

Ethics in the Public Sector:
Who Determines the Public Interest?
“Public Servants or Elected Officials”?

Major research paper submitted to
the Faculty of Human Sciences and Philosophy,
School of Public Ethics, Saint Paul University,
in partial fulfillment of the requirements
for the degree of Master of Arts in Public Ethics
Ottawa, Canada

June 2018

©Samueltola Akinkunmi, 2018

Table of Contents

| | |
|---|-----|
| 1.Introduction..... | 3 |
| 2.Multiple Meanings of Public Interest | 3 |
| 3.Arguments in Support of Political Determination | 9 |
| 3.1. Arguments in Support of the Idea that Public Servants Determine Public Interest..... | 13 |
| 3.2. Canadian Political or Public Sector Ethics | 16 |
| 4.The Use and Application of Public Interest..... | 331 |
| 5.Typologies of the Public Interest..... | 40 |
| 5.1.Abolitionist theory..... | 40 |
| 5.2.Normative Theory | 46 |
| 5.3.Political Process Theory | 47 |
| 5.4.Consensualist Theory | 502 |
| 6.Other Perspectives/Criticisms of the Concept of Public Interest..... | 552 |
| 7.Conclusion | 56 |
| 8.Works Cited | 54 |

1. Introduction

The controversies surrounding the definition and uses of the term “public interest” have grown to unmanageable proportions. Despite the myriad uses or applications assigned to it (by democratic society), some social scientists disagree, among other things, on its definitions (Jelking,16, Kernaghan and Langford 2e. ch.3). Without conducting an investigation into its definitions, this controversy may continue unabated. This has become important as some scholars argue that it is the politicians who determine public interest, while others have argued that, on the contrary, it is the public servants who decide on the definition of the term Kernaghan and Langford, 13, 35-6). The objective of the research paper is to show what public interest is and how public interest is determined by investigating its ambiguous and controversial aspects. This paper explores the multiple meanings or definitions of public interest as investigation, examines the thinkers who argued that elected officials determine public interest and those who argued that it is the public servants. It explores Canadian political or public sector ethics to verify how it is determined, its uses and applications under the Canadian political system, as well as typologies and other perspectives and criticisms of the concept of Public interest to conduct its investigation.

2. The Multiple Meanings of Public Interest

Historically, the concept of public interest gained attention of pioneer political philosophers. It takes precedence in government policy, legal and judiciary decision-making processes. Thomas Aquinas argues that “common good” (*bonum commune*) is the goal of government and law (Anthony et al.,paragraph,1). The concept of public interest (*to koinei sympheron*) has also been described as “the foundation for Aristotle’s distinction between “right”

constitutions, in the common interest, and “wrong” constitutions that were merely in the interests of the rulers. The purpose of government is therefore, within many traditional accounts, to give expression to the public interest” (Anthony et al., paragraph,1). Others, such as John Locke notes that, “the peace, safety, and the public good of the people” are the ends of political society, and “the well-being of the people shall be the supreme law”, while Jean-Jacques Rousseau takes the idea of the “common good” (*le bien commun*) to be the object of the general will and purpose of government” (Anthony et al., paragraph,1). In a true democratic society such as Western Europe or (European Parliament), or the United States, where openness, deliberations and debates about common good are permitted public interest is always at the top of the agenda. This means that people gather to reason with one another to find solutions to their common interests. The idea of public interest is to see that general interest surpasses individual’s interest. That is to say, when it comes to the affairs of the public, individuals’ interests should be suspended. That is what public interest is all about. The Economic and Social Research Council of Queen’s University, Belfast, notes: “that the fundamental task of a political process (at least in anything approaching a democratic condition) is to find a way of translating all the individual interests in society into some common, public or general good that both encapsulates and transcends each individual expression of interest. Within some versions of democracy public interest is simply the result of the clash of all private interests” (Anthony et al., paragraph,1).

The concept of public interest is a standard measure on which government decisions are based. It is often what the public uses to measure or weigh the actions or inactions of policy makers. The term public interest can be used to measure new policy innovation for evaluating and appraising whether a new policy innovation need to be developed (Anthony et al., paragraph,1). The Green

Book procedure for measuring and appraising is a good example. It contains detailed information on how the British government justifies its public policy decisions (HM, Treasury, 1-132).

As noted by Deborah McNair:

the public interest standard has become a catch-all standard by which public officials and others are judged, exercise discretion and govern themselves in promoting the public good. There is a presumption that public decision-makers, professionals who serve the public, public servants and even lawyers act in the public interest. Despite concerns about vagueness and arbitrariness in its application, and the comments of Mr. Justice Coleridge in *Egerton v. Brownlow* above, it continues to stand the test of time as a general formula for the exercise of discretion by public officials and for the determination of community interests when circumstances merit it, (MacNair, 1).

The term “public interest” raises some controversies, arguments and even debates among professionals and non-professionals. It poses some challenges to public servants as the public depends on the consideration of the term for performance judgment. In an egalitarian society or a society that embraces democratic values such as Britain or Western Europe, public servants are expected to consider or balance public interest against individual interests, even when they act together either in omission or commission their actions or inactions can still stand up to the public interest test (Propriety and Ethics Team, Cabinet Office, 1-9). In an advanced democracy such as Canada, public interest is determined by the three arms of government- executive, legislative and judicial, using different approaches, processes, procedures and applications, while preserving the same values. However, when it comes to elected officials and public servants, the answer to the question of who actually determines the public interests becomes something unclear and difficult to understand without first and foremost understanding how close the roles of elected officials and

public servants are. In the same way, it is difficult to know who determines public interest, which generates controversies among political scientists (Kernaghan and Langford 2e ch.3, Denhardt and Denhardt 5-12).

The term “public interest” has been defined and criticized in various ways by different thinkers or authorities (Jelking, 16-21). In spite of the fact that nearly every political decision has been justified by labeling it “in the public interest” no one is able to give a precise definition. For instance, Frank Sorauf complains that it means one thing today and the complete opposite the next day (Jelking,16). He concludes his discussion of Public interest with an observation that since public interest has eluded precise scholarly definition, politicians can use the term as they see fit, which does little to further the effective political dialogue presumed by our democratic politics. He describes public interest as “the public or some segment of it,” in this sense, it is real, empirically identified interest. At the same time, he refers to the goal in the interest of the public whether or not that public is sufficiently enlightened to grasp it. He “finds Public interest to mean some criterion or some desirability by which public policy may be measured, the goal which policy ought ideally to pursue and attain” (Jelking, 16). In addition, Sarouf’s criticism of the concept stems from the way it is being used, the attitudes of the policy makers and the meaning they give to the term. According to him, different situations mean different definitions as a standard for measuring public policy. In other words, the policy makers or decision makers vary its meaning under different circumstances so that they can be able to use it as a standard for measuring policy (Jelking,16-21). Walter Lippmann had attempted also to define the concept this way. According to him, “the public interest may be presumed to be what . . . (people) would choose if they saw clearly, thought rationally, acted disinterestedly and benevolently” (qtd. in Lewis, 40). This is so because in that case, public interest may be used to justify their actions. This is because interest of

the masses surpass individuals'. Legally, it is defined as anything that has to do "with rights, health or finances of the society at large or anything that of common concern among citizens in the management and affairs of municipal, state and the federal government (Encyclopedia of American Law). For example, "a public utility is regulated in the public interest so that private individuals who depend on public utility can enjoy the service" (West's Encyclopedia of American Law, [...], Méthot, 1-2). The concept can also be defined in terms of balancing privacy with other interests e.g. freedoms of expression, political communication, media investigations, in form and write on matter of public concerns, open justice, proper administration of government, national security, public health and so on (Australian Law Reform Commission, Australia Government, 115).

The concept has also been defined in a legal way. The term Public interest or social justice law has been described by the Career Development Office of the University of Toronto:

as a legal work on behalf of individuals, groups, and causes that are underserved by the for-profit bar. Within the broad scope of its definition, public interest practice includes work done by legal clinics, boards, agencies, commissions, and all levels of government, as well as private practice firms and lawyers who define the majority of their clients as public-interest or social justice causes (qtd. in Doyle, 1).

Moreover, Deborah Stone has described the concept of public interests as those things desired by the public-spirited side of citizens. For instance, gender equality, good schools, safety and security, health care, clean air, lower taxes, and clean water, clean air or reduction in carbon emission. She goes on to describe the concept "as those goals on which there is consensus and things that are good for a community as community" (qtd. in Denhardt and Denhardt, 73). For instance, she mentions the preservation of order for maintenance of governing processes and defense against

foreign aggressors. This renowned social scientist continues her description by drawing a link between the concept of public interest and the *polis*. According to her, the concept of public interest is to *polis* what self-interest is to the market. They are both abstractions whose specific contents one does not need to know in order to use them to explain and predict people's behavior- one simply assumes that people behave as if they were trying to realize the public interest or maximize their self-interest (qtd. in Denhardt and Denhardt, 73). Stone defines the concept as "*Polis* or political community. According to her, "public interest is based on the active and conscious pursuit of collective values" (qtd in Denhardt and Denhardt, 73). Stone defines the concept as the social services that selfless citizens or government agreed upon that are necessary for the communities and the countries or things that are generally beneficial to the wider community. Based on her definition, public interest covers a wide range of areas or things that the community or citizens endorse for making life more meaningful and dignified. Such as, crime free community, gun free society, public health, essential services, children education, youth training center and so on. The next part will be concerned with exploring the meanings ascribed to public interest by politicians.

3. Arguments in Support of Political Determination

In terms of their official responsibilities, a number of individuals and groups have argued that in a democratic society such as Canada elected officials determine public interests, not the public servants. They do this with tenable evidence. For instance, Thompson writes:

conventional theory and practice of administrative ethics is such that the civil servants carry out the order of their superiors and policies of the agencies and the government they serve; based on this administrators are ethically neutral they do not exercise moral independent judgment. The civil servants are not expected to act on any moral principle on their own, but follow what the principles lay down by the government to implement policies. They serve the organization so that the organization can serve society (qtd. in Karnaghan and Langford, 13).

After carefully reviewing the various roles of public servants in their book, *Authors, Responsible Public Servant*, Karnaghan & Langford contend that: certainly public servants make a great number of routine decisions where the value implications are as important as technical, financial, managerial or political considerations. Thus, “the determination and the protection of public interest are necessarily very much the public servants’ business” (Karnaghan and Langford, 35-6). Other thinkers such as Bryson and Crosby (1992), Luke (1988), and (Stone 1988), have expressed their views of public interest in the era of new public service in the following way:

One of the principles of New Public Service is a reaffirmation centrality of the public interest in government service, the New Public Service demands that the process of establishing a “vision” for society is not something merely to be left to elected political leaders or appointed public administrators. Instead, the activity of establishing a vision or

direction of defining share values, is something in which widespread public dialogue and deliberation are central, (qtd. in Dendhardt and Denhardt, 65).

