



BROOKES BROWN* 

Reciprocity Without Compliance

Any decent mechanic does more for society by fixing cars than paying taxes. (David Schmitz, *The Elements of Justice*)

Since you have been born and brought up and educated, could you say that you were not our offspring and our slave from the beginning . . . ? (Plato, *Crito*)

Fred owns an auto dealership. He is kind to children, bakes brownies for neighbors, and feeds stray cats. He also does not pay his taxes. Fred lives in a well-functioning democracy that respects human rights. His refusal is not an act of protest. He simply wants the money.

One of the most common explanations for why Fred's behavior is wrong is that disobedience violates *duties of reciprocity*.¹ As H.L.A. Hart writes, "when a number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who have submitted to these restrictions when required have a right to a similar submission from those

For immensely helpful encouragement and discussion I would like to thank Ya'ir Aizenman, Eric Beerbohm, Jessica Flanigan, Harrison Frye, Sarah Goff, Barry Maguire, Carla Merino-Rajme, Steven Swartzter, and Miguel de Figueiredo, audiences at the Stanford Conference on Market Exchange and Community, and the 2019 Philosophy, Politics, and Economics Conference, and two anonymous associate editors at *Philosophy & Public Affairs*. This article grew out of a dissertation supervised by Charles Beitz, Corey Brettschneider, and Philip Pettit. I am grateful to each of them for their support. I also benefited from conversations with George Klosko, who provided comments on earlier versions.

1. At issue are acts a citizen would not be obliged to undertake but for the law. Other prominent explanations for duties of compliance rely on good samaritan obligations, consent, natural duties, and associational obligations. See Christopher Heath Wellman, "Toward a Liberal Theory of Political Obligation," *Ethics* 111 (2001): 735–59; Peter Steinberger, *The Idea of the State* (Cambridge: Cambridge University Press, 2004); Jeremy Waldron, "Special Ties and Natural Duties," *Philosophy and Public Affairs* 22 (1993): 3–30; Michael Hardimon, "Role Obligations," *Journal of Philosophy* 91(1994): 333–63.

who have benefited by their submission.”² Fred gains from others’ tax payments but does not submit in turn.

Much about this argument is controversial—whether merely receiving benefits obligates, whether citizens actually benefit from the law, whether reciprocity is applicable to citizenship, whether it extends to all citizens.³ However, my interest lies downstream of these standard debates. I am concerned with what follows if we accept that citizens have duties of reciprocity to those who comply.

Traditionally, this conclusion is treated as sufficient to show that citizens are *obligated* to obey. Mirroring Hart, advocates of the classic *fair play account* contend that since obeying the law is burdensome and generates significant benefits, the residents of reasonably just states are bound to obey in turn.⁴ However in recent years a number of scholars—most notably Loren Lomasky,⁵ Geoffrey Brennan, and Jason Brennan⁶—have advanced an argument that calls this claim into question. Working primarily in debates about voting, they accept that beneficial civic acts generate duties of reciprocity but deny that reciprocity requires citizens participate in kind. “Citizens,” they contend, “can have exceptional civic virtue despite disengagement with politics. Most ways to exercise civic virtue in contemporary liberal democracies do not involve politics, or even

2. H.L.A. Hart, “Are There Any Natural Rights?” *The Philosophical Review* 64 (1955): 187.

3. Robert Paul Wolff, for example, argues that a duty to comply violates citizens’ obligation to act autonomously. Robert Paul Wolff, *In Defense of Anarchism* (New York: Harper & Row, 1970). Others deny that the mere receipt of goods generates moral duties or that citizens accept the benefits they enjoy. See Robert Nozick, *Anarchy, State, Utopia* (New York: Basic Books, 1974). Yet others contend that non-compliance is not a failure of reciprocity because it does not increase compliers’ costs. See M.B.E. Smith, “Is There a Prima Facie Obligation to Obey the Law?” *The Yale Law Journal* 82 (1973): 950–76. Even many who accept the account in theory reject it as inapplicable to real-world citizenship. For example, A. John Simmons, “The Anarchist Position: A reply to Klosko and Senor,” *Philosophy and Public Affairs* 16 (1987): 269–79; Tommie Shelby, “Justice, Deviance, and the Dark Ghetto,” *Philosophy and Public Affairs* 35 (2007): 126–60.

