

The Common Good: Theoretical Content, Practical Utility

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Abstract: Despite skepticism about the common good, the idea has both theoretical content and practical utility. It rests on important features of human life, such as inherently social goods, social linkages, and joint occupation of various commons. It reflects the outcome for bargaining for mutual advantage, subject to a fairness test. And it is particularized through a community's adherence to certain goods as objects of joint endeavor. In the context of the United States, these goods are set forth in the Preamble to the Constitution – in general language, subject to political contestation, for a people who have agreed to live together in a united political community. While the Preamble states the ends of the union, the body of the Constitution establishes the institutional means for achieving them. So these institutions are part of the common good as well. These are the enduring commonalities – the elements of a shared good – that ceaseless democratic conflict often obscures but that reemerge in times of crisis and civic ritual.

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Many people who think of themselves as realists rather than cynics dismiss the common good as pious rhetoric. There is no shortage of leaders who have deployed the phrase in just that way. And there is evidence to support this skeptical view. Most societies are divided along lines of class, ethnicity, and religion. Free societies with market economies proliferate what we have come to call *interest groups*, just as James Madison predicted. In the United States, partisan polarization has intensified in recent decades and has become intertwined with dueling ideologies whose views of the proper ends and means of politics clash fundamentally. Nonetheless, the idea of the common good is neither vacuous nor futile. It has real content in theory and real utility in practice.

I begin by examining three kinds of social facts that are easy to overlook because they are so ubiquitous.

Inherently social goods. Some goods are inherently social. Telling a joke to oneself is virtually impossible, because humor requires surprise. It is barely

possible to imagine a brain-damaged individual who remembers jokes only in the act of retelling them and forgets them immediately. Such a person might be capable of surprising himself. But the science-fiction character of this example suggests how fanciful it is.

Many games are inherently social goods because the stimulation and satisfaction they evoke require the interplay of two or more independent minds and wills. Playing chess with oneself is possible as a technical matter, but the experience is not the same.

Human life itself has inherently social dimensions. To survive infancy and develop human attributes, we need what has been called the *social womb* – the nurturing aid and companionship of other human beings. Once grown, we seek out the company of others, not only for specific benefits, but often because we feel isolated if we are alone too much or too long. We differ among ourselves, of course. Some of us find solitude unbearable, while others experience ordinary social life as burdensome. But even extreme introverts crave the company of others – on their own terms. So we assemble in parks and malls and bars, often not for specific purposes, but just to be with others. And when we do, we enjoy a kind of good together that we cannot enjoy alone.

Social linkages. In addition to these inherently social activities, there are what I call *social linkages* – aspects of our lives in which the well-being of some people affects the well-being of others. Mental illness is a familiar example: if one family member is afflicted, it disrupts the lives of the others. Martin Luther King, Jr., made much the same claim about segregation: oppression damages the oppressors, not just their victims.

The regime of public health rests on the fact of linkages. Societies mandate vaccinations because so many diseases are in-

fectious. If an unvaccinated child gets sick, the odds are that many of her classmates will as well. Because we agree that health is an important good for each individual, and because we understand that the health of each individual is linked to the health of others, we can say that public health is an element of the common good. So conceived, the common good is anything but a demanding moral ideal. It is rather a matter of enlightened self-interest.

It is always tempting, however, to look for ways around the interest-based logic of the common good – that is, for ways of cutting the links that bind our fate to that of others. Before the development of modern medicine, people of means tried to put geographical distance between their families and the epicenter of epidemics. Those who could decamped for their country homes. Often the disease would follow them, because some of those who fled were already infected.

In our own times, fortunate individuals have used a similar strategy of de-linkage to escape the social version of public health hazards: violent crime. They use their wealth to live in fortified houses or well-patrolled gated communities. When they travel, private armed guards accompany them. In some stratified societies, they use guards and armored cars to protect their children from being kidnapped on the way to school.

These evasive measures are very costly, and not only in material terms. They mean living a life of constant fear, and they entail a considerable loss of liberty. At some point, most societies decide that it is better to address crime collectively – to make the investments in police and courts and prisons that a credible program of criminal justice requires. As the residents of New York and many other U.S. cities discovered during the past few decades, an investment in crime control can pay

huge dividends to society as a whole. When people can walk without fear in their neighborhoods, they enjoy more freedom and more security. And besides, businesses move in, the local economy grows, and property values increase. Once we accept that social linkage is an inescapable fact, we can act in ways that benefit society as a whole. Here again, the common good is enlightened self-interest.