Additionally, Heintzman added his contributions to the role of public servants in determining public interest. This has added more value to the role of public servants in determining public interest:

it is both inevitable and desirable for public servants to make their own judgments about the public interest. It is inevitable because the hundreds of operational, policy and management decisions they make every day necessarily involve some implicit and explicit notion of what the public interest requires: without such a notion the decision would not be good ones, or would be so only accidentally. Public service judgment about the public interest is also desirable because without their own ideas about what the public interest in specific circumstances public servants would not be able to provide useful advice to ministers, nor would be able to identify the very few cases where the divergence between political and public service definition of the public interest is sufficiently grave to create a problem that must be resolved in some way, depending on the available tools. The only precondition for public service judgments about public interest is a deep conviction that, when political and the public service ideas do not coincide, democratic political judgment trumps public service judgments (qtd. in Kernaghan & Langford 2ed. ch.3).

Public servants judgment is vital to the society at large: they are closer to the citizens than politicians do, that is, they know them and their needs, they can seek and get their advice and supports on issues affecting their community/society. They can work with the community members to resolve some conflicts such as land claims in Aboriginal community in Canada. They

can help bringing some problem such as environment affecting society to agenda. Since public servants are part and parcel of policy-making giving them the opportunity to make their own judgments can help unite the society than divide it since they have the knowledge of what it takes to build good relationships. These are shared values and are some of the reasons why public servants should be allowed to make their own judgments.

Thompson mentions two key points: first public servants are employed to implement policies made by the politicians, and the second, they must maintain ethical neutrality. He means that elected officials are mandated to make policies they see fit to determine public interest. In other words, elected officials delegate to public servants assignments regarding the distribution of public goods and services. The public servants on the other hand, are to implement those policies as the ethics dictate or according to the provision of the statute or legislature creating it. The other point is ethical neutrality, which means that public servants are expected to conform to accepted standards or be consistent with agreed principles of correct moral conduct. Ethical neutrality is used as an evaluative or control measure to see whether public servants perform according to public interest or not. According to Thompson, these two values do not allow public servants to use their own value judgments (qtd. in Karnaghan and Langford, ch.1). It is important to point out that ethical neutrality cannot be fully realized when it comes to public servants. This is so because public servants do involve in a number of cases on behalf [of] or with the government. Decisions such as to whether the government will go to war with another country or fight terrorists/insurgents for instance, involve and include public servants participation, so also public enquiry [set up by the government] to investigate corrupt politicians. So, ethical neutrality cannot be fully realized in democratic society such as Canada or the United States. Karnaghan and Langford poke a hole in Thompson's arguments. The three authors have opposing views regarding who determines public

interest. In other words, Thompson argues that it is the elected officials who determine public interest, while Karnaghan and Langford claim that the public servants are “making routine decisions where the value implications are as important as technical, financial, managerial or political considerations” (35-6). These opposing or contradictory views of various thinkers prompted this research. The point of contention here is that Thompson refers to elected officials as having the general mandate to determine public interest while Karnaghan and Langford concern about specific but important areas such as technical, financial or managerial that require public servants attention. As will be seen later in the paper, *Canadian Public Sector Ethics* will be used to illustrate this. Conversely, thinkers such as Bryson and Crosby (1992), Luke (1988), and Stone (1988), do not support the idea of allowing elected officials and administrators alone to determine public interest. They want among others, a joint effort of the whole society to determine public interest.

This view is similar to what this research paper discussed earlier when it said public interest is determined by the three arms of the government in a democratic society, but through different processes and procedures. This suggestion supports neither the elected nor the appointed administrators in determining public interest alone. However, it can be argued that since the elected officials are mandated by the electorate through ballot selection and representation constituent by constituent, from coast to coast and the administrators are appointed by the government or a statutory body, the two can work together to determine public interest instead of involving the whole society as these authors; Bryson and Crosby (1992), Luke (1988), Stone (1988), have suggested. Policy-making requires persuasions and consultations of the affected stakeholders or communities but not everyone can be involved in policy-making. It has to be those who are expert in the field. Involving everyone may hinder the whole thing, as not everyone can provide the

needed expert advice. The administrators are appointed based on their wealth of experience and expertise in their fields. The elected are there to render their services based on the interests they have in their respective communities and the nation at large. The elected officials depend on administrators for policy advice, trust and other administrative supports. They also need to determine public interest while the administrators depend on the elected for job protection. Moreover, Heintzman expresses his views on why it is important that public servants should be allowed to have their own judgments about public interest. This view, like Karnaghan and Langford's, is consistent in that it supports the idea that public servants should have a role in determining public interest or should have their own judgment about the term "public interest". This is contrary to Thompson's view of the term expressed as "public servants do not exercise moral independent judgment of their own or they are ethically neutral" qtd. in Kernaghan and Langford, 13). Heintzman justifies his position, pointing out that it is unavoidable that public servants will make their own judgment because most operational, policy and management decisions they make daily rest on public servants who are knowledgeable about what public interest needs. Heintzman further points out the danger of not allowing public servants to have their own judgments about the term arguing that, "without allowing them they will not be able to provide useful advice to the ministers and that it will be difficult to define public interest." (qtd. in Karnaghan and Langford 2ed. ch.3). These points clearly support the public servants determination of public interest.

3.1. Arguments in Support of the Idea that Public Servants Determine Public Interest

After carefully reviewing the various roles of public servants, Kernaghan and Langford contend that, public servants certainly make a great number of routine decisions where the value implications are as important as technical, financial, managerial or political considerations. Thus,

“the determination and the protection of public interest are necessarily very much the public servants’ business.” (Kearnaghan and Langford, 35-6) Moreover, if one looks at the role of public servants on the basis of the *Privy Council and Ethics and Value* analysis, one can see that public servants are really involved in the grounds work of how public interest is determined, despite the fact that others argue that the elected officials determine public interest. (Privy Council Office, 1, Ethics and Value, 7&11, also see more information from Gullick, Wilson, in Denhardt and Denhardt, 5- 12). Kernaghan and Langford claim that public servants are equally involved in decision making in terms of technical, managerial, and political considerations (35-6). These roles are tailored towards making policy decisions that are valuable to society at large. For instance, professionals with technical ability in policy-making and analysis, through their technical know-how can provide and enhance policy advice and analyze it in such a way that the wider society will benefit from their choosing policy and analysis. One can see public servants determine public interest based on their skills in policy advice and analysis. “The public servants, in fulfilling their duties and responsibilities, shall make decisions in the public interest” (Values and Ethics, 11). In relation to that, the *Organization for Economic and Cooperative Developments* have noted that, “public servants are involved in managing networks, public servants work across organizational boundaries to deal with difficult issues” (OECD, 3). This involves a great deal of joint efforts in terms of communications, trust and commitments between various departments. In as much as the public servants can do this much on behalf of the society, one can say that the public servants collaborate with their colleagues to determine public interest. Their reasons for collaboration are to see that they are better able to provide the best service to the public, to ensure their services are correctly managed and delivered and to ensure that everyone benefits fairly equally. Through the creation of networks, they are able to identify problems facing the communities and find better

solutions. When one considers these great skills and expertise of public servants, one can see that they determine public interest in some cases as Karnaghan and Langford had claimed.

Moreover, the issue of how public servants determine public interest is based on the following ethical issues: The Canadian government was contemplating whether granting the Chinese National Offshore Oil Corporation (government- owned) the right to acquire the Nexen incorporation, a Calgary- based energy corporation, constituted a net benefit for Canada. However, analysts noted that no Canadian corporation would be allowed to enter Chinese market and acquire the same type of company. Should Canada insist that a state- controlled corporation that wants to buy Canadian assets play by a fair set of rules by granting reciprocal access to their markets? (qtd. in Karnaghan and Landford ch. 3. 2.ed). In a related case, Professor Andy Sumner, renowned scholar on poverty, noted the traditional moral and ethical argument for global redistribution by essentially taxing citizens in the rich countries to pay for poverty reduction. He noted however, that some countries that used to depend on the western world's aids for poverty reduction in their countries have a better economy now that they tax their middle income earners to reduce their poverty rate. These countries still need international aid, but will Canadian tax payers want to send anti-poverty money to countries that have advanced economically, and will these countries accept being told how to handle their poverty problems? Research revealed that the decisions as to who determine public interest in these cases are left to the public servants, not the ministers (qtd..in Karnaghan and Landford ch. 3. 2.ed). On that note, one can say that public servants, as well as the ministers determine public interest, but in this case, public servants are involved ethically.

These views support the arguments that the public servants also determine public interest despite the fact that some political activists say it is the job of elected officials to do so. Redford points out that, "administrative decisions are based on common interests and ideas and that the

administrators acting to look for common and enduring interest is an essential safeguard for the public interest” (qtd.in Denhardt and Denhardt, 78). He reminds the administrators of the underrepresented, but also talks about the importance of future and shared interest as well: “the danger is that the interest of the unorganized and weak, the shared interest of men generally, and the interest of men for tomorrow will not have proper weight in government councils” (qtd..in Denhardt and Denhardt,78). When one adds up these examples and other important roles of public servants one can say, at least in a true democratic society, that the public servants to a large extent assist the elected officials to determine public interest. The next part will explore the duty of loyalty and policy significance in the Canadian political system regarding the role of ministers and public servants.

3.2. Canadian Political or Public Sector Ethics

Some political theorists such as Thompson have argued that it is the elected officials who determine public interest rather than the civil servants. This part will analyze the role of the elected officials by exploring the duty of loyalty and policy significance through the lens of Thompson’s statement. Tait’s Report: Task Force on Public Service Values and Ethics will be explored to illustrate parts of this section. Tait’s report presents what public servants and elected officials relationship are, under Canadian Law and Constitution. Tait’s Report talks about Canada’s defining features or values such as bilingual and distinct society of Quebec, and importance of those values to Canadian democratic society. Under the Canadian political system, Ministers are Crown representatives. The Ministers are responsible to the Parliament. They are individually and collectively answerable to the House of Commons for the policies, programs and activities of the Government (Privy Council Office,1). In the process of performing their duties, Ministers are assisted generally by the public servants. As professionals who enjoy permanence or long service,

public servants are expected to be statutorily, ethically and constitutionally loyal to the government, bring their professional expertise, their wealth of experience to bear, exercise non-partisan, and impartial support to the Ministers. While the Ministers handle major political aspects of the government the public servants are involved in the day to day administrative job of running the business, and some political role is delegated to them by the ministers (Privy Council Office,1). In other words, they are involved in managerial or technical duties of their various departments and other duties assigned to them by their ministers. For instance, the public servants assist the ministers with political or policy advice and provide useful information with which decisions are made.