4. Benefits are typically understood to take the form of either physical security, environmental cleanliness, wealth, or the satisfaction of a moral duty. Christopher Wellman, for example, argues that reciprocity is owed because citizens are obliged to rescue others from harm. Christopher Wellman, “Why I Am Not An Anarchist,” in *Is There a Duty to Obey the Law?* ed. Christopher Wellman and A. John Simmons (Cambridge: Cambridge University Press, 2005).

5. Loren E. Lomasky and Geoffrey Brennan, “Is there a Duty to Vote?” *Social Philosophy and Policy* 17 (2000): 62.

6. Jason Brennan, *The Ethics of Voting* (Princeton: Princeton University Press, 2012); Jason Brennan, “For-Profit Business as Civic Virtue,” *Journal of Business Ethics* 106 (2012): 313–24.

activities on the periphery of politics, such as community-based volunteering or military service.”⁷ Instead, they argue, reciprocity simply asks that citizens *contribute equivalently to the common good*.

The implication of this *commensurate contribution approach* is clear. If citizens can repay others’ votes without voting, there is every reason to think that they can reciprocate others’ obedience to the law without complying. Jiafeng Zhu has recently suggested precisely this. “The duty of fairness,” he argues, “is incapable of preempting the citizen’s liberty to reciprocate fairly in ways *other* than obeying the law.”⁸ Advocates of this approach contend that citizens can satisfy their reciprocal obligations in any number of ways including simply owning and operating for-profit companies.⁹

My aim in this article is to develop a better account of civic reciprocity. As I will show, both the classic fair play and commensurate contribution accounts misunderstand the nature of the duty. While the former is too rigid in its sense of what constitutes a fair response, the latter’s focus on actions that increase the common good inappropriately ignores the differential burdens that citizens face in advancing public goods. Instead, I argue that reciprocity requires that each citizen undertake her share of a special class of actions I call *civic works*—a class more expansive than proponents of fair play acknowledge, but more limited than advocates of commensurate contribution recognize. As we will see, the civic works approach provides a better framework by which to evaluate our fellow citizens—one that gives marginalized and impoverished citizens the moral credit that they deserve.

The argument proceeds as follows. In the first half of the article I develop a better account of reciprocity, which I call the *restitution account of fair return*. In Section I, I argue that reciprocity requires that beneficiaries provide a fair return, not that they take part in beneficial practices as the classic fair play account suggests. In Section II, I challenge commensurate contribution, contending that a fair return must account for the burdens that benefactors and beneficiaries take on in advancing each other’s

7. Brennan, *The Ethics of Voting*, 44.

8. Jiafeng Zhu, “Fairness, Political Obligation and the Justificatory Gap,” *Journal of Moral Philosophy* 12 (2013): 23; Brennan, “For-Profit Business as Civic Virtue,” 313–24.

9. David Schmidtz, *The Elements of Justice* (Cambridge: Cambridge University Press, 2006), 91; Brennan, *The Ethics of Voting*, 50–51; Brennan, “For-Profit Business as Civic Virtue,” 313–24.

interests. In the second half of the paper, I apply the restitution approach to the context of citizenship. As I show in Section III, advocates of fair play are correct that citizens can provide a fair return to those who comply with the law only by advancing the public goods that compliance supports. However, it does not follow that citizens must obey the law. As I reveal in Section IV, such a conclusion relies on an underdeveloped model of political institutions. The law is but one component of how political communities coordinate to achieve desired ends. To provide a fair return, citizens must do their share of the broader *civic work* this joint-project entails—a demand that I show they can satisfy without obeying the law but not without taking on the kinds of burdens the commensurate contribution approach ignores. In Section V, I consider the advantages of this civic works approach and address objections before concluding with suggestions for future research.

