Gap* (Cambridge: Belknap Press, 2019).

The public interest stands out among other interests because it epitomizes the opposite of profiting from or imposing control over others. The idea that the public interest can be singular, without conflicting priorities, suggests a community's needs can be met without compromise by the whims of the wealthy, the political will of the powerful, or the overbearing influence of those who control resources. Paradoxically, a claim that wields the power of the public may in reality mask other interests that serve only the few. A punitive datafied state often makes a service available based on an ability to pay. Ideological, political, property, or financial interests may clash despite an intention to serve everyone.

Background: Public Interest Law

The early 20th century era of monopoly gave rise to the popular conception of the public interest. The United States Supreme Court decisions steadily empowered conglomerate businesses that opposed the Sherman Antitrust Act of 1890. Prominent legal thinker Louis Dembitz Brandeis noted this situation in his address to the Harvard Ethical Society. The oft-cited May 1905 speech recognized that many court cases were effectively one-sided because the wealthiest clients made the strongest arguments. Brandeis observed that serving industrialists was the only career choice for the best legal talent of his generation, leaving no one to advocate for the poor and less powerful.² Brandeis envisioned courts where opposing attorneys argued with equal intellectual vigor.

Law in the public interest laid dormant for decades until it was institutionalized through legal education, innovative organizations, and court administrative practices. Legal clinics within law schools were a core driver in

² Louis Brandeis, "The Opportunity in the Law, Address to the Harvard Ethical Society," *Commonwealth Law Review* 3, no. 1 (1905): 22–30, [http://www.minnesotalegalhistoryproject.org/assets/Brandeis%20-%20%20\(1905\).pdf](http://www.minnesotalegalhistoryproject.org/assets/Brandeis%20-%20%20(1905).pdf).

establishing public interest law. Aside from providing free legal advice to local communities, clinics prepare attorneys to work on pro bono cases within firms. The nonprofit sector led the development of innovative legal organizations that would advocate for the rights of the indigent and poor. This was followed by a federal grant program for legal aid organizations in the Legal Services Corporation Act of 1974 (P.L. 93-355). Court administrative systems frequently offer a court-appointed attorney to anyone who cannot afford to pay for legal advice.

Now well-established, public interest law centers the needs of those compelled to use the legal system but who lack financial resources. The public interest goes beyond the intention to transform institutions. Institutions normalize the concept by making services available across many locations and people.

The problem of representing the public interest within the datafied state parallels the concerns of early legal professionals. Technology built in the public interest within a datafied state would need similar institutional support to thrive.

Public Interest Technology for the Datafied State

Technology in the public interest is an attempt to parallel public interest law's success in advocating for the unheard. Public interest technology is also growing at a time of concerns about antitrust and industrial wealth. The history of state technologies, as chronicled by scholars such as James C. Scott and Hazel V. Carby, shows how government quantification structured society from a Roman imperial census to 19th century colonial accounting tables.³ Scholars of population statistics, like Evelyn Ruppert and Ian Hacking,

3 James C. Scott, *Seeing like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998); Hazel V. Carby, *Imperial Intimacies: A Tale of Two Islands* (New York: Verso, 2019).

monitor the continuing trend of making people visible through classification schemes.⁴ The datafied state builds on this digitized wealth to translate social concerns into computational policy.

Modern state governance depends on even more commensuration and enumeration to manage services. State technologies now include automated decision systems, machine learning, and other algorithmic tools mostly purchased from commercial businesses. The datafied state is equipped with tools that can gather and analyze data. Thus, it risks amplifying existing disparities by making sweeping judgments that are designed for efficiency but easily harm thousands of people at scale.

The datafied state builds upon ground truth datasets that obscure decades of political and ideological interests. Consider how cities have been historically zoned, which organizes populations within cities. At its inception in 1916, New York City zoning laws were justified by sanitation concerns, however, in practice, they became a state-sanctioned system for imposing residential segregation. Laws limited immigrants from China into separate and unequal racialized infrastructures now called Chinatowns.⁵ African Americans were forced to rent in squalid redlined areas. Early zoning policies are still visible in 2017 statistics showing the life expectancy of residents in East Harlem is 71.2 years, while those mere blocks away, on the Upper East Side, live to 89.9 years.⁶ Redlining laws that controlled property investment terms in the 1930s still echo in the Center for Disease Control's Social Vulnerability Index for the COVID-19 pandemic.⁷ Any reliance on historic sources must carefully consider how to interpret policy legacies in the data.