The concept of “public interest” can be determined when there are strong relationships between the two groups. The public servants follow this tradition of accountability to the superiors or the Ministers. Ministers determine public interest through the proper and competent execution of public servants’ duties. Politically, it is the Ministers who decide policy as well as defend it before the House of Commons and ultimately before the people of Canada. Public servants have no constitutional responsibility to the Parliament, nor do they share in that of Ministers’. They do, however, support Ministers in their relationship with the Parliament and to this effect, they may be said to assist in the responsibility of Ministers to the Parliament. According to ‘Parliamentary Committees, (answers to questions put by Committee), “public servants have a general duty, as well as a specific legal duty, to hold in confidence information whatsoever be in their possession in the course of performing their duty”(Privy Council Office, 1). Put another way, if the law or the government permits them to disclose any information to the public they can do so under the Access to Information Act or to protect it from disclosure under other statutes such as the Privacy Act (Privy Council Office, 1). The simple meaning of this is that the civil servants are not allowed

to disclose any information in their possession without being told by the government or the provision of the legislation or statutes. Moreover, trustworthiness and loyalty are maintained, in order to ensure that societal values and ethics are upheld. However, if these values and ethics are abused by public servants, for whatever reasons; say for instance, because of their higher obligation to Parliament, that might be injurious or tantamount to diminishing democratic values. In other words, abuse of trust and loyalty to ministers by public servants will be something entirely contradictory to the basic norm of principle of the responsible government, which “means Ministers are accountable to the House of Commons and not the public servants for what is done by the government” (Privy Council Office, 1). This is one of our democratic values. Democratic values refers to “free and equal participation of citizens in government or the decision-making processes in an organization or group”.(Encarta dictionary) So, ministers or public servants obligation to the Parliament of Canada or government is part and parcel of democratic value as they both participate in public-policy or decision-making. Public servants may appear before the parliamentary committees to answer questions on behalf of ministers and to provide certain information, which the Ministers may certainly not be able to provide. This may raise ethical questions. Additionally, Privy Council Office studies show that public servants are not directly responsible to the Parliament for their actions, policy, and programs of the Government, those are left for the Ministers (Privy Council Office, 1). These values and ethics or principles of the responsible government demonstrate that Ministers determine public interests with the help of public servants through policy processes. They all have a role to play in their respective constituencies and within administrative and political arena to determine public interests, although the Ministers may have much more in the sense that they are reporting to the Parliament and the House of Commons directly. Ministers are elected representatives of specific constituencies or are

Crown representatives (federal government). As elected members of Parliament they administer all the federation, based on enacted legislature, policy, regulation and their (Role in the constitution). These laws and regulations are made by them with the help of the public servants to ensure the public is well served.

The Ministers' pledge of allegiance to the Canadian society during their oath of office is another reason why they should always put public interest to the heart. The pledge is that they will uphold every word of the oath, be loyal to the constitution, uphold law and order to protect and preserve values of the society. For instance, they promise that interest of the public will be their priority, and they will not commit any act of disloyalty such as unduly sharing military intelligence with other countries or sabotaging the economy in any form. Moreover, though public servants may provide explanations in areas that have to do with complex policy matters, they are not allowed to defend policy or engage in debate as to the alternatives. There is a sort of rational debate and partisan debates as to how this works out. Rational debate as applies to political arena, means "to govern by, or showing evidence of, clear and sensible thinking and judgment by politicians, or simply saying a debate devoid of emotion, or prejudice" such as discussions that involve making public policy.(Encarta dictionary) Partisan debate as oppose to rational debate, refers to a "strong or resistant support of a person or group or a cause". (Encarta Dictionary) In a partisan debate participants act with strong emotions and are resistant in nature. In other words, they do not count others opinions as important. Obnoxious public policy may generate this sort of actions. They may be strongly opposed by the people including civil society or opposition parties. Although, public servants are allowed to support the ministers or government but are not allowed partisan political debates. Professionally, advisory role is a function carries out by an appointed body or person in order to provide a professional or expert opinions or give recommendations to

another person or body within a particular area or field. Experienced teachers such as those in the School Board, may perform an advisory role by visiting schools to advise other teachers on curriculum developments within a particular area. The same is true of the Supreme Court of Canada, it does provide advisory role or [give opinions/recommendations], on cases refer to it from the lower courts. A sovereign role, as opposed to advisory, is a role perform by a leader or his representatives/ delegates of a free and independence territory on permanent basis. In other words, a sovereign role is a position occupies by a leader of a sovereign land/territory. A Sovereign Lord for instance, directs his subjects by governing them. He makes laws for the land, protects and defends them against foreign enemies [who might threaten their sovereignty] as much as he could. He does every other things such as building infrastructures, currency, collect taxes, revenues, and plan the economy of his state like a leader of any minimal state. More so, in case a sovereign role, the person exercises the role directs his representatives or subjects or cabinet members to carry out the duty as directed or delegated to them. Sovereign Lord for instance, may appoint advisory body to work on his behalf. More so, since, as mentioned above, problems relating to administration and their corresponding programs are left for the public servants, responsible directly on behalf of the Ministers (Privy Council, 2). Based on the Privy Council's analysis, there is a consistency between Thompson, 1985, Tait's Reports and others who argued that elected officials determine public interest and that the public servants provide support to them. However, it should be noted here that the works of the ministers, be it political or administrative, are not complete without the public servants' advice or judgments on whatever direction or steps the government is taking to determine public interest. The ministers are the official face of the ministry or the representatives of the Crown. It is the values the society create through democratic political system or ethical platform put in place that the minister has to follow in order to make policy decisions. In other

words, the task of determining public interest is jointly carried out both by public servants and the ministers. These initiatives may arise out of the circumstances society finds itself in at the time of deliberating on what policy to make in order to make things better for the society or affected community or groups. These initiatives may come from the public servants or even the affected groups or communities. This is so because they are closer to the service users than the ministers and, as such, know their needs and wants better than the ministers do. Apart from that, they do consult service users for supports and opinions in some cases. The public servants, based on their experience can put their heads together to make and analyze policies, which the ministers follow to make decisions. In this case, one can say that the job of determining public interest is a shared or a joint one between the ministers and the public servants. Even though these opinions may sound personal, a true democratic society will not totally dispute them. According to Paul Appleby:

public interest is never merely the sum of all private interests nor the sum remaining after cancelling out their various pluses and minuses. It is not wholly separate from private interest, and it derives from citizens with many private interests, but it is something distinctive that arises within, among, apart from, and above private interest, focusing in government some of the most elevated aspirations and deepest devotion of which human beings are capable (qtd. in Dendhardt and Dendhardt, 71).

We need further research into who determines public interests, the public servants or ministers.

This research examines policy significance as it is analyzed by Treasury Board Secretariat. Thompson's argument is that:

conventional theory and practice of administrative ethics is such that the civil servants carry out the order of their superiors and policies of the agencies and the government they serve; based on this administrators are ethically neutral they do not exercise moral

independent judgment. The civil servants are not expected to act on any moral principle on their own, but follow what the principles lay down by the government to implement policies. They serve the organization so that the organization can serve society. (qtd. in Karnaghan and Langford, 13).

Moreover, Tait's Report: Task Force on Public Service Values and Ethics, will be discussed to examine some points regarding elected officials and the public servants in and statements from other thinkers in this section. To this effect, the paper will discuss the purpose of the report, values and ethics, Canadian values, anonymity, and value of loyalty.

The purpose of Tait's Report "is to help the public service to rediscover and understand its basic values and assist the public service to recommit to and act on those values in all its work." (1) Tait's Report links to the topic of public interest because it sees elected officials as one representing and interpreting public interest on behalf of Canadians. It also is relevant because it talks about the public servants' loyalty to the concept as the most basic values to the public service.

Values and Ethics

Tait describes public service ethics as sub-set of public values. In other words, public service ethics is a division of public values such as loyalty or honesty. It appears in this case, values are created by the government through laws, regulations, services and any other actions taking by the government. Values, as he puts, "are enduring beliefs that influence attitudes, actions, and the choices one makes". (p.4). Based on Tait's Report, public service ethics are enduring beliefs that influence our attitudes actions as to what is right and wrong. Tait refers to ethical values as public values in action where choices have to be made between right and wrong. In other words, we make decisions based on our values. For instance, when the government of Canada decides to give equalization fees to its less affluence provinces it does that based on its value for equal rights or

access to basic necessities of life. He points out that a choice between values are not always involve a choice between right and wrong. A choice between a partisan and non-partisan public service, or between a career and a non-career public service, or between right and wrong, is a good example. (4). Tait considers ethical issues as issues of conscience, that is, the sense of what is right or wrong that governs one's thoughts and actions, urging one to do the right thing rather than the wrong one. Here for instance, as a public servant, can one engages in partisan politics? No, but non-partisan. Or can one involve in any personal interest such as colluding with a contractor to inflate contract? No, also. Decisions as to whether to do or not do anything of this nature, comes from our values such as honesty or the opposite, and to do the right one comes from the conscience. He describes the public service of Canada as an institution known for its continuous high ethical standard, both within and outside the country. Based on Tait's Report, at international level, Canada scores high marks among equal partners, it ranks high among other countries, when it comes to ethical issues. According to Tait's Report, a recent survey of the international business community conducted by Transparency International, Canada ranks among the top five countries in the world for honesty in government. (4) This survey outcome demonstrates how serious Canada and its public sectors are about ethical issues. More so, it shows how also importance ethical values are in the public service as well as in the daily lives of public servants. Moreover, ethical values influence on public servants for instance, are numerous, and they are inform of pressures. This is so because it raises new and deeper ethical issues, such as fair treatment for employees or focusing attention on the public interest rather than personal career interests in a time of downsizing. Moreover, ethical values pressures on public servants are noticed also in the form of services public servants provides to Canadians such as decision they make as well as actions that affect lives and interests of Canadians. Put another way, public servants handle private and confidential

information on behalf of Canadians, provide help and service, manage and account for public funds, answer calls from people at risk(4).

Canadian Values

Moreover, Tait's Report covers also another defining feature of Canada, her values.

Tait refers to public service of Canada as the institution that works to promote Canada's universe of values. He enumerates some Canadians values- viz, a federal state with a Parliamentary system of government, a North American country. According to his report, Canada has a unique historical experience, which according to Tait, metamorphosis into the Quebec distinct society. More so, Canada has different provinces with different features and regional realities, bilingual as well as a multicultural society, a division of powers between the federal and the provincial governments, where no government dominates the other, a Charters of Rights and Freedoms, that accommodate and embrace all culture, both gender, minority and majority interests, all races equally, a unique political culture, and evolving social contract (5).