I. AGAINST THE FAIR PLAY ACCOUNT

The classic Fair Play argument goes like this:

Fair Play Account of Political Obligation

- (1) *Principle of Participation* (PP): When people jointly conduct a burdensome activity that produces significant benefit they have a right to the participation of those who have benefited, so long as the distribution of benefits and burdens is sufficiently fair.¹⁰
- (2) Many citizens jointly engage in the activity of complying with the law.
- (3) Complying with the law is burdensome.
- (4) The activity of citizens jointly complying with the law provides all residents of a reasonably just state with significant benefits.
- (5) The distribution of benefits and burdens in such a state is sufficiently fair.

Therefore: All residents in a reasonably just state are obligated to comply with the law.

10. George Klosko, "The Principle of Fairness and Political Obligation," *Ethics* 97 (1987): 353–62; Hart, "Are There Any Natural Rights?"; Aaron James, *Fairness in Practice: A Social Contract for a Global Economy* (New York: Oxford University Press, 2012).

Since all citizens in a decently just society enjoy health, security, and other benefits because co-nationals comply with the law (or so we shall presume) advocates conclude that all are duty-bound to obey in turn. Fred the auto-dealer thus acts wrongly by ignoring his taxes.

My aim in this section is to accept this explanation of *why* citizens have obligations while rejecting the PP as an account of *what* citizens owe. In place, I will offer an alternative. Rather than requiring their *participation* in joint-practices, reciprocity asks that citizens provide a *fair return* to those who work to their benefit.

Consider a case suggested by Jiafeng Zhu:¹¹

Baking: As a runner, John benefits from a cooperative scheme to clean communal walkways every Saturday. He explicitly refuses to join in. However, to avoid free-riding, he bakes cakes weekly, leaving them in the community center for participating neighbors to enjoy—which they very much do.

If PP is correct, John should be condemned. He benefits from a cooperative practice without joining in. Yet his behavior strikes many of us as perfectly acceptable. It would follow that PP is wrong.

Zhu's argument is entirely negative, but the case hints at a better account of reciprocity. What motivates our reaction is a concern for fairness. It would be *unfair* if Sara, a regular participant, made tremendous effort to John's benefit and John did nothing for her.

Many base the demand for participation on this concern. Rawls, for example, writes, "We are not to gain from the cooperative labor of others without doing our fair share."¹² Klosko holds that noncooperation is problematic because "th[e] situation is unfair."¹³ Jeffrie Murphy regards law-breakers as acting wrongly because they enjoy an "unfair profit."¹⁴ A situation is unfair on these accounts when one party receives a better package of benefits and burdens than another. That PP evens the score thus counts in its favor. However, *Baking* allows us to see that fairness can be achieved in other ways. If Sara raged at John's unfairness while eating

11. Zhu, "Fairness, Political Obligation, and the Justificatory Gap," 6.

12. John Rawls, *The Law of Peoples* (Cambridge: Harvard University Press, 1999), 96.

13. George Klosko, *Political Obligations* (Oxford: Oxford University Press, 2005), 5.

14. Jeffrie Murphy, *Retribution, Justice, and Therapy* (Dordrecht-Holland: D. Reidel Publishing, 1978).

his cake, she would treat him unjustly. This is because Sara's package of benefits and burdens is merely different, not worse. John has paid her back by baking.

This suggests an alternative to PP, the:

Principle of Fair Return (PFR): When people jointly conduct a burdensome activity that produces significant benefits, those who benefit from their endeavors have an obligation to provide a sufficient return, so long as the distribution of benefits and burdens is fair.

