Thinking Clearly About Public/Private Partnerships

David Castro   01 November 2013

In my former life as an assistant district attorney, I interacted regularly with police and detectives. One of them introduced me to a well-worn expression that served as a sort of philosophical view from behind the badge: “Justice is just us.”

As a lawyer, I found the thought disturbing but also deeply revealing. For all of the public sector’s grand symbols and architecture, individual human beings with all of their foibles were the ones who informed and performed the government’s daily pursuit of justice. This basic idea, that the government was actually all too human, held equally across the entire institutional spectrum. The public sector could design and decorate impressive-looking rooms, buildings, uniforms, titles and programs, but beneath all the layers, the government was really the private sector dressed up in a very important costume. The leadership, employees, physical tools and funds that inform the government all find their origin in the private sector. The boundary between public and private in our culture is more porous and uncertain than anyone likes to admit. Like Dorothy, we discover that the seemingly all-powerful public wizard is, indeed, an ordinary man from Omaha, Nebraska, pulling levers behind a flimsy curtain.

People who have not studied political science or economics often find this idea difficult. In my work with many diverse communities in the region and even in other parts of the world, I often encounter individuals who fail to grasp the deep reality of the relationship between public and private in our republic. They sometimes seem to imagine that the government creates or makes possible money, property, wealth and private institutions in the same way that parents give birth to and sustain children or in the way that a tree bears fruit. They think of the public sector as a sort of primordial source of our nation's goods and services.

This "horn of plenty" view of the public sector is profoundly wrong. At the level of economic reality, at its strongest, the public sector may offer the possibility of shared action for the common good. Public power, however, depends upon resources obtained through borrowing or taxation from those possessing private wealth. At its weakest, the public sector often introduces the risk that injustice will be perpetuated—or even increased—through some combination of corruption, incompetence or policy distortion. As we know too well, such weakness in the public sphere often allows those with economic or political power to wield its resources for their selfish purposes.

A quick look at the daily newsfeed reveals more examples of the public sector's weaknesses in contrast with its strengths. At this moment in our national political economy, we understand that even our most significant public institutions lack capacity to achieve their goals—not only school districts and municipalities but even the federal government itself. They suffer increasing deficits and mountainous debt. They appear to be unsustainable. They are often surrounded by parasites who gain significant wealth (e.g., contractors and consultants) from their operations while the underlying projects falter and fail. They seem to suffer from regular lapses in ethics and integrity.

Political Vision

Political and policy vision drives assessment of this troubled situation. The famously dueling ideologies of our era on the left and right offer increasingly incommensurate lenses through which to understand the work of government.

Left-leaning liberals tend to see the public sphere as embodying the community interest. This interest, they hope, will serve as a necessary counterbalance to private market forces that tend to enrich and reward those who already possess significant economic power and privilege. In this left-leaning view, justice requires redistribution of wealth and influence along with careful constraints upon market power; the law should limit the strong and protect the weak. Equality serves as the left's overriding concern.

In contrast, right-leaning conservatives tend to see the public sphere as an often corrupt and generally inept burden on the panacea of free enterprise. In this view, justice can best be achieved by increasing freedom anywhere and everywhere. Private property needs to be protected from government intrusion and from crime sprees perpetuated by the have-nots. The nation must avoid creating dependency. Freedom and opportunity, framed as rewards for individual effort, serve as the overriding values on the right.

Those occupying the increasingly narrow political center perceive the validity of both concerns. They understand that the tension between the right and the left may be helpful in achieving an optimal balance of freedom and equality.

Domains of Public-Private Partnership

Against this backdrop, we can think about the meaning of effective public-private partnerships in three domains: regulator/referee, provider and innovator.

While private markets create wealth and offer the possibility for private ordering in our vast economy, they cannot function properly without effective regulation. The public sector performs four essential functions in any market: defining and protecting private property, promoting accurate information exchange and transparency (protecting against fraud), enforcing promises and resolving disputes. No market can operate successfully without these essential functions. No market can function effectively if particular players capture or corrupt the public referee. Think of the ecommerce software industry as an example of a critical market sector touching nearly everything in the current economy. This sector itself would be impossible without the public sphere's creation, definition and protection of intellectual-property rights. So it is with countless markets today: They exist not in spite of public regulation but because of it. The public referee is not a burden they suffer; it is the foundation for their lives.