Anonymity and Accountability in a system of Responsible government

Public service is an institution based on an implicit bargain, understanding, or deal. The elected officials and the public servants offer official protection to each other in order make their duty easy and conflict free. In other words, the public servants give successive governments their professionalism, discretion, neutrality, non-partisanship, impartiality, and loyalty (7). In return, elected officials reciprocate this with anonymity and job security. With the notion of anonymity, public servants will not be publicly accounted or answerable for the government actions, this is left for the minister. More so, security of tenure means a job guarantee in the public service for public servants. This is to say that public servants appointments will not be tampered with until such a time when they are due for pension or voluntary resign from the service. The issue or

concept of anonymity of public servants is mentioned by Tait because of its value implications and the controversy it generates between the elected and public servants. This is brought to the notice of Tait by some concerned public servants, who believe that individual public servants are being publicly identified and blamed for actions that are embarrassing to the government. According to them, this suppose not to be so, based on the long relationship between elected and public servants. Moreover, one of such incidents that prompted some public servants to show their grievances is that of Al-Mashat's case, a colleague who suffered unnecessary embarrassments in the hand of Parliamentary committee. In a similar vein, a senior public servant, the deputy Minister of Employment and Immigration, who according to Tait's Report, is subjected to rigorous interrogation by a Parliamentary committee, is implicitly asked to bear responsibility for government actions. In addition, Tait's Report gathers also in a different way that the Parliamentary committee have sought to make public servants responsible for government actions. Public servants have for instance, been invited to comment on government actions or policy in their personal capacity rather as officials accountable to a responsible minister. Based on the Canadian public ethics and values, or the principle of anonymity, this is contrary to what the public servants expect from the Parliamentary committee. It undermines the doctrine of public service anonymity and ministerial responsibility, altering the ground rules of the alleged "old deal" (p8). More so, Tait stresses further the convention of public service anonymity and ministerial responsibility. In its efforts to cajoling the public servants, the report wants public servants among others, to understand that ministers themselves often feel powerless by central agencies, horizontal and consultation processes or even the public service itself. It is possible, they do not know why they should have to defend or even explain actions of which they are unaware and with which they may disagree. To some extent, Tait's Report points out that the convention of public service

anonymity and exclusive ministerial responsibility may sometime appear to minister to protect public servants at their expense. Ministers may often feel they are being blamed for a problem that is caused by someone else. This to some extent means that the concept of ministerial responsibility is being eroded or outdated. Ministers for instance, no longer resign for department errors. This means that the doctrine of ministerial responsibility is no longer in effect or has become meaningless (8).

The Values of Loyalty

The Tait's Report sees loyal by public servants to the elected officials as keys to democratic success. In other words, loyalty to the elected officials is a loyalty to the public interest. According to Tait's Report, Loyalty to public interest, "as represented and interpreted by the democratically elected government and expressed in Law and the Constitution, is among the most fundamental values of public service, and many other values-such as integrity, equity, fairness, impartiality and son) are linked to it or draw their strength from it". (27) According to Tait's Report, integrity is an important public service value, most important, but it is by no means unique or distinctive to the public service. More so, the meaning of integrity in the public service is "derived from, and finds its distinctive public service character in, its relationship to the public trust and the need to put the common good ahead of any private interest or advantage" (27).

Tait's statement, Thompson's and others' will be examined here to see how elected officials determine public interest. In one of John, C. Tait's, Q.C. Chair conclusions' he attempted to differentiate between the role of public servants and the role of elected officials. According to Tait, "many other public values such as integrity, equity, fairness and impartiality, and so on, are rooted in the value of loyalty or draw their strength from it (TBS, paragraph,1). According to this 1996 report, call *Task Force on Public Service Values and Ethics*, "loyalty to the public interests'

together with accountability to ministers, through them to the Canadian citizens, the rule of laws being among democratic values that underpin public service” (TBS, paragraph,1) This statement stresses further how much public servants are mandated by law for their loyalty to the ministers in order to preserve traditional democratic values and the public service ethics. In other words, Canadian society or democratic society relies on public servants’ loyalty and accountability to ministers to reap the dividends of democracy. As Thompson and others have argued earlier,

conventional theory and practice of administrative ethics is such that the civil servants carry out the order of their superiors and policies of the agencies and the government they serve; based on this idea, administrators are ethically neutral, they do not exercise independent moral judgment. The civil servants are not expected to act on any moral principle on their own, but follow what the principles laid down by the government to implement policies. They serve the organization so that the organization can serve society (qtd. in Karnaghan and Langford, 13).

The elected officials are superior to public servants, and as such, they are to take orders or guidelines and whatever instructions needed from ministers in order to perform their duties. The ministers on the other hand, turn to them for advice and information to determine public interests. This is a shared responsibility as dictated by the ethics of their job. Research into the concept of public interest has revealed that the elected and public servants work hand in hand to make that happen. More so, the report by Tait reminds public servants that their role is recognized, at all levels, to understand that the chief public service value is service to democracy. There is nothing higher than that, following professional advice and democratic liberation. The faithful execution of democratic decisions is what the public service is for, not the substitution for them of some other definitions and the

public good. According to Tait, “public servants must remember what they are, that is, delegate of their ministers and what system they serve, a democratic one, where elected officials have legitimacy to define public interest” (qtd in TBS, paragraph,2). This last statement by Tait further testifies to Thompson’s argument. On the whole, therefore, one can see the relevance of Thompson’s view that the public servants are answerable to ministers, and that ministers determine public interests based on the policy advice and information, loyalty and other related values of public servants to determine public interests. According to the *Values and Ethics Code for Public Service* , through the “support public servants provide to the duly elected government, public servants contribute fundamentally to good government, to democracy and to Canadian society.” (in TBS, paragraph, 3) Based on this Code, the Constitution of Canada and the principles of responsible government provide the foundation for public servants role, to assist Ministers, in order to serve the public interests.” (qtd in TBS, para.3).

Based on the above arguments and valued statements by the *Value and Ethics Code of Public Service*, one can see that the public servants play a huge role through the duty of loyalty and the policy significance. Civil servants do most of the jobs needed to support the Ministers in order to make policy statements that determine public interest. The fact that public servants are inferior to the ministers does not mean that they do not determine public interest. It is through their supports in terms of experience, expertise, impartiality and professionalism that the ministers are able to fulfill their political commitments of determining public interest. Moreover, as the *Value and Ethics Code of Public Service* points out, the civil servants contribute enormously towards good government and democracy in Canadian society. This means that the public servants play an important role in the ministers’ determination of what is in the best interest of society. “The public

servants, in fulfilling their duties and responsibilities, shall make decisions in the public interest”(Values and Ethics, 11). This is so because without the public servants’ experience and expertise the ministers may not be able to do most of the jobs. The ministers determine public interest based upon the works of the public servants, the legal system, and the situations at hand, as well as the future implications of not acting well today. Put another way, to say that the public servants contribute to good government, democracy, and the society means they are involved in no small measure to make institutions of government and democracy and Canadian society more functional, opened, dedicated and committed, and bring to bear better “negotiating skills”, and “creativity” (Bright Network), loyalty and more ethically orientated. It is upon this undoubtedly ethical platform created by the public service’s code of ethics and maintained by public servants, that ministers stand to take actions or make decisions that are of the best interest of the society. The role of public service is mentioned in all talks of the ministers’ success or the government’s success. There are no right actions taken by ministers such that the public service will not also be praised based on their relationship. The reverse is the case when the government or ministers do not succeed or they become a democratic failure. These opinions may sound personal, but they reflect our democratic and ethical values.

According to Deborah Stone, in her definition of public interest as a shared value, “in the collective or *polis* model, building a society in the collective interest is the aim, not the by-product” (qtd. in Denhardt and Denhardt, 72). Stone notes that:

public policy is about communities trying to achieve something as communities.

This is true even though there is almost always conflict within a community over what its goals should be and who its members are, even though every communal goals ultimately must be achieved through the behavior of individuals. Unlike the market which starts with

individuals and assumes no goals, preferences, or intentions other than those held by individuals, a model of *polis* must assume both collective will and collective effort (qtd. in Denhardt and Denhardt, 72).

Analyzing public interest in terms of shared value as Stone does, one can see that the objective is that everyone should be included in the common good to benefit all community members. Just as everyone is represented in the democratic process, everyone is also expected to be involved and considered in the common good. On that note, one can say the elected officials or the ministers who are Crown representatives actually determine public interest based on whom they represent, the Crown, whose jurisdictions they cover, namely: the entire Canadian society-from coast to coast. The Crown has dominion over the entire country. Each constituent is represented by a Minister of Parliament (MP), every Crown minister is a minister for the whole federation, and the interests of every constituent count or combine to form collective interests, including the public interest. When it comes to policy- making or decisions- making, policy- makers or Crown ministers work with their various departments (public servants) to make policy for the whole populace. So, they actually determine public interest. The public servants are Crown employees with an enormous role in our democratic political system. They do everything ethical and legal to ensure their various department ministers succeed. According to *Value and Ethics Code*, “ the public servants, in fulfilling their duties and responsibilities, shall make decisions in the public interest”. (11) Based on this ethical statement, one believes that the public servants together with the ministers determine public interest.

4. The Use and Application of Public Interest

Despite the ambiguity and the abstract construction, public interest has some important uses or applications to the governments and courts for legal and judicial decision-making. The term public interest is not new in either public sector or in government arena and among public officials. It is a common term used in these environments to denote action or inaction that is defensible or has little or no harm to the wider society. Public interest is used with consideration of impacts to parties not involved in the policy-making or decision-making process. In other words, public interest is used to demonstrate or with consideration to shared values in democratic society. In a true democratic society such as Canada institutions such as Courts are built or administered in such a way that law and order are prevailed, the rule of law is emphasized. In other words, courts decisions are based on country's values. The governments build schools to ensure both the haves and the have not children can attend, equal rights are guaranteed for both men and women, every citizen have access to publicly funded health care. These are shared values as they are in line with the principle of public interest.

The ideal of public interest is also a central concept in legal and judicial decision-making processes. In fact, it has long gained momentum in the judicial decision-making process. It is important to note that where the legislation in question requires that public interest should be considered before any decision is made, decision-maker must not do otherwise. A good example of this is the *Freedom of Information Act, 2000*, based on the *Information Act*, which states that before a certain type of information is released to an individual it must first and foremost be passed through a public interest test. What this means, is that the public body in charge of the information must ascertain whether or not releasing such information could cause harm to the public interest. If the authorized body (charged) with such information refuses to release the information to the

individual or party requesting it, the party or individual can challenge the prospective information bureau through the office of the Information Commissioner. This appeal could go further to the Information tribunal and finally to the High Court. In that case, the *High Court* will determine, based on the law, whether the disclosure constitutes violation of the public interest or not. An example is:, *Anderson v. Information Commissioner* (2011) (qtd. in Anthony et al.,1).

In a similar vein, public interest can be considered in a legal way as the provision of the legislation creating it. For instance, “ 37 (1) of the *Evidence Act*, subject to sections 38 to 38.16, a Minister of the Crown in right of Canada or another official may object to the disclosure of information before a court, person, or body with jurisdiction to compel the production of information by certifying orally or in writing to the court, person, or body that the information should not be disclosed on the grounds of a specified public interest” (Canadian Criminal Law Book).