The good of the commons. As social beings, we find, create, and congregate in various shared places. Some are constructed physical spaces, such as streets, parks, and public buildings. Others are technology-based and virtual. Still others, such as the air we breathe, are part of the natural environment. Despite these differences, they have a common attribute: how we behave in these places affects everyone's ability to enjoy them over time. If we carelessly leave an unextinguished fire in a campground, the entire facility may go up in flames. If we fail to control emissions from vehicles that use fossil fuels, atmospheric pollutants can increase the incidence of asthma and other ills. So the common good includes the good of the commons.

While these three kinds of social facts – intrinsically social goods, social linkages, and shared places – are aspects of the common good, they hardly exhaust it. As individuated beings, our separate existences generate clashes of interests, and our liberty gives rise to competing conceptions of the good. These familiar differences are themselves social facts, and they challenge all but the most limited understandings of the common good. In the face of difference, the common good is an achievement, not a fact.

The everyday activity of bargaining illuminates some basic features of the achieved common good. The animating reality of this activity is the belief that relative to the status quo, some agreement would

leave both parties to the negotiation better off. This dyadic common good exists only potentially; it takes cooperation to make it actual.

On some occasions there is only one possible agreement, a single point of tangency between the most that A is willing to offer and the least that B is willing to accept. In the vast majority of cases, however, there is a zone of overlap between the arrangements that could be acceptable to both. Most bargaining tactics, such as bluffing, are designed to secure for oneself the largest possible share of the benefits of cooperation. So the common good neither implies nor requires comprehensive harmony between the parties: there is almost always competition within the zone of mutually beneficial cooperation.

In actual politics, this competition often takes the form of arguments about allocating the costs of maintaining important communal activities. If we agree that education is vital, whose taxes will make it possible? Does it make sense to rely as heavily as we now do on local communities, principally through property taxes? If we agree that it is important to maintain a certain level of military capabilities, who will participate in the armed forces, how are they to be chosen and compensated, and who will be asked to pay? If we go to war, should there be a "war tax" to which everyone is asked to contribute? The common good requires a balance between the benefits and burdens of social cooperation such that all (or nearly all) citizens believe that the contribution they are called on to make leaves them with a net surplus. If they cease to believe that, they will try to lighten these burdens, either by evading some taxation or, in extreme cases, by leaving the community through exit (for individuals) or secession (for groups).

It turns out that the criterion of mutual advantage is only part of what makes bar-

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gains mutually acceptable. In a famous two-person experiment, one person is handed ten \$1 bills and is asked to divide them into two shares. If the other person agrees to the division, each receives his designated share; if not, neither gets anything. One might imagine that the second party would accept any division, because even a small share leaves him better off. In practice, not so; beyond a certain point of inequality, a sense of unfairness trumps the potential gain from the transaction. The need for mutual consent establishes a kind of bedrock equality between the parties that spills over into, and delimits, the zone of acceptable agreements.

It is always possible that an agreement that meets the tests of fairness and mutual advantage will work to the disadvantage of those not involved in the decision. In many poor communities, for example, gentrification benefits both developers and new incoming residents while pricing current residents out of the market. Rent increases can also make it impossible for long-established “mom and pop” businesses to survive. So third parties will often appeal to a conception of the common good broadened to include them, and they will resort to nonmarket mechanisms, such as street protests and local governments, to make sure their voices are heard.

This raises a question fundamental to the theory and practice of the common good: how are we to define the limits of the community within which the principle of commonality applies? Environmentalists argue for a global definition: the consumption of fossil fuels produces externalities that affect the entire human race. (The long-running international negotiations to produce a global compact on climate change represent an effort – which may fail – to reframe a zero-sum conflict between developed and developing nations as the quest for mutual advantage.)

We cannot rule out the possibility that a workable conception of the global common good will emerge from these discussions. At present, however, the common good is typically predicated on independent political communities, the kinds of entities represented in the United Nations. These communities are not pre-given natural facts, of course; they are in part human artifacts. Often one part of a community will decide that a common good linking it to the rest of the community no longer exists (if it ever did). Successful secessionist movements redraw the boundaries of the communities within which the common good is pursued. And so, in reverse, do successful efforts to integrate independent states into a single overarching political community.

The U.S. Constitution begins with three fateful words: We the people. It could have been (and, as dissidents such as Patrick Henry argued, should have been) “We the *states*.” Instead, the Constitution invoked – and to some extent called into being – a united political community with a single *demos*.

There is a precondition of community: the people who form it must want to live together as a unity, and they must think of themselves as sharing a common fate. Communities fail when this condition is not or ceases to be satisfied. In states such as Iraq and Syria, the identities of different ethnic and religious groups contend with – and may trump – their shared identity as members of the same political community. And once-successful communities can break down when disagreements on fundamentals trump their shared history. In Federalist No. 2, John Jay argued that “Providence has been pleased to give this one connected country to one united people – a people descended from the same ancestors, speaking the same language, professing the same religion, attached to

the same principles of government.” Three quarters of a century later, Abraham Lincoln concluded his First Inaugural with a desperate plea to the South: “We are not enemies, but friends. We must not be enemies. Though passion may have strained, it must not break, our bonds of affection.” In the end, of course, the “mystic chords of memory” to which Lincoln appealed proved weaker than did differences of interest and principle, and also the sentiments of anger and fear. The United States barely survived the ensuing ordeal; many communities do not, and their common good dissolves as an effective force.