Another essential public function of a market regulator is to manage externalities, costs that private actors impose on others without consent or compensation, such as pollution or the destruction of shared community resources. If this seems like an abstract concern, consider that a major externality of international economic development has been to increase the world's thermostat by a few degrees, threatening systemic effects that now present serious risks to every human being on the planet.

The public regulator/referee cannot function effectively in any market without clear communication and accurate information about the impact of rules and regulations on market actors and the public interest. When market players use their influence to distort the rules and regulations, especially when they tilt the playing field in their favor, gross market failures and inefficiencies may result. Public-private partnerships are necessary to avoid this outcome.

The great recession of 2008 was produced in large part by a long period of regulatory failure in the housing finance market and related markets for financial derivatives (see, generally, Lewis, 2011. The resulting loss of transparency allowed individual players to amass enormous amounts of wealth at the public's ultimate expense. The system as a whole was forced to bail out major sectors of the financial industry to avert a great depression. Similarly, the health care market has been distorted over many years through the work of medical providers and insurance-industry players who have created information asymmetry and systemic restrictions on supply and erected significant barriers to entry (see, for example, Welle, Ross, & Detsky, 2007). These have enriched segments of the health care sector while the market as a whole does a very poor job of allocating health care services, especially for the middle class and the poor. The result has been a system that features skyrocketing costs while providing shrinking services and poor outcomes for all but the wealthiest consumers.

A strong public-private partnership to support the public regulator/referee function requires that partners hold the public interest as their paramount concern. To the extent that public regulators or referees are manipulated to serve the interests of particular private actors, public-private partnerships will not only fail to achieve the public interest, they will also perversely increase injustice and inefficiency in the system as a whole. Strong partnerships require market actors to rise above selfish economic motives.

Provider

Early in my career, I led a public-private partnership that engaged volunteer lawyers in working with prosecutors to help close public nuisances adversely affecting quality of life in low-income urban areas. Affluent communities did not need such assistance. They had effective zoning controls and private counsel that could protect their quality of life. The Philadelphia district attorney's office had lacked sufficient resources to prosecute violent crime, let alone attend to quality-of-life issues in low-income neighborhoods. Our core of volunteer lawyers extended the effectiveness of the public prosecutor, delivering legal services that low-income communities deserved but could not afford. This fundamental pattern underlies many public-private partnerships focused on delivery of goods or services: to go where the market does not reach.

There are limits to market power and efficiency. Markets may be quite effective at serving members of society with the capacity to contribute value. Markets do well for those who can afford to pay. Within any economically diverse society, however, there are many members who lack the capacity to create value that can be traded for other goods and services. They may be poor, elderly, disabled, undereducated or dislocated from their productive capacities. In a rapidly changing economy, even highly skilled workers may find themselves unable to work. We also know that members of our society may become victims of natural disasters such as earthquakes and floods. The markets cannot respond to such events in time to avert tragedy. The public sector plays a vital role in stepping in where the private markets fail to find purchase.

As in the regulator/referee domain, the most critical elements of public-private partnerships in the provider arena are those that keep the public interest paramount. In the face of a market failure, when the government enters the private sector to provide services, it has an interest in achieving sufficient quality with maximum efficiency. All too often, scarce resources are wasted as a result of poor planning, inefficiency or corruption. While the education field demonstrates some successes, we know of many cases in which vast sums have been invested with little to show in the way of outcomes. The same is true for medical services and products delivered to the elderly, poor or disabled. Medicare's prescription-drug plan, for example, has been widely criticized as an inefficient scheme that has diverted billions in public funds to insurance companies and drug manufacturers in the guise of providing seniors with discounted medicine.1 Fraud and abuse engineered by private companies working for Medicare and Medicaid remain far too common.

In contrast, recovery from disaster often showcases dynamic public and private collaboration in which government agencies coordinate with private philanthropy to serve those in crisis. When Hurricane Sandy destroyed northeastern coastal communities, FEMA responded with $1.4 billion in aid (see, generally, http://www.fema.gov/hurricane-sandy and Simmins, 2012). The private sector complemented these public funds with more than $200 million, along with literally thousands of hours of volunteer crisis relief and cleanup services provided by community groups. Similarly, in the wake of the devastating losses from Hurricane Katrina, FEMA expended in excess of $15 billion, with private-sector funding exceeding $3.5 billion (see, for example, http://www.fema.gov/disaster/1603#tabs-2 and http://www.charitynavigator.org/index.cfm/bay/katrina.facts.htm). In these cases, as in other major disasters, public and private collaborations have produced vast resources in response to a crisis. Unfortunately, these energetic collaborations have not always been efficiently managed in the aftermath, with allegations of waste and abuse coming on the heels of unprecedented philanthropy and public support.