Another way in which public interest could be considered in the legal arena is the legal power granted the Attorney General in democratic society. As the guidance of public interest in matters and cases of law, the Attorney General can initiates proceedings based on his role or the power conferred on him. Although, the AG is granted the power of protecting public interest by law that does not mean that other groups in society cannot protect public interest. Pressure groups for instance, can bring public interest proceedings to raise points of law in issues relating to matters affecting the public, such as the environment. Being a matter that affects the general public, or important case, the court could deliberate on it. This is close to the views of the court justices in adopting a Strategic model of judicial behavior in making decision. The Strategic model as initiated by Murphy in, 1964, refers to an approach whereby the legal profession holds the view that justices are strategic, rational, actors responding to the views of others actors, both within the

Supreme Court of Canada and in other institutions. The Strategic model of judicial behaviors believes that while justices are driven by their own policy preference they can also be open to criticisms, listen to their counterparts in other departments, and prepare to change their policy in favor of the general request or other demands, so as to have a unified opinion about the matters in question (in Wetstein and Ostberg, ch1). The Strategic form of judicial behavior can also be adopted by justices in order to give a less optimal position or view in a case in order to prevent the court from giving a less desirable verdict (in Westein and Ostberg, Ch.1). The Strategic model of judicial behaviors believes that courts act strategically as institutional bodies in a way that protects their legality in the face of other governmental bodies and the general public. This model emphasizes that, “justices must pay attention to values that reflects general beliefs in the society about the rule of law in general and the role of *Supreme Court of Canada*, in particular” (qtd. in Wetstein, and Ostberg, ch.1). This approach and others are adopted to signify the importance of public interests.

The concept of public interest can also be applied in legal or judicial arena by invocation or reading into cases by judges. If a case is of broad public interest Court justices can invoke it to ensure that decision-makers are brought under legal control. Court judges enjoy judicial independence as well as an attitudinal model of the judiciary to resolve disputes. Justices assume their position as independent decision-makers. Justices rely on their own attitudes and values when handling cases and when writing their own opinions on a given case (Wetstein, and Ostberg, ch.1). The fact that they are appointed by the government does not mean that the government can dictate to them how to perform their lawful duty. There is a separation of powers between the court and the other arms of government. This process or procedure ensures public interest consideration: it determines and preserves the legal ethics.

Moreover, public interest has been a decisive factor in many of the Supreme Court of Canada decisions. In many of the landmark decisions the Court reached between 1973 and 2010, public interest takes precedence, such as the landmark pollution case 114957 *Canada Ltee. v. Hudson* [2001]2 S.C.R. 241. In this case, the Quebec local government had made a law proscribing the use of pesticides in some designated areas for health reasons. The Lawn care companies and land Scrappers challenged the order on the ground that it was contrary to the federal and provincial statutes, and as such asked the municipal court Judge to render the by-law inoperative because it was contrary to the federal and provincial statutes, which permitted them the use of the regulated pesticides. On reaching the *Supreme Court of Canada*, the Court upheld the municipal by-law (the decision of the *Municipal Court*) on the ground that the by-law was not in conflict with the Federal or the Provincial law and that the Municipal government had made it for peace, order, and good government, as well as health and general welfare (*Mc Lachlin Court*, 264) Here, the Court, the *Supreme Court of Canada*, based its decision on the fact that the interest of the public surpassed the individuals' or the Lawn care company and land scrappers.

Public interest was also considered in the cases of *R. v. Marshall*, (1999)3S.C.R.456, and *R. v. NTC Smokehouse Ltd*, (1996) 2S.C.R.672 . (qtd. in Wetstein, and Ostberg, ch.3) These are cases involving First Nations individuals fishing who operate under the guise of subsistence fishing for economic survival. Additionally, investigations revealed that they caught and sold fish in large quantity and the amount of money made out of their fishing exceeded what the fishing regulations prescribed. In fact, research showed that they caught about 400 pounds of eel and sold 119,000 pounds of Chinook salmon for their own monetary benefits. (Werstein. and Ostberg, ch.3) In these cases, the individuals were accused of going against the fishing regulations, because, they fished above the required number and, apart from that, it was claimed that they sold their surpluses,

which was against the regulation. The Native people claimed that they are pro- environment, that their ancestors had fished in the same place, and that as Native people they are constitutionally permitted under the *British North America Act* , 1982 section.35 (1), which protect existing Aboriginal rights. In deciding these cases, the *Supreme Court of Canada*, considered historic facts regarding Aboriginal rights, the regulations regarding fishing, implications of committing the said offence, the impact on environment as well as the [individuals] conflict of interest vis-a- vis balancing public interest. The point this research paper is attempting to make here is that in situations where the rights or interests of individuals and the public are in conflict, the public must prevail. This is how it was decided by Justice Dickson and Justice La Forest in *R. v. (Sparrow*, (1990) 1 *S.R.C.* 1075,), where the protection of environment was given priority over individual First Nations fishers. According to their judgments, -- if there was a conflict of interests in fishery, top priority must be given to reasonable conservation measures, while the rights of First Nations to fish for food should be second on the list (Werstein and Ostberg, Ch.3) In these court cases, public interest is protected. The court decided these cases to be based on what would be the best interest of the public and the individuals', as the two were at variances. The public interest was given a priority in both ways. They must protect the rights of the Natives based on their history or the law, and at the same time, balance the public interest against individuals.

In fact, McNair's studies showed that due to the vagueness and arbitrariness of public interests under *Canadian Charters of Rights and Freedoms*," the Supreme Court of Canada has adopted a balancing test to weigh the individual and community interests at stake. (2) This, in turn, has led to a debate about the role of the courts and the legislatures in fashioning public policy for the community. It has been suggested "that the *Supreme Court of Canada's* role, far from acting as an obstruction for Parliament, inspires informed public debate so that individual values can be

reconciled with the development of policies for the public good” (McNair, 2). What this means is that as an individual, one cannot always claim one’s rights at the expense of the wider society. However, the rights must be balanced, which means that certain emergency situations, such as security measures, may demand that the street bureaucrats control without being challenged by individual citizens. If the Police are looking for suspects for instance, they could raid the whole establishment to see if the suspects are hiding among the crowd. This could be justified under the law as peace, “order, and good government.’ In this case, the public interest of peace and safety supersedes individuals’ rights and freedoms.

McNair’s studies show that there are many ways of determining public interests. One such way is the *consensus* on common interest that serves the greatest number. This could be in the form of reaching an agreement on certain things that are of interest to the public-; issues that affect the general public, for instance. The people may decide to work out their differences amicably, by giving up their demands under certain situations. It may be a general agreement or a view of society in equilibrium. This “approach may bring both citizens and special interests groups together into a larger group” (4). Another approach to determine what is in public interest is to assume that the special and local interests outweigh the greater interest and they overtake or limit the greater good. McNair notes:

that the determination of what constitutes the public interest may have to include the extent to which minority rights are affected and when they should prevail. This discussion can be in many different ways, including a debate on the balancing of individual and collective rights, which is so common now in the Charter era. Affirmative action programs are an example where special interests and goals that are longer term because there is a community interest that this happen rather than evolve” (McNair, 5).

McNair's view depends largely on how much interest society places on its values. Special interest such as payment of the child support to a single mother without sustainable income, occupies a high place in Canadian society because it considers the best interest of the child, as well as the reduction of child poverty. Even if it limits the greater good, society may ignore or rationalize it. The same is true of giving old age pensions to elderly people or the torturing of an underage citizen by a law enforcement agent.

From a number of sources, research into the concept of public interest has shown that Court judges have rights (discretionary powers) to determine what is in the public's interest based on their powers as independent decision-makers, based on the affected person, society at large, and the importance of the case before them. The Canadian Charters of Rights and Freedoms can aid to determining public interest and individual interests, e.g. section.35 (1), and section.15, the interest we place on our values may also play a role in determining public interest. Additionally, research showed that the Attorney General guides of the public interests based on the role assigned him by the constitution and legal system in Canadian society or any democratic society. The *Information Act* in Britain and *Evidence Act* in Canada are saying what information can be released to an individual and the conditions under which such information could be released. More so, literature reviews on public interest revealed that there are two major ways to determine public interest: the consensus and the assumption that the special and local interests outweigh the greater interest. The next section of the research paper will discuss the typologies of the public interest.

5. Typologies of the Public Interest

The theory of public interest can be organized and categorized into various groups. This research paper adopts Cochran's theory (1974), as developed by Bozeman, (Johnston, 4, ch.2). Cochran's theory of public interest is chosen among others because it provides convincing arguments about the concept to scholars. Cochran's theories of public interest are divided into Abolitionist, Normative, Consensualist, and Political Process types. The research paper will use the Paradise papers and the Kantian theory of Categorical Imperative to examine Abolitionist theorists' arguments against public interest. It will also use John Rawls' concepts of Public reason and justice- as- fairness to illustrate normative views of the public interest. The two doctrines are based on shared values. The doctrine of public reason could be used to formulate and enforce laws for the society. The doctrine of public reason can be used to understand how political office holders justify their decisions. The two go against the arbitrary use of political power.

5.1. Abolitionist theory

The abolitionist theory sounds critical and cynical of the proponents of the concept of public interest. The abolitionist theory called for the abandonment of the concept of the public interest. A number of abolitionist theorists such as Flathman, Sarouf, Bozema, Douglas, and Goddin have argued "that 'public interest is very unclear, confusing, impracticable, vague and anachronistic'". (qtd. in Johnston,4, ch2) In other words, they have argued that the term cannot be measured or directly felt and as such it is invalid. It has been argued further that the concept of public interest or collective will is not necessary because individual interests are the best to understand policy process and set policy (Denhardt and Denhardt, 70). Additionally, critics of the term also argued that people talk only of the term, in relation to political study behavior but no one has a genuine definition for it nor has anyone shown its scientific relevance. Furthermore, despite frantic efforts

made by political scientists, none of them has come up with a unified or consistent definition for public interest, or how the term is defined in governmental decision-making nor have they come up with a theoretical model with a degree of precision and specification required if the models are to be used as description of, or as a guide to, the very behavior of real people (Denhardt and Denhardt,70). Schubert, particularly, noted that, “before the public interest could be a useful term, public interest must be able to differentiate between public interest and behavior in such a way that is empirically validated, and since the theories supporting public interest lack this, this critic says “it is difficult to understand the justification for teaching to political science students that subservience to the public interest is a relevant norm of official responsibility” (Denhardt and Denhardt,70). The point of contention here is that abolitionist theorists regard public interest as a concept whose meaning/essence revolves around party politics, civil administration or a term which is used in policy decision making without a precise definition of what it is. In other words, definition arises out of circumstances that the government finds itself in at the time of decision making. There is no fixed or agreed upon definition. This is a major concern for critics. Until the term is able to differentiate between public interest and behaviors it will not be considered a useful term, as proponents claimed (Denhardt and Denhardt, 70). Given the nature or the importance of public interest, lack of fixed or definite definition need not bothers critics, as long as the objective of using the concept is achieved. The objective of Mothers Against Drunk Driving for instance, is to safe innocent lives or reduce rate of accidents or untimely deaths on our roads through accidents. Whether they able to define public interest under this context or not, is not important, what is important is the effectiveness of the regulation or their campaign or the objective.