- 4 Evelyn S. Ruppert, *The Moral Economy of Cities: Shaping Good Citizens* (Toronto: University of Toronto Press, 2006); Ian Hacking, "Kinds of People: Moving Target," in *Proceedings of the British Academy*, vol. 151, 2006 Lectures, ed. by P. J. Marshall (UK: Oxford University Press, 2006), 285–318.
- 5 Braden Goyette, "How Racism Created America's Chinatowns," *HuffPost*, November 11, 2014, https://www.huffpost.com/entry/american-chinatowns-history_n_6090692.
- 6 "City Health Dashboard," NYU Langone, 2023, <https://www.cityhealthdashboard.com/about>.
- 7 "Not Even Past: Social Vulnerability and the Legacy of Redlining," National Community Reinvestment Coalition and Digital Scholarship Lab, 2020, <https://dsl.richmond.edu/socialvulnerability/>.

Exclusion for a Majority Interest

Central Park has long been championed as a symbol of public interest. As one of the first public parks in the United States, it represented a removal of 775 acres of land from the private real estate market, provided fresh air and nature, and offered public space that represented, as its architects believed, “a democratic development of the highest significance.”

Frederick Law Olmsted, one of Central Park’s designers, believed that public parks created a shared culture that overcame economic differences. At its inception, Central Park embodied two conflicting desires: to emulate the elites and to serve everyone else. Central Park materialized the vision of an elite group acting on behalf of the public rather than the public’s self-determination of its own needs and desires.

Through Central Park, the elites of New York channeled their aspiration to establish the city’s cultural parity with European capitals. As such, New York’s new public park would not be modeled after vernacular landscapes embedded within neighborhoods (where “the public” lived), but rather after the formal parks of Europe that imitated the manicured landscapes of the nobility. Central Park was constructed between 1857 and 1876, during the Reconstruction era after the American Civil War. The planners of Central Park seized a portion of its 775 acres from Seneca Village, established after the Civil War as a haven for free Black people who could afford property.⁸ Though Central Park was meant for the public, it was created by a small group with special interests (the gentlemen elite) acting on behalf of majority interests (white New Yorkers) at the expense of minority interests (Black New Yorkers and property owners of Seneca Village). At the time, the State of New York required “persons of color” to own at least \$250 worth of

⁸ “Before Central Park: The Story of Seneca Village,” Central Park Conservancy, last modified January 18, 2018, <https://www.centralparknyc.org/articles/seneca-village>.

property to vote. The seizure of Seneca Village to create Central Park meant that African American owners of Manhattan property lost the right to vote. Seneca Village was home to 10 of the 100 eligible Black voters in New York City. The demolition of Seneca Village in the name of “public interest” extinguished a bright spot of representative democracy in the post-Civil War era.

Examples of how elites who promote some vision of a unified public interest can harm the marginalized are not confined to distant history or the United States. Globally, open data advocates argue that if governments create digital material with taxpayer money, everyone should have access to it. But who is actually served? Making public records available through open government data can yield problems when power asymmetries arise.⁹ The government of Bengaluru, India, was widely praised for releasing land ownership and title information on the internet in 2006. Bhuvanewari Raman documented how the newly digitized property records made it easier to surreptitiously steal land owned by those with little technical expertise.¹⁰ The government of Bengaluru gave only the affluent the benefit of the doubt in the face of incomplete or inconsistent documentation. Embedded within public interest are questions about who is excluded and who is not served.

Administrative acts of goodwill by entitled populations who are equipped with state information can quickly escalate to acts of dispossession. Any discussion of public interest is inseparable from a discussion of democracy, which involves the potential conflict between various types of interests: special interests, majority interests, and minority interests.

9 Anne L. Washington, “Uncertain Risk: Assessing Open Data Signals,” *Transforming Government: People, Process and Policy* 14, no. 4 (January 2020): 623–37, <https://doi.org/10.1108/TG-09-2019-0086>.

10 Bhuvanewari Raman, “The Rhetoric of Transparency and Its Reality: Transparent Territories, Opaque Power and Empowerment,” *The Journal of Community Informatics* 8, no. 2 (April 2012), <https://doi.org/10.15353/joci.v8i2.3037>.