PFR better matches our intuitions. John acts wrongly if he simply sleeps in while his neighbors slave away to his benefit. Yet he does nothing wrong if he takes to the kitchens while they take to the sidewalks *because his efforts constitute a fair return*.

Critics might deny that such repayment restores fairness. Somebody like John, they might argue, enjoys freedom that his neighbors lack.¹⁵ While they submit to the scheme's requirements, he decides for himself how he will repay their effort. If he no longer wishes to bake, he can switch to milkshakes, bottles of beer, magazines.

John does retain this right.¹⁶ However, his freedom is unfair only if he is similarly situated vis-à-vis his neighbors. He is not. John's neighbors fall into two categories. Some organized the scheme. Unlike John, they are bound by consent. Others are akin to John—obligated merely because they received un-requested benefits. Like him, they retain the freedom to choose how they repay these gains. If they decide to sweep they become bound by commitment, not by reciprocity. They do not lack a freedom John retains; they exercise it.

Others might deny that reciprocity is rooted in fairness. For example, Lawrence Becker writes, "reciprocal exchanges are typically meant to sustain a particular practice or institution rather than productive social life per se . . . returns that are irrelevant to the special purpose so defined are not fitting, no matter how valuable they may be in general."¹⁷ This claim

15. George Klosko, "The Fixed Content of Political Obligation," *Political Studies* 46 (1998): 53–67; Scott Lowe, "Fair Play and Social Obligation: Paying my Debt to Bert and Ernie," *Public Affairs Quarterly* 14 (2000): 73–85; Herbert Morris, *On Guilt and Innocence* (Berkeley: University of California Press, 1976), 33.

16. Though we will see in Section III that there are limitations.

17. Lawrence Becker, *Reciprocity* (Chicago: University of Chicago Press, 1990), 106.

can be read two ways: as a view about the content of a fair return, or as a claim that reciprocity obligates us to ensure the survival of particular practices rather than to treat benefactors fairly. As we will see later, this worry about fairness is important. The second reading, however, is highly questionable.

To begin, reciprocity obliges us to act even when an exchange will not sustain a particular advantageous relationship. I still owe my cleaning lady a tip or my friend a ride to the airport, even if I am moving out of town tomorrow.¹⁸ Conversely, obligations also persist even when a practice is guaranteed. Being certain that a volunteer Law School Admissions Test preparation program will survive without my help does not remove my obligation to contribute. Indeed, arguments for civic reciprocity are motivated by a desire to explain why citizens should not free ride—behavior that is possible only when institutional survival is secured.

Furthermore, it is commonplace to treat actions which in no way contribute to maintaining a particular practice as satisfactorily reciprocal. Imagine that Sam, Fred, and Peter concoct a scheme to transport their children to school. They give Andy's daughter a ride as well. Andy hates driving and never does a run, but rather provides a free lunch and snacks for every participating child. It seems false to say that Andy does not reciprocate, even though his actions do not sustain the transit scheme. If Andy's action is judged to be reciprocal, then reciprocity is not best understood as a duty to maintain particular institutions.¹⁹

Attempts to ground reciprocity in other values such as respect²⁰ or a concern for moral agency²¹ similarly fail to support the PP. John does not act disrespectfully when he bakes cakes instead of sweeping. He treats his neighbors as equals who deserve value for their work. An interest in creating and maintaining agency-promoting conditions generates a reason to attend to whether *enough* people comply. But it does not explain why *you* should participate if you anticipate sufficient obedience from others. None of these grounds justify favoring PP over some version of PFR. It follows that defenses of a duty to obey the law grounded in the PP are mistaken—citizens who

18. Here I echo Christie Hartley, "Two Conceptions of Justice as Reciprocity," *Social Theory and Practice* 40 (2014): 409–32.

19. Of course, there are other reasons to attend to a scheme's well-being, but these reasons are not first-order requirements of reciprocity.