Cochran, however, notes, that, “scientific understanding is the only appropriate path to true knowledge and that facts and values are separate kinds of reality.” (qtd. in Johnston, ch2) What

Cochran means is that it is only a scientific knowledge that is genuine or conforming to a standard that can be measured. In other words, he means that public interest cannot be used as a standard to measure performance of policy-makers or use in making decisions. The Policy -makers cannot convince the society at large that their interests are represented and, there is no substantial evidence to back their claims of representing public interests, as they claim. The term cannot be defined properly to meet international standard definition. The value or principle is different than facts. What Cochran was attempting to say about the term's definition, is that value deals with what can be measured to know its worthiness or accepted principles, while facts are what can be proved with evidence to be right or wrong. This is how this research understands his views on the term's standard definition. Here one thinks Cochran's doubts stem from the fact that the proponents of the term can neither justify their positions well with a universal definition nor defend their actions regarding its scientific relevance. More so, situations such as this arise if the policy designed by the policy- makers does not meet the desired effects or fail at level of implementation.

The abolitionists therefore, call for the rejection of public interest because every group is using the concept simply to further their own interest and they believe that interests are conceived analogous to wants or desires with no distinction between selfish or altruistic interests. To them, there are no viable reasons for advocating the concept rather than self-centered motives. The abolitionist theorists' criticisms stem from the fact that those who claim public interest, the elites, are the ones benefiting much more from the concept than those they claim they fight for. Put it another way, the politicians and the top civil servants are the ones managing government resources. They are caught misappropriating funds or doing money laundry, breaching the laws to favour themselves at the expense of the public they represent.

The Paradise Papers findings are the most recent example of this. Most people involved are in governments across the globe. The media reports showed in particular how Canadian former political leaders and their close associates partner with foreign corporations to run business offshore (Zalac and Ploude, topic page). In fact, reports compiled by Oved, Boutilier, and Cribb shed more light on how key political leaders or policy and decision-makers, past and present in Canada and around the globe, transfer money or maintain foreign bank accounts and other investments worth millions or even billions of dollars in tax havens with the intention of avoiding tax to their respective countries. Media investigations revealed that the alleged perpetrators have false records to hide payments, false invoicing and six figure gifts to avoid paying tax (Oved, Boutilier, and Cribb, topic page). This not only constitutes a conflict of interest, but it is also against public interest as perpetrators were and are part and parcel of the policy-makers in their respective countries.

This research reminds abolitionists of the Immanuel Kant's theory regarding the right or wrong actions of rational beings:– “the Categorical Imperative”. The Categorical Imperative, can be summarized in the following way: all actions are moral and -"good"- if performed as a duty,(McKnight,paragraph,1) According to formula of universal law, “actions must apply to everyone and always result in good” (McKnight, paragraph,2). This formula insists that we should act “-only according to that maxim-” which could be universalized (Raddit, paragraph, 1). This means that we must be able to universalize a principle without contradiction. If this is not possible, we can logically assume that the act is immoral as it is counter to reason. If a rule is not universal then others will not be free to act from the same moral principles, and Kant strongly believed that autonomy and freedom were essential to being a moral agent (Raddit, paragraph,1). This formula will be used to examine abolitionists' views of public interest. The formula of humanity as an end:

``states that one should never treat anyone as a means to an end, or employ ideas like personal benefit to actions that concern the general public. Kant called this formula of end in itself, which ensures that you never treat others or oneself ‘merely as a means but always as an end’ (McKnight, paragraph,3). To use someone merely as a means to some other end is to exploit their rationality, and we should value everyone as rational beings. This formula will be used to analyze abolitionist theorists’ views below.

The formula of autonomy means that manipulating another person to go against their moral right or -"good" - is wrong. All human beings are free rational agents bound by a will that is logical. Bad human beings have bad wills (McKnight, para.4). This formula tells us, to “act as if a legislating member in the universal Kingdom of Ends”. The Kingdom of Ends is a “world in which everyone acts from categorical imperatives, and although we may not live in this world, we must act as if we were” (Raddit, paragraph,1 McKnight,5). According to this formula, “we must act on the assumption that everyone will follow the rules you make through your actions. If the intended action passes each of the formulations, it is a categorical imperative and thus it is not only right, but a moral obligation” (McKnight). Imagine every maxim you employ and every action you take is forming a group of set laws for all of humanity in an imaginary Kingdom of Ends. “Perfect justice and perfect peace will ensue” (McKnight, para.5).

The abolitionist theorists disagree with the proponents of the term “public interest,” due to their inability to have a universal definition and due to the fact that its scientific relevance is in doubt. This is closely contradicted by what Kant called law of the nature, that is, “act only according to that maxim” which could be universalized”, since the term definition is not internationally accepted. This inability to establish a universal definition of public interest is a major source of controversy between social scientists and the proponents of the term “public

interest”. The abolitionist theorists can partially justify their positions regarding the definition of the term “public interest” with this part of the Kantian principle of the Categorical Imperative. On the other hand, the Categorical Imperative is an unconditional concept as Kant demonstrated, one that must reflect actions of all moral agents in dealing with each other.

Public interest is also an absolute term in democratic society because of the shared value implications. For instance, you must not be corrupt. This is an absolute term. It may also be a hypothetical imperative. If you are corrupt you will not win re-election. The definitions under both circumstances, even if they are the same, cannot work the same way in every country. If one is corrupt, he might not win re-election in Canada or some countries. Corrupt persons might win re-election in many countries despite the corruption allegation. This means public interest can be defined differently in different places under different circumstances. The abolitionist argument in this case not only prolongs debates, but also generates further controversy. Can one say that it is not in the public interest to provide health care to a pregnant woman or a child who has no income or a job? It is categorically imperative. It must be done. Despite this, it cannot be called immoral as it is useful in other areas, even if not in scientific arena. The second formulation of the Kantian concept of the end in itself ensures that you never treat others or oneself ‘merely as a means but always as an end. This is a kind of moral consideration or fairness or a rule of thumb or simply saying “do unto others what you would want them to do unto you”. (*New Revised Standard Version Bible, Matthew, 7:12*) The argument against the abolitionist view of public interest is that, if public interest is not considered in the real sense by the government, it is a formality, it means the policy-makers or the government agents use the citizens as a means to obtain its goal of exploiting them because they are the tax- payers whose money is being spent.

5.2. Normative Theory

The normative theory of public interest on its own advocates for the common good. It “considers people as social beings who form associations so they are able to gain better (common) life, not based on personal gain or benefit” (qtd. in Johnston, 4, ch2). As Bozema explains, the “normative concept of public interest is based on the assumption that there is a common good that is different from the aggregate of private benefits and that common good is something that is in the interest of the community as a whole”. (qtd in Johnston,4, ch2) The normative theory holds that pursuing community goals that benefit everyone is better than individual interests that arise out of selfish agenda. Cochran and Bozeman note that, “normative theory advanced public interest as ethical standard for evaluating public policies as a goal public official should pursue.” (qtd in Denhardt and Denhardt, 68-69, Johnston,4, ch.2) This means that public interest is used to measure public policies to ensure that they conform to accepted values. The normative theory assumption of public interest is consistent with the views of Cassinelli that the “public interest is a standard of goodness by which political acts are measured- that is, actions that can be taken in the public interest deserve approval to meet this standard goodness.” (Denhardt and Denhardt, 68) As a preservationist or normative theorist, Cassinelli registers his disagreements with those who say that the concept of public interest is useless as a tool of analysis or as an aid to scientific study (Denhardt and Denhardt, 68). To that effect, Cassinelli notes “that public interest as an ethical concept has a function different from those of an analytical models, and as such, social scientist cannot ignore the fundamental issue of the final political good: this is the principle lesson to be learned from examining the concept of public interest” (qtd in Denhardt and Denhardt, 68). This observation is similar to Bozema’s, who argues “that it is useful to maintain ideal concept of public interest because it provides a bench mark one approached but almost never attained”. (qtd. in

Johnston, ch.2). Bozema sees the relevance of public interest in terms of its benchmark implications, even if it is difficult to achieve (Johnston, ch2).

Moreover, despite the approval or recognition of the concept by normative theorists and some commentators, it does receive some criticisms. One such criticism, as outlined by Cochran, “is that it does not allow private interests to be in the public interest per se nor does the public interest recognize the role played by competing interests. Public interest is believe to be unattainable, because it is synonymous with the common good” (qtd. in Johnston, Ch2.). As explained by Cassinelli, normative theory’s views of public interest is closely related to John Rawls’ doctrine of public reason. The public reason doctrine holds that citizens should reasonably accept the enforcement of a particular set of basic laws. In other words, it is not a good idea for citizens to impose what they think of as the whole truth on others. Citizens must ensure that political power is not arbitrarily used. It should be used in manners consistent to citizens’ approval. Based on Rawls, public reason can be applied to how political office holders justify their decisions. For an example, a closely related to the normative theory of public interest, Rawls cites a court decision regarding gay marriage where the Supreme Court decision must not reflect religious beliefs such as the Leviticus law, which forbids same sex marriage. This is because adopting religious beliefs would violate public reason as some members of the society do not uphold Leviticus as an authoritative political value or accept a religious belief as a standard for evaluating public policy (Wenar, paragraph,1). There are four parts to Rawls’ public reason relating to normative views of public interest. Public values hold that citizens must be able to appeal to values of a political conception. This includes but is not limited to freedom and equality of citizens, fairness of the term of social cooperation, freedom of religion, political equality of women and racial minorities, economic efficiency, and preservation of health as well as stable family (Wenar,

paragraph,1). Contrarily, non-public values are values internal to associations such as churches. A religious order that prohibits women from holding the highest offices, or private clubs, which exclude racial minorities are other examples (Wenar, paragraph,1). This means that Rawls does not allow comprehensive doctrines to be imposed on others.

Another aspect of public reason that is normatively consistent with the justification of political decisions by public office holders is the public standard of enquiry (Wenar, paragraph,2). These are principles of reasoning and rules of evidence that all citizens could reasonably endorse. It holds that citizens do not justify political decisions by appeal to divination or to complex and disputed economic psychological theories (Wenar, para.2). It is a publicly accepted standard that relies on common sense, on facts generally known, and on the conclusions of science that are established and not controversial. Furthermore, duty to abide by public reason applies when the most fundamental political issues are at stake. In other words, issues such as voting rights of citizens, religious tolerance, who can own property, and what the suspect classifications are for discrimination in hiring decisions. According to Rawls, these are constitutional essential and matters of basic justice. Additionally, public reason applies more weakly or less likely, if at all, to less momentous political questions (Wenar, paragraph,2).