But in 1787, the dominant reality was Jay’s, not Lincoln’s. Taking the presumption of one united people as granted, the Preamble went on to sketch the content of the common good the Constitution was created to foster. The words that follow “in order to” specify the key elements of that good: a more perfect union, justice, domestic tranquility, the common defense, the general welfare, and the blessings of liberty. In principle, all were to share in these goods, and all were to benefit from them. (The gap between this principle and actual practice is one of the central drivers of American history.)

Note that the Preamble defines a distinctive understanding of the common good for a specific society. Unlike some other societies, America’s common good does not explicitly include theological doctrines or a canon of the virtues. We are free to argue (and throughout our history many *have* argued) that the common good we seek is unattainable without religion and civic morality. George Washington and Alexis de Tocqueville are hardly alone in seeing just such connections. But as citizens, we are free to disagree, and to draw practical inferences (for example, about the wisdom of public aid to parochial schools) from our divergent views.

Note also that the Preamble defines the common good in highly general terms. We are free – indeed, invited – to argue about what it means, to establish justice or to promote the general welfare. And the “liberty” we are pledged to protect and pass on to future generations is among the most contestable terms in the political lexicon. While the Preamble sets the terms of debate about the American common good, it hardly prejudices the outcome of that discussion, and it leaves open the possibility that the prevailing understanding of key terms may change over time. (History suggests that this open-endedness is anything but a defect.)

One final observation about the Preamble: it is limited geographically but not chronologically. While only the individuals associated with a particular place – the United States – fall under the canopy of the Preamble’s promise, the founders sought to extend it beyond their own generation, to “our posterity.” To remain true to the Constitution, no generation may seize for itself fleeting advantages that risk leaving future generations with diminished shares of the goods that the founding charter places at the heart of our collective enterprise.

If the Preamble states the ends of the union, the body of the Constitution sets forth the institutional means for achieving them. And these institutions are part of the common good as well. They enable not only collective decision-making but also the capacity to implement decisions once they are made. They make possible the peaceful resolution of disputes. They are designed to ward off tyranny, whether of individuals or of groups, and to offer a voice for all. They empower majorities while protecting minorities. And the Constitution provides, as well, for processes of amendment to improve its capacity to promote these ends when changing conditions make such improvements necessary.

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The common good, to repeat, is no guarantee of social and political harmony. Our constitutional common good establishes a framework of ends and means about which, and within which, vigorous contestation is inevitable. We disagree, of course, about how different sectors of society are to divide the burden of maintaining a free and well-functioning political community. But the debate can touch on even deeper issues. If the common good encompasses multiple goods, then some of its elements often stand in tension with one another. A fair trial is an element of the common good as we understand it; so is a free press. What should we do when they collide? Even when only one good is at stake, we disagree on what its general specification means in specific cases. The Fourth Amendment protects us from “unreasonable” search and seizure. But how do we draw the line between what’s reasonable and what isn’t? Reasonable people often disagree about what it means to act reasonably in specific cases.

Controversy over the common good can even raise an issue on which moral philosophers have long been divided: is the good of the community to be determined by aggregating the consequences of different courses of action for all members of the community? For example, while the right to acquire and hold private property is an important element of the common good in the United States, it is not absolute. The Fifth Amendment states that “private property [shall not] be taken for public use without just compensation.” We may leave aside the often contentious issue of when compensation is just and focus on the concept of public use. No one doubts that roads, post offices, and military bases fall under this concept. In 2005, however, a five-member majority of the U.S. Supreme Court allowed the city of New London, Connecticut, to take private property to further the communi-

ty’s economic development. If development was designed to boost the community’s overall production and wealth, it qualified as a public use that justified the taking of private property. This decision proved enormously controversial, in part because it subjected what many regarded as an individual right to a collective calculation. The good of private property, argued many critics, is not something we can determine simply by adding up the consequences of different patterns of property ownership for all affected individuals.

There is of course a continuum of contestation, from clashes that can trigger civil war to the disputes that characterize everyday political and social life. But even disagreements over public policy – should the federal government guarantee that no citizen must go without health insurance? – can trigger fears that the community’s fundamental character is being transformed. The passions and divisions of the moment often lead to myopia, a blurring of the vision that allows us to discern what we share despite our differences. It is the role of statesmanship – always in short supply – to remind us of the enduring commonalities that we are forever in danger of overlooking.