20. Hartley, "Two Conceptions of Justice as Reciprocity," 409–32.

21. Becker, *Reciprocity*.

disobey can satisfy their duties of reciprocity so long as they provide a fair return to those who do comply.

II. AGAINST THE COMMENSURATE CONTRIBUTION ACCOUNT

But what constitutes a fair return? We've already implicitly rejected the idea that a sufficient return consists in direct participation in the relevant beneficial practice. Commensurate contribution offers an alternative. Advocates of this account suggest that citizens provide a fair return so long as, and only so long as, they add sufficiently to the common good. On their reading:

Principle of Commensurate Contribution

When people benefit from a jointly conducted burdensome activity that advances the common good, they are obligated to contribute commensurately to that good.²²

Thus, Jason Brennan contends that Michelangelo would count as an extraordinary citizen even if he never participated in politics, volunteered, or paid taxes because he “contributed far more to the common good than the average political officeholder or active, participatory democrat.”²³ On this view, Fred the auto-dealer acts very well—his sales improve transportation and advance the economy.

To see what is wrong with the commensurate contribution approach we need to flesh out the notion of a fair return. To qualify as such, an act or set of acts must have the right *intent*, *scope*, *content*, and *proportion*. That is to say it must be the right kind of action, reaching the right people, for the right reasons, to the right degree.

Some of these features are relatively uncontroversial. Take intent. Almost everyone agrees that a clumsy attempt to poison you is no way to respond to the hard work you have done to my benefit, even if I only succeed at providing a refreshing drink.²⁴ Advancing my benefactors' interests

22. For the sake of argument, I rely on Jason Brennan's account of the common good which requires that an action promote the interests of most people without harming other's interests (or, if it does harm them, does so without exploiting them.)

23. Brennan, *The Ethics of Voting*, 53. Brennan adds that this contribution must be motivated by the goal of advancing the common good.

24. Though noncontroversial in discussions of reciprocity (see, e.g., Lawrence Becker, *Reciprocity*; and Jason Brennan, “For Profit Business as Civic Virtue”), the relevance of intent to

need not be my only or primary reason for action, but it must be consistent with the structure of my reasoning.²⁵

The scope requirement is equally undisputed. It demands that you benefit those who have benefited you. I can't repay the hours that you spent painting my house by making my cousin cookies and announce I've already provided a fair return when you seek assistance. I owe you, not her. Cases of indirect benefit can cause confusion. I can return your efforts in this manner *if that is something you value*, just as I can repay the generosity of a stranger who gave me an umbrella one rainy day by buying a train ticket for a homeless teen. This is possible because these acts indirectly advance the interests of the original benefactor. They honor the ends that *she* sought to promote.

Two elements of fairness, however, prove contentious: content, and proportionality. It is clear, with respect to content, that a fair return must be beneficial. A punch in the face is no way to repay a helpful ride to the airport. But there is debate as to what makes something beneficial. Does it, for example, matter that an action is objectively good, or must it be subjectively so?²⁶ Must it make the recipient happy, achieve their aims, or fulfill their desires?²⁷

I myself favor a hybrid theory according to which benefits are subject to both objective and pro-attitude conditions, an approach that I share with classic advocates of political obligation.²⁸ Fortunately, however, the

the moral status of actions is the subject of more general controversy. I take intent to play a part in the quality of respect that underlies our concern for fairness. See Warren Quinn, "Actions, Intentions, and Consequences: The Doctrine of Double Effect," *Philosophy and Public Affairs* 18 (1989): 334–51.

25. I have in mind here a minimal notion of intent, compatible, for example, with Frances Kamm's account of acting because an effect will occur rather than in order that it do so. Frances Kamm, "The Doctrine of Triple Effect and Why a Rational Agent Need Not Intend the Means to His End," *Proceedings of the Aristotelian Society* 74 (2000): 21–39.