Power for Financial Interests

One hundred years after the creation of Central Park, a small park opened beside the One Liberty Plaza office tower in New York City's Financial District. In 1972, Zuccotti Park was created through a regulation known as Incentive Zoning, which encouraged the creation of public spaces in areas with high real estate value. By permitting developers an additional ten square feet of built space in exchange for one square foot of open space, a public park was created but not owned by the public. The legal constructs that governed Zuccotti Park became prominent during the Occupy Wall Street protests that took place there. After the 2008 financial crisis, outcry over systemic inequality culminated in a public demonstration to symbolize the people's response to financial malfeasance. During the protests, the property owners amended Zuccotti Park's code of conduct to ban "tents, sleeping bags, and lying down," which was then used as grounds to evict protesters. Zuccotti Park remains a green space accessible without physical barriers. However, structural barriers remain, such as the lack of decision-making power restricting the agency of the public to use it as they would like. Similarly, Central Park is open to all, but structural barriers such as the lack of transportation and leisure time prevent everyone from accessing it.

When states enact state authority through commercial businesses, contradictions abound. Technical solutions in the public sector are particularly susceptible to prioritizing financial incentives. However, the dynamic exists in other contexts.

Profit maximization parading as an investment in the public good impacts not only privately owned public spaces like Zuccotti Park. This solution

is the same neoliberal logic that extends to privately owned online public spaces: social media platforms.¹¹ Social media sites are open and accessible to anyone as long as the public turns itself into users of a private good. In this change of identity, social media injects a profit motive into everyday communication. The public becomes beholden to the policies and whims of private platforms. The short-messaging system previously known as Twitter was core to communication across levels of social hierarchy until it was purchased by a new buyer who changed the platform's affordance. Governments could no longer rely on it to communicate with citizens. The debates of deplatforming, a practice by social media companies of removing users for policy violations, mirrors contentions in physical space, such as when the public interest intent behind Zuccotti Park's public-private partnership¹² and the structural limitations of its private ownership came into conflict during Occupy Wall Street.

Governments have limited means to implement complex digital systems and inherently rely on private businesses, which can confuse financial and efficiency goals. The Australian government paid its contractors a portion of the money recovered through its fraud prevention program, which became known as Robodebt. Although it ended up costing the government millions in legal fees, Robodebt's private contractor received financial benefits for a system that harmed welfare applicants, stressed government employees, and ruined political careers.¹³ Conflicting tensions between administrative goals and financial gain can run the risk of limiting the rights of some to enable the convenience of many. Efficiency, as defined by spending the least amount of money to reach optimal objectives, brings benefits at scale and automates harms.

11 Joanne Cheung, "Real Estate Politik: Democracy and the Financialization of Social Networks," *Journal of Social Computing* 2, no. 4 (December 2021): 323–36, <https://doi.org/10.23919/JSC.2021.0030>.

12 Matthew Bui and Bianca Wylie, "Counterpublics," *Keywords of the Datafied State*, eds. Jenna Burrell, Ranjit Singh, and Patrick Davison (Data & Society Research Institute, 2024).

13 Anne L. Washington, *Ethical Data Science: Prediction in the Public Interest* (New York: Oxford University Press, 2023).

When governments cede their functions to the private sector, the public must bow to the interests of businesses without accountability mechanisms. Aside from profit motives, these non-state actors may want to advance their own political interests, attack certain population groups, or amass personal control over shared resources. From social media platforms to Occupy Wall Street, to Robodebt, the state becomes beholden to the ideology of resource-wealthy individuals who control design and distribution. If it is to survive as a positive tool, public interest must flip from a plutocratic model to a democratic one that prioritizes everyday people over the wealthy. Just as Brandeis envisioned legal advocates for all, a new public interest model centers the margins.

Marginalized Rights in the Public Interest

The promise of the public interest still holds by realizing maximal accessibility rather than averaging to a homogenous, often privileged majority. We are motivated by a theory of change that recognizes the power of the edge cases and the marginal. This section illustrates how to embrace a broader context by imagining truly universal benefits.