Moreover, citizens have a duty to constrain their decisions by public reason only when they engage in certain political activities, usually when exercising powers of public office. Court judges for instance, are bound by public reason when they issue their rulings (Wenar, paragraph 1). Legislators should abide by public reason when speaking and voting in the legislature, executives and candidates for high office should respect public reason in their public pronouncements. Moreover, most importantly, Rawls says that “voters should heed public reason when they vote”. (Wenar,para.4) More so, citizens are not, however, bound by any duties of public

reason when they engage in other activities- worship in church, perform on stage, pursue scientific research, send mail or letters to editors, or talking politics around the dinner table (Wenar, paragraph,4). Public reason informs those who have political or legislative powers or judicial powers to use it accordingly, to reflect share values. When making public policy, public reason enjoins public officials to make policy that reflects the wish of the society. It reminds the citizens to abide by agreed upon public policy.

As Cochran argues, ‘a sound theory of the common good must consider it to be an end or a goal which is normatively defined and hence, not perfectly attainable, for no society, subject to pride, self-interest, and worldly contingencies, can ever actualize fully its moral and social potential’ (in Johnston, ch. 2).

5.3. Political Process Theory

This theory considers, among others, how the public is served during the process of negotiations, confrontations and cooperation (Johnston, ch.2). The process theory considers public interest “as the most properly identified with, not concrete politics as such, but rather a particular kind of a process by means of which it is decided what should be done.” (qtd in Denhardt and Denhardt,71) Political process theory is mainly concerned with how policy makers or decision-makers arrive at the public interest rather than what it means. Political process theorists are concerned with process, which describes public interest as a term consistent with the extension of the past and there is ongoing debate among political scientists about the best way to understand the political process itself. Political process theorists’ view of public interest is closely related to the American pluralist view of democracy, which is based on interest groups. This is so because rather than individual citizens, it is argued “that interest groups or people as whole are the best vehicle to represent and defend interest of the citizens in policy process (Denhardt and Denhardt,

ch4). Process theory is subdivided into many publics rather than a single, as well as many interests, rather than a single interest (qtd,in Johnston, Ch.2). Cochran and Flathman note, among others, “that the theory considers the need for practical and logical reasons for decision making beyond principles”. (qtd in Johnston, Ch.2). Process theory is divided into three sub-categories: the aggregate process, pluralists, and procedural process theory.

The aggregative process theory considers public interest as the sum of individual interests. It is very much related to the idea of economic individualism. This is noticeable in that human or individual is more important than the collective. It holds that, “the best society prioritizes individual choice as governments that governs best.” (Johnston, 4, ch.2) In addition, the aggregate model sees public interest equating with an alternative to government interests. The aggregate process theory has limits, and its limitations rest in its inability to have a solid aggregation of equal interest because of power imbalances and the subjective meaning of what is good (Johnston, 4,ch.2).

The pluralist theory is the public interest made up competing perspectives. The pluralist process theory “is opposite to what normative theory is, in that it believes in the idea of multiple publics rather than an idealized single public. It suggests that the public interest is compatible with the idea of the need to balance interests and is also consistent with the democratic notions of conflict of interest. More so, Smith and Cochran note that, “it caters to the community consensus.” (qtd in Johnston, ch,2). Political process theory of public interest can be said to favor public interest since it caters to community at large through political dialogue. Although, Sarouf explains that, aggregate theory may have some flaws it also has the advantage in that it regards all public policy as “*ipso facto* in public interest because it is perceived as representing or supporting all publics directly and indirectly”. (qtd. in Johnston, ch.2)

The procedural process theory is the third division of the process theory. The procedural process theory of public interest is related to method or function. It considers public interest as part of a process rather than as a substantive outcome. It can also be considered as a method rather than a theory. “Procedural process theory is a central to the democratic process”. (qtd. in Johnston, ch.2) It is through the procedure put in place that a democratic society conducts free and fair elections or elect their representatives. “Procedural process theory defines a process or system for accomplishing objective or aim. It is a series of actions that are carried out in a certain manner or in a standard way to achieving something” (Shormishtha, paragraph,1). In other words, procedural process theory means action, course, operation or modus operandi. It emphasizes a routine, strategy, game plan or a set of guidelines, which one is expected to follow to complete a task (Shormishtha, paragraph,1) . According to Herring, “procedural process theory is to the bureaucracy what the due process clause is to the judiciary” (qtd. in Johnston ch, 2). According to Herring and Wheeler, “procedural process consists of the established standard for balancing interests” (in Johnston, ch.2). A due process clause, on the other hand, is a legal standard put in place for everyone to obtain his or her rights or to be heard before a decision is made. It ensures that a person receives fair treatment, and a procedure designed to achieve a just result. Judicially, “it connotes an opportunity to be heard before making a decision that will affect one’s rights or legally protected interests” (Edward. Paragraph,1).

Moreover, in his contribution to procedural theory, Cochran’ notes:

that procedural theory based on the public interest and its nature, is deficient in the sense that unlike the other theories, it has no specific moral contents. If the procedure already has a result in mind, then the envisaged outcome should not be defined in terms of the

process. However, if there is no substantive result at hand, then it is aiming at nothing and cannot justify the term public interest (qtd in Johnston ,ch.2).

In other words, if the policy makers know what would be the outcome of the problem the policy is meant to solve, the process will not be useful and if there is no genuine plan on ground, that is, the process is not targeting anything, public interest cannot be justified. The process theory could cause conflict of interest based on its nature of individuation (Johnston,ch.2).

5.4. Consensualist Theory

The consensualist advocates for majority interest and that which reaches consensus. Consensualist theory is neither invariant nor self-evident. This means that contexts and different criteria can be used to define what is good or beneficial at a given time (Johnston, ch,2). More so, as Bozeman explains, this approach “agrees that public interest criteria will change over time and place” (in Johnston, ch.2). Additionally, public interest is not time specific but culturally sensitive and aware. Based on Downs, this approach holds that anything that is in the longer term detrimental to the society cannot be in the public interest. However, “ if it is essential to the protection of those individual rights included in the minimum consensus”(in Johnston ch.2). This means that anything that cannot do the society any good will not gain the approval of the masses. Moreover, consensualist communitarianism recognizes both majority interests just as it does minority interests. Additionally, consensualist theory caters for the interests of the underrepresented, unrepresented, and underprivileged groups. It believes in a joint efforts of all interests to make the society better for all.

According to Sorauf, public interest have a “hair of shirt function” which reminds those in decision-making positions that they must recognize and consult interests of the unorganized,

unrepresented, or under represented; as such the public interest may represent the interest of freedom, equality and opportunity- the widely-held and unorganized interests. (in Johnston, ch.2)

The public interest becomes a symbol for the attempt to recognize and consult interest that might be forgotten or over-looked in the pressure of political combat (Johnston, ch.2, Burkhead and Miner, 158).

In addition to the consensualist approach, decision-makers must admit that they have not done well to protect the interests of underrepresented, unrepresented, and other related groups. It enjoins decision-makers to consider among others, the freedoms of all the forgotten people and unprivileged groups by ensuring that they are consulted and that their interests are represented. The view expressed here is similar to John Rawls' principle of justice as-fairness. Justice as-fairness or the dominant principle approach prescribes equal treatment as a measure to determine public interest. It focuses on the principle of justice as fairness as propounded by John Rawls. dominant principle approach or justice as fairness emphasizes basics concept of justice such as freedoms or equality as requirement for determining public interest. According to Rawls,' justice as-fairness, justice should be a determinant factor in determining what is beneficial to the overall interests. Rawls underlines two principles and how they apply. The first principle according to Rawls, is that,"everyone should have equal rights to the most extensive total system of equal principle compatible with a similar system of liberty for all" (qtd, in Kernaghan and Langford 2e. ch3, Wenar, paragraph, a). Everyone means everyone irrespective of race, ethnic, gender, or religious affiliation, each person should be treated fairly equally. It is when this is achieved that our societal values are observed, preserved and the public interest under our democratic system is considered. Justice as -fairness reminds elected officials and the public servants that they must adhere to our inherent values in dealing with everyone in the same way under the same

circumstances. The second principle as underlines by Rawls is that of social and economic inequality. Rawls notes that,“ economic and social equality are to be organized in such a way that the greatest benefits, especially the least advantaged should be considered, and their needs attached to offices and positions open to all under conditions of fair equality of opportunity” (qtd, in Kernaghan and Langford 2e. ch3, Wenar, paragraph, b). According to the principle of justice as fairness, where basics freedoms and equality conflict with the - social and economic basics, freedom and equality should prevail over and social basics (Kernaghan and Langford 2e. ch3). What this means is that it is when one is liberated or freedoms are guaranteed that one thinks of having a social life and economic opportunities.

6. Other Perspectives and Criticisms of the Concept of Public Interest

The birth of New Public Management in the 1980s and 1990s creates additional challenges for the term public interest. The new public management is market based or a competitive market structure. In other words, individuals are seen as customers with preferences. The individual person or customer decides or cares for his or her self-interest. Individual customers can select their needs and wants and turn down what is not needed. As an individual customer in a market place, one is less concerned about the interest of others. The New Public Management sees individual citizen as analogous to customers and the government as analogous to the market.(Denhardt and Denhardt,76). More so, as far as administrative responsibility is concerned, the New Public Management undermines public interest. It does this by giving a priority to individual interest through its market-based structures. In other words, everyone is allowed to participate and pursue its own interest in the buying and selling of goods and services in the market. Based on public choice theory, public interest under the New Public Management does not exist.

This is so because individual interest in the market place counts much more than the collective actions, considering the share values. In other words, each customer in the market is there to buy at a cheaper price and sell at a higher price. No one really cares or thinks about the others' interest. In addition, because of the market forces and the self-interest dominations of the system, shared interest becomes more difficult to define. Moreover, the New Public Management structure in this way relates to abolitionist theory (Denhardt and Denhardt, 76). The negation of the concept of public interest, together with the market model of choice and pluralist model of politics, have far reaching and damaging effects on democratic governance and the field of public administration.

Miller notes that, to “the extent that public servants adhere to the pluralist views of politics, they actually contribute to undermining and corrupting liberal democracy. (qtd Denhardt and Denhardt,77). According to her, in a liberal democracy, the institutions of government respond to the “shared popular view of the public interest and work to block efforts by narrow factions to force and tax public for reasons not warranted by the public interest” (qtd Denhardt and Denhardt,77). Miller’s perspectives of on public interest is based on the fact that the public servants who actually carry out liberal government policy decisions contribute to undermining liberal democracy through corrupt practices. Liberal democracy is based on the assumption of collective interest rather than personal interest. It is characterized by coercive means of collecting tax from the public without justification through public interest. Miller points out that liberal democracy is based on a value system that embraces the idea of reciprocity, morality, and populism. According to Miller, “ascendency of the pluralist model of politics turns liberal democracy on its ‘head’ by rendering’ shared views of the public interest meaningless and unimportant and negate the values that form foundation of democracy.” (qtd in Denhardt and Denhardt, 77)

7. Conclusion

Public interest is a concept widely used in Canadian society and other democratic societies, as a standard for validating ethical decisions in public sectors by ministers and other government officials (Jelking,16, McNair,1). Abolitionist theorists have called for its rejection because people who advocate for it do so to further their own individual interest rather than the public they claim to be its interest. Both those who call for its rejection and those who advocate for it are able to justify their positions regarding the concept. In the public sector, public servants are guided by public sector ethics in handling public affairs or in abstaining from partisan politics, and partiality. They are discouraged from involving themselves in conflicts of interest so as to preserve the values. They are entrenched rather than evolving. These traditional values are more noticeable even in the era of New Public Management (Denhardt and Denhardt, 45). Public interest is used beyond the public sector, its applications cover also legal and judicial decision-making processes. The main challenges with the concept are that of the controversies surrounding its universal definition and the circumstances under which it is used to justify political decisions. Its determination is left for the policy or decision-makers and the prevailing situations.