26. See, for example, Christopher Rice, "Defending the Objective List Theory of Well-Being," *Ratio* 26 (2013): 196–211.

27. See, for example, Fred Feldman, *What is this thing called happiness?* (Oxford: Oxford University Press, 2010); Gwen Bradford, "Achievement, wellbeing, and value," *Philosophy Compass* 11 (2016): 795–803; Chris Heathwood, "Desire-Fulfillment Theory," in *The Routledge Handbook of the Philosophy of Well-Being*, ed. Guy Fletcher (Abingdon: Routledge, 2016), 135–47.

28. Klosko, for example, limits his defense of political obligation to goods indispensable for satisfactory lives on the grounds that differences in taste mean that these are the only goods that we can presume all citizens value. George Klosko, "Fixed Content of Political

debate about the nature of well-being can be set aside for our purposes. The account of civic obligation I will develop reveals something important on either an objective, subjective, or hybrid approach to benefit.

What proves most divisive in discussions of fairness is the proportionality desideratum. It is uncontroversial that a return must have weight equivalent to the corresponding benefit. A candy bar is not a fair return for months of rebuilding my car. What *is* disputed is the metric by which we should assess that weight.

Commensurate Contribution rests on the idea that we should measure proportionality by the value that an action provides. Jason Brennan writes, “to pay your debts to society. . . just requires that you provide sufficiently valuable goods and services to society in return.”²⁹

Call this:

Value Added (VA): A return is sufficient to satisfy a beneficiary’s duty of reciprocity when the good it provides her benefactor equals or exceeds the good she received.

I want to argue that VA is a mistake. Instead, I propose that reciprocity requires accounting for the degree to which attempting to generate value sets back an actor’s interests.

Consider what triggers the sense that a debt is owed. Actions require reciprocation *when they come at a cost*. If seeing you joyfully laugh makes my day, I am not obligated to repay the gain. This is true even when the benefit is substantial—if, say, the memory of your laughter causes me to smile just beguilingly enough that my future wife swipes right. By contrast,

Obligation,” *Political Studies* XLVI (1998): 62. For other supporters of a hybrid approach, see: William Lauinger, “The Missing-Desires Objection to Hybrid Theories of Well-Being,” *Southern Journal of Philosophy* 51 (2013): 270–95; Derek Parfit, *Reasons and Persons* (Oxford: Oxford University Press, 1984), 501–2; Robert Adams, *Finite and Infinite Goods* (Oxford: Oxford University Press, 1999), 93–101; Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), 292; Serena Olsaretti, “Endorsement and Freedom in Amartya Sen’s Capability Approach,” *Economics and Philosophy* 21 (2005): 98–100. I leave open whether the necessary relation involves enjoyment (Adams), endorsement (Olsaretti), desire (Griffin), conviction of appropriateness (Dworkin), mattering to (Raz) or some other pro-attitude.

29. Brennan, *The Ethics of Voting*, 58. David Schmidtz, Geoffrey Brennan and Loren Lomasky make much the same claim. See David Schmidtz, *The Elements of Justice*; Geoffrey Brennan and Loren Lomasky, “Is there a Duty to Vote?”

burdens can generate debts even when no benefits ensue. I owe you if you hire a babysitter and travel across town to bring me spare keys, even if I realized five minutes before you arrived that the door was unlocked.

Intuitions about the extent of indebtedness similarly favor an approach to proportionality that foregrounds burdens. The more a benefit costs, the more you owe. A friend on crutches who struggles mightily for hours to bring you your misplaced keys is due more than one for whom the trip represents an easy stroll, even if the benefit is equivalent.

The same is true of intuitions about the destitute and disabled. Jeff Bezos could easily save a Nigerian farmer's life by purchasing a two-dollar bednet, an sum Bezos would not even register. A focus on value would say that the farmer owes Bezos a similarly life-altering benefit. Since she can likely never repay this debt, we are left to conclude that impoverished individuals are either unethical or beyond the reach of reciprocity. Attending to the burdens involved generates a more appealing result. When judged by costs incurred, the farmer owes a benefit only until the price to her equals what Bezos suffered on her behalf—quite a reasonable demand. This approach better captures the moral status of disempowered persons who can be the subject of real obligations they can genuinely satisfy when they work to the best of their abilities.