Curb Cuts

An inclusive definition of the public is a crucial step. When those who have been systematically excluded begin to advocate for inclusion, the result can create net positive benefits. Angela Glover Blackwell described this dynamic as the “curb-cut effect.”¹⁴

¹⁴ Angela Glover Blackwell, “The Curb-Cut Effect,” *Stanford Social Innovation Review* 15, no. 1 (2016): 28–33, <https://doi.org/10.48558/YVMS-CC96>.

Paved sidewalks, though they are public property, were not designed with wheelchair users in mind. The curb prevented wheelchairs from traversing between the sidewalk and street intersections, and as a result, this public property excluded the disabled community. In the 1970s, disability advocates installed a concrete ramp at an intersection in Berkeley without a city permit. This intervention shed light on a persistent structural barrier. In the 1990s, Americans with Disabilities introduced federal legislation that would mandate the curb cut, a ramp cut into the curb of the sidewalk. When initial designs thwarted the needs of the visually impaired, curb cuts eventually included prominent surface bumps to indicate the boundary.¹⁵ Beyond the initial advocates, people rolling luggage, pushing strollers, and even roller skaters all benefit from its built-in affordance. When a normative design excludes particular experiences and needs, changing the norm in service of particular needs can ultimately improve the general affordance of that design.

Community Science

Data collection efforts often reflect the organization or institution more than the people described. The datafied state could emulate how communities collect data salient to their own environment and well-being.

During British Petroleum's Deepwater Horizon oil spill in 2010, information about the damages to the Gulf of Mexico was not accessible to the public. In response to this private sector information blackout, the Public Laboratory for Open Technology and Science organized a data-centered hyperlocal response. They launched open-source balloon mapping kits for concerned communities to document spill-affected sites.¹⁶ This community-driven effort collected over 100,000 images, produced high-resolution maps used by major outlets such as *The New York Times*, and exposed the extent of the oil spill's

¹⁵ Bess Williamson, *Accessible American: A History of Disability and Design* (New York: NYU Press, 2019).

¹⁶ Jessica Breen, Shannon Dosemagen, Jeffrey Warren, and Mathew Lippincott, "Mapping Grassroots: Geodata and the Structure of Community-Led Open Environmental Science," *ACME: An International Journal for Critical Geographies* 14, no. 3 (September 26, 2015): 849–73.

environmental impact on the public. This successful combination of community science, open technology, and advocacy catalyzed a data-driven environmental justice movement that serves as a watchdog function but also generates solutions. Aerial hyperlocal data collected over New York City's polluted Gowanus Canal uncovered an active spring buried under asphalt.¹⁷ Their evidence eventually led to the Environmental Protection Agency's cleanup and restoration of the canal. In these examples, it is the community, rather than the state, which became datafied — the state benefited from knowledge generated from local datafication by the public and for the public. The contributions on *missing data*¹⁸ and *counterdata*¹⁹ in this collection offer other examples of data collection by communities, but they also show how these efforts challenge the state and what the state could itself be doing.

Summary

Anyone who summons the public interest to justify a position also seeks to claim high moral ground. It may be appropriate to challenge a public interest claim when the options are in total agreement with only the majority or dominant population. The establishment of public interest law, and parallel efforts to manifest public interest technology, seeks to remedy under-resourced groups. A true test of whether something serves the public interest is to see if it has a broad base of support. The public interest will benefit more than one group. The public interest will simultaneously harm more than one group. Better serving the public interest in a more comprehensive sense means to make the implicit negotiations between varied interests explicit. Projects that are truly in the public interest will never neatly align with only one financial, political, property, or ideological interest.

17 "Uncovering a Historic Stream Flowing into the Gowanus Canal," The Public Lab, March 26, 2013, <https://publiclab.org/notes/jeff/3-25-2013/uncovering-historic-stream-flowing-gowanus-canal-0>.

18 Alessandra Jungs de Almeida, Lauren Klein, and Catherine D'Ignazio, "Missing Data," in *Keywords of the Datafied State*, eds. Jenna Burrell, Ranjit Singh, and Patrick Davison (Data & Society Research Institute, 2024).

19 Seyi Olojo, "Counterdata" and Vanessa Massaro, Darakhshan J. Mir, Terrell Mosley, and Nathan C. Ryan, "Counterdata," *Keywords of the Datafied State*, eds. Jenna Burrell, Ranjit Singh, and Patrick Davison (Data & Society Research Institute, 2024).