Works Cited

114957 *CanadaLtee (Spraytech,Societed'arrosage) v. Hudson (Town)*. No. 2S.C.R.241,2001 SCC40. *Supreme Court of Canada*. June 28, 2001.

[//scc-csc.lexum.com/scc-csc/scc-csc/en/item/1878/index.do](http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1878/index.do) assessed November 2017

Anthony, Gordon, et al. "Defining Public Interest": Public Interest, Political Philosophy and the Study of Public Administration." *Economic & Social Research Council, Queen's University, Belfast* (2009-

2011):1.publicinterest.info/?q=public-interest-political-philosophy-and-study-public-administration.

Anthony, Gordon, et al. Public Interest in UK Courts: "How the term arises in Court"

<http://publicinterest.info/?q=what-public-interest/how-term-arises-court>

The Bible. New Revised Standard Version Bible, Thomas Nelson, Inc., 1989.

Blumenthal, Laura. "Top skills quality you need 2017." *Brightnetwork*. assessed 2017. Nov.

2017. www.brightnetwork.co.uk/career-path-guides/public-sector-government/top-skills-qualities-you-need-public-sector/

Burkhead, Jesse, and Jerry Miner. *Public expenditure*. London & New York: Taylor & Francis (Routledge), 158. 2017.

books.google.ca/books?id=YzYrDwAAQBAJ&pg=PA158&lpg=PA158&dq=Sorauf+1957,p.639&source=bl&

Canada, *Government of Canada*. December 3, 2017. laws-lois.justice.gc.ca/eng/Const/page-16.html#doc.assessed December, 2017. laws-lois-justice website." n.d.

Cabinet- Office, Propriety and Ethics Team, Code of Conduct for Board Members of Public Bodies: June, 2011, 1-9. assessed December 8, 2017.

[/www.bl.uk/aboutus/governance/blboard/Board%20Code%20of%20Practice%202011.pdf](http://www.bl.uk/aboutus/governance/blboard/Board%20Code%20of%20Practice%202011.pdf)

Denhardt, Robert, and Denhardt, Janet. *The New Public Service Servicing, not Steering*. New York: Armonk, 2007. [www.untag-smd.ac.id/files/Perpustakaan_Digital_2/PUBLIC ADMINISTRATION](http://www.untag-smd.ac.id/files/Perpustakaan_Digital_2/PUBLIC_ADMINISTRATION) *The new public service serving, not steering* ISBN 978-0-7656-1998-3

Doyle, Marilyn. "Law in the public interest." *CPlea*. 2015. www.lawnow.org/law-public-interest/ assessed Nov.7, 2017.

Edward, D.R. "Due Process, Judicial Review and the Right of Individuals." *Cleveland state Law Review* 66.1 2017. assessed January 30, 2018.

engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1779&context=clevstlrev

Encarta dictionary: Rational debate and Partisan debate, (Encarta dictionary, North America)

Government, Australian. n.d. ALRC. ALRC. "Balancing privacy with other interests" *Meaning of Public interest*. 2017. 115. assessed December 17, 2017

www.alrc.gov.au/publications/8-balancing-privacy-other-interests/meaning-public-interest

[https://www.alrc.gov.au/sites/default/files/pdfs/publications/dp80_8._balancing_privacy_with_ot](https://www.alrc.gov.au/sites/default/files/pdfs/publications/dp80_8._balancing_privacy_with_other_inter)
[her_inter](https://www.alrc.gov.au/sites/default/files/pdfs/publications/dp80_8._balancing_privacy_with_ot)

Jelking, Robert, Paul. *Public interest in collective Bargaining: analysis of the Changing Role of government*. British Columbia: UBC, 1965. 16, MA Thesis.

<https://open.library.ubc.ca/cIRcle/collections/ubctheses/831/items/1.0102346>

DOI:

10.14288/1.0102346. assessed September 30, 2017.

Johnston, Jane. *Public Relations and the Public Interest*. New York and London: Routledge Taylor and Francis Group, 2016.

[/books.google.ca/books?id=Go2PCwAAQBAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false](https://books.google.ca/books?id=Go2PCwAAQBAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false)

Kernaghan, Kenneth, and Langford, John. *The Responsible Public Servant*. Institute for Research on Public Policy & the Institute of Public Administration of Canada, 1990.

Kernaghan, Kenneth , and Langford, John. *Acting in Public interest, Responsible Public servant, 2ed.*

Canada: Institute of public Administration of Canada, Canadian Cataloging in publication data, 2014. books.google.ca/books?id=Wu5cDQAAQBAJ&printsec=copyright&source=gbs_pub_info_r#v

Law, West's Encyclopedia of American. "public interest." [...] *Law*. 2e. Prod. The Gale Group Inc. America: TheGale Group Inc., 2008. legal-dictionary.thefreedictionary.com/Public+Interest

Lewis, Carol, W. "In pursuit of the Public Interest." *Public Administration Review*. 2006. www.gspia.pitt.edu/Portals/0/Pub_PDF/In%20Pursuit%20of%20the%20Public%20Interest.pdf

McKnight, Lisa. "Immanuel Kant and "the Categorical Imperative" for Dummies." *Stanford Education*. 2016. owlcation.com/humanities/Immanuel-Kant-and-The-Categorical-Imperative-June10,2016

McNair, M. Deborah. "In the Name of the Public Good: Public Interest as a legal Standard." *Canadian Criminal Law Review*.2006: 1-26. icollins_macnair_defining_the_public_interest_pdf

Methot, Jean-Francois. "How to Define Public Interest." *EPAC Round Table at Saint Paul University*. Ottawa: Saint Paul University, Jan, 29,2003. 1-2. ustpaul.ca/upload-files/EthicsCenter/activities-How_to_Define_Public_Interest

OECD. n.d. *OECD*. OECD Public Governance Reviews. [://www.oecd.org/gov/pem/Skills-Highlights.pdf](https://www.oecd.org/gov/pem/Skills-Highlights.pdf) consulted December 10,2017.

Canada, Privy Council Office. *Notes on the Responsibilities of public Servant in relation Parliamentary Committee*. CANADA, November 1990. 1-3,

www.canada.ca/content/dam/pco-bcp/documents/pdfs/notes-eng.pdf

Canada, Treasury Board Secretariat. *Duty of Loyalty: Policy Significance*

[/www.canada.ca/en/treasury-board-secretariat/services/values-ethics/code/duty-](http://www.canada.ca/en/treasury-board-secretariat/services/values-ethics/code/duty-)

Oved, Chown,Boutilier, Marcho, Alex, and Cribb, Robert. "Paradise Papers: Secret of the Global Elites." *liberal fundraisers held family millions in offshore trust, leaked documents reveal* 05 Nov 2017. frontpage (topic page). www.thestar.com/news/paradise- assessed December, 8,2017 papers/2017/11/05/trudeau-bronfman-kolber-offshore-trust-taxes.

"Public Interest Privilege: the Canadian Criminal law book." *Public Interest Privilege: the Canadian Criminal law book*. Canada, n.d.

http://criminalnotebook.ca/index.php/Public_Interest_Privilege

R.v.Marshall, No.3S.C.R.456.Supreme Court of Canada. Canada: 1999. [:scc-csc.lexum.com/scc-csc/scc-csc/en/item/1739/index.do](http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1739/index.do). Consulted Nov.20,2017

Raddit, Stephanie. "What is Kant's Categorical Imperative?" *My tutor Web ltd*. 2013-2018.

<https://www.mytutor.co.uk/answers/141/A-Level/Philosophy-and-Ethics/What-is-Kant-s-Categorical-Imperative>
assessed
December 12, 2017.

Shormistha, Panja. "Political theory: Concepts and Debates; Procedural democracy." *Procedural democracy* (2013-2018). <http://illl.du.ac.in>

London, Cabinet Office, Team, Property and Ethics. "Code of Conduct for Board Members of Public

Bodies." London: 20 June 2011. Consulted December 11,2017.

[//www.bl.uk/aboutus/governance/blboard/Board%20Code%20of%20Practice%202011.pdf](http://www.bl.uk/aboutus/governance/blboard/Board%20Code%20of%20Practice%202011.pdf)

London, TSo. *The Green book: Appraisal and Evaluation in Central Government Treasury guidance*.

London: HM Treasury, 2011. 1-132. *Consulted Nov,23,2017*.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220541/green_book_complete.pdf

Canada, Treasury Board Secretariat, Values and Ethics Code for the Public Service, 2003,publications.communication.gc.ca Catalogue No.: BT22-89/2003, www.tbs-sct.gc.ca (TBS) assessed November12, 2017

Tait, J.C. *A Strong Foundation: Report of the Task Force on Public Service Values and Ethics* (Canadian Center for Management Development, 1996), 1-92, assessed June,2018, publications.gc.ca/collections/Collection/SC94-72-1996E.pdf

Wenar, Leif. "*John Rawls*" *the Standard Encyclopedia of philosophy (Spring 2017 Edition)*. Spring 2017. Ed. Edward N. Zalta (ed). Standford, CA: The Metaphysics Research Lab Center for the study of language and Information, Spring 2017. plato.stanford.edu/archives/spr2017/entries/rawls

Wetstein, Mathew, E., and Ostberg, L. Cynthia. *Value Change in the Supreme Court of Canada*. 2017.

Canada: Library and Archives Canada Cataloguing publication, UT Pres,2017, 1963. Ch.1, Ch3.

[/books.google.ca/books?id=KWspDwAAQBAJ&pg=PT3&lpg=PT3&dq=ISBN978-1-4875-0139-6&source=bl&ots=UyoltwRqir&sig=ICuYnfwiHrxME0C6xR7Ef0xCxb](https://books.google.ca/books?id=KWspDwAAQBAJ&pg=PT3&lpg=PT3&dq=ISBN978-1-4875-0139-6&source=bl&ots=UyoltwRqir&sig=ICuYnfwiHrxME0C6xR7Ef0xCxb)

Zalac, Federic, and Ploude, Francis. "Paradise Papers: Secret of the Global Elites." *Paradise Papers Doubts cast on Canadian Citizenship of Mulroneys Billionaire friend* 30 Nov 2017: topic

page, CBC news . front page [www.cbc.ca/news/topic/Tag/ Paradise%20Papers](http://www.cbc.ca/news/topic/Tag/Paradise%20Papers) consulted Nov,20, 2017.