Innovator

Despite protest from conservatives that government can do nothing well, history reminds us that public and private collaborations often produce groundbreaking innovations that shape entire industries. Few people today understand the role that the government played in the development of such pioneering technology companies as IBM. The foundation for IBM’s development as an information-technology innovator came in part as a result of being selected as a vendor to provision the infrastructure and information systems required to manage the federal social security program (see, for example, http://www-03.ibm.co /ibm/history/history/decade_1930.html). A federal program to take care of the elderly paved the way for the development of the United States computer industry.

Similarly, few people today understand that the Internet began in the 1960s as a project of the federal Defense Advanced Research Project Agency (DARPA), which was looking to link computers at major research universities using the telephone system (see, for example, http://www.internetsociety.org/internet/what-internet/history-internet/brief-history-internet). Equally important public-private collaborations leading to groundbreaking innovations have been witnessed in public health, leading to the development of vaccines, the focus on behavioral risk factors (such as dramatic reductions in smoking) and even the underlying science and mapping of the human genome. More than 80 Nobel Prizes have been awarded over the years for research supported through the National Institutes of Health (see, generally, http://www.nih.gov/about/almanac/nobel/).

In this context, effective public-private collaborations require a progressive willingness to engage and invest, along with a high tolerance for risk and a commitment to learning from trial and error over the long term. Such initiatives must not insist on immediate results to justify continued support. They require what is known in the private sector as patient capital, a long-term view growing from the recognition that success comes not from a flash of genius but a marathon of persistence. Contrary to popular belief, Thomas Edison did not invent the fundamental design of the light bulb; rather, he perfected it through painstaking experimentation with literally thousands of filament materials (See, for example, http://www.unmuseum.org/lightbulb.htm). Successful public-private partnerships leading to innovation require this kind of entrepreneurial spirit, one that values failure as the learning path leading to success.

Toward the Future

Effective public-private partnerships require that we be pragmatists rather than ideologues. We must credit experience over our theories of how the world should work. The public and private interests often seemingly in tension are, in reality, two sides of the same underlying political economy. They are not contrasting or competing interests but rather intimately related dimensions of our fundamental power as a body politic to achieve prosperity. The private sector depends on functioning markets, and these in turn require an energetic and capable public function that regulates, attends to market failures and supports innovation. Always and everywhere, the public sector is really an embodiment of private power. Its people and capital derive from and ultimately depend upon private wealth. The goal of government is to better the body politic, and that body is the private sector itself. Where the private sector withers, so does its public manifestation.

Success thus requires robust engagement and collaboration. It requires a sensitive balance in which each learns from and assists the other in maximizing effectiveness and achievement. Justice is “just us”—but it is so much more. It is all that we have the potential to become. David Castro is a graduate of Haverford College (1983) and the University of Pennsylvania Law School (1986). In 1993, following a successful career both in private practice and as a Philadelphia prosecutor, he was awarded a fellowship in the Kellogg Foundation National Leadership Program. He devoted his fellowship to the study of community leadership and its relationship to improving quality of life. Based upon this work, in 1995 Mr. Castro founded I-LEAD, Inc., a school for community leadership development that has served several thousand emerging leaders across Pennsylvania through its affiliation with Pennsylvania Weed and Seed. In 2002, in recognition of his work on behalf of Pennsylvania communities, David was awarded an Eisenhower Fellowship, which he used to study leadership and its impact on economic and community development in Turkey. In 2009, in recognition of his development of an accredited associate degree program in leadership delivered in underserved neighborhoods through innovative community-education partnerships, Mr. Castro was inducted as an Ashoka Fellow by Ashoka Global Funds for Social Change. Ashoka is an international community of the world's leading social entrepreneurs. A teacher at heart, David is frequently consulted as a speaker, serving on panel discussions and contributing regularly via blogs and articles posted through the Kellogg Fellows Leadership Alliance and the Ashoka network.

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1See, e.g.,

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