The Commensurate Contribution account thus goes wrong because it credits citizens for their contributions to the common good without accounting for their costs. Jeff Bezos may be doing great good running Amazon, but he is not suffering for it—unlike nurses who knowingly volunteer to treat COVID-19 patients despite being provided inadequate protection. It is harder for a single mother working three jobs to go the polls than it is for a wealthy childless tech worker. Even compliance with the law is more likely to burden the marginalized. It is harder for starving Jean Valjean to avoid stealing bread than for well-fed Inspector Javert. The poor pay a higher effective tax rate, are more inconvenienced by voter ID laws, and are more likely to have their income and opportunities limited by occupational licensing restrictions such as those placed on cosmetology, shoe-shining, and other professions.³⁰ These differences should play a part in our assessment of whether our fellow citizens provide a fair return.

30. Thomas Snyder, "The effects of Arkansas Occupational Licensure Regulations," Arkansas Center for Research in Economics, 2016, <https://uca.edu/acre/files/2016/06/The-Effects-of-Arkansas-Occupational-Licensure-Regulations-by-Dr.-Thomas-Snyder.pdf>, 7. For a helpful discussion of such differential burdens, see Shelby, "Justice, Deviance, and the Dark Ghetto."

However, it seems equally wrong to suggest that proportionality is entirely focused on costs. Consider the inverse of *value-added*:

Burden Suffered (BS): A return is sufficient to satisfy a beneficiary's duty of reciprocity when the burden she takes on sets back her interests at least as much as the burden that her benefactor took on to her benefit.

By this measure, ritual self-flagellation will do. Yet such useless suffering is at odds with reciprocity's spirit of positive cooperation.³¹ If I help you paint your house, it doesn't seem "only fair" that you carefully burn the money I could have earned during those hours. While such behavior might leave you worse off it does nothing to advantage me. Better you buy me beer, order pizza, help out with my own chores.

The right approach to proportionality is therefore hybrid, accounting for both benefits and burdens. But in what way and to what degree? Importantly, the problem with BS is not that the beneficiary fails to actually benefit the benefactor. Imagine that instead of burning money you offered me your kidney. If my immune system ultimately rejects the organ, this would not invalidate your generous effort. Instead, the issue with BS is that an action cannot qualify as reciprocal if it is not *reasonably expected* to produce a benefit.

However, simply undertaking work that *is* expected to be beneficial also does not seem sufficient. Consider:

Some Benefit (SB): A return is sufficient to satisfy a beneficiary's duty of reciprocity when the beneficiary works to benefit her benefactor until such point as doing more would set back her interests more than the burden the benefactor took on to her benefit.

Imagine that you spend a back-breaking week packing my house for a move. In return, I invest weeks driving everywhere to find the last out-of-season bag of candy corn, which I know to be your least-favorite dessert. This clearly benefits you—while you might prefer Oreos, you would choose candy corn over nothing. Unlike VA, the benefit comes at an equivalent cost. Yet there is something off about the notion that I can pay

31. A behavior that satisfied BS could fail the intent, scope, and content requirements.

back your significant aid with so little good, when I could have provided much greater benefits at no additional cost.

However, it seems equally wrong to suggest:

Best Benefit (BB): A return is sufficient to satisfy a beneficiary's duty of reciprocity when it is the greatest good that the beneficiary could provide her benefactor without setting back her interests more than the burden the benefactor took on to her benefit.

Since no such restriction exists for benefactors, BB creates unjustified inequality. Benefactors are free to provide whatever good they wish, while beneficiaries are limited to returning the favor by undertaking the most advantageous act available to them at the relevant cost.

More promising, beneficiaries could aim to do at least as much good for their benefactor as their benefactor did for them. On this approach:

Qualified Equal Benefit (QEB): A return is sufficient to satisfy a beneficiary's duty of reciprocity when she works to benefit her benefactor at least as much as the original benefit until such point as doing more would set back her interests more than the burden the benefactor took on to her benefit.

Unlike *BS* or *SB*, QEB requires that a beneficiary try to do at least as well by her benefactor as her benefactor did by her. A carton of candy corn is not enough when Oreos are easy to come by. Unlike *VA* QEB suggests both that she can cease her efforts when producing such value proves too costly, and that she has reason to do more when doing so is easy. Our Nigerian farmer can repay Bezos without saving his life—though reciprocity would require that she come to his rescue if the opportunity arises at minimal cost. Yet unlike *BB* QEB permits beneficiaries the same freedom that their benefactors enjoy. If you gave me a ride to the airport I have reason to babysit when you need a favor, but I'm free to offer to water your plants instead if I would rather spend Saturday night carousing with friends.

For these reasons, QEB better captures our intuitions about proportionality. It makes sense of reciprocity's focus on burdensome value-adding acts and explains why we owe more to those who work harder to our benefit. It tells us what is wrong with somebody who does the bare minimum

on our behalf, while explaining why we need not do everything possible to advantage our own benefactors. It respects the contributions of the poor and disabled even when they are proportionately smaller, while recognizing that those who are able have reason to provide greater value when possible.³²

Advocates of VA have raised four objections to burden-based accounts that they might apply to QEB. Burden responsive approaches to proportionality, they argue, ask too little of the lazy, demand too much of the helpful, encourage useless sacrifice, and fail to account for the nature of collectively produced goods. Each of these criticisms is mistaken.

Imagine a well-educated woman, Katrin, who has done little work despite receiving many resources because she is lazy and finds labor boring and painful. Jason Brennan worries, “you might conclude she has paid her debts because she has suffered enough. That seems implausible.”³³ And so it does. That is why BS and SB seemed problematic. Yet Brennan is wrong to infer that burdens play no part in proportionality. What drives our opposition here is the sense that Katrin is getting away with something. In some cases, she may be. Each of us has some ability to shape our preferences, to cultivate or resist our curmudgeonly ways. If Katrin’s laziness is the product of deliberate or negligent failure to manage her dispositions, she fails QEB. She does not seek to do well by her benefactors. Yet the mere fact that Katrin finds work unpleasant does not tell us that she is negligent. For example, if she suffers from depression, her lack of interest may reflect not a desire to take advantage but a psychological disability. Why should we treat this impairment any differently than a physical limitation? A theory of fair return should account for features that shape the costs we incur.

Similar miscalculations explain worries about burdening the cheerful. Picture Maria, Katrin’s sunny counterpart, who loves almost everything. If proportionality is sensitive to costs, it would seem Maria must either do endless work or undertake the few tasks she dislikes. The former seems concerningly arduous, the latter silly.³⁴

32. Though our focus is on what satisfies duties of reciprocity, this account also tells us something important about what generates such obligations. Actions only merit reciprocity if they provide enough value to justify the cost of repayment. Unduly costly goods may create other obligations, such as gratitude, but will not trigger reciprocal duties. This conclusion is consistent with classic arguments for fair play. Klosko, *Political Obligations*, 5.

33. Brennan, *The Ethics of Voting*, 59.

Such worries, however, get the math wrong. It is true that burden-based approaches ask Maria to do more tasks; it does not follow that she is asked to do more work.³⁵ Those who suggest this are likely substituting their distaste for civic engagement in place of Maria's enjoyment. Just as it asks less of a billionaire to pay \$1000 in taxes than it does somebody in poverty, it demands less of Maria to do this work than it does her misanthropic counterpart. In addition, this concern fails to account for aggregation. Even Maria will find it challenging to constantly do *all* the things she likes. I enjoy ice cream, but eating six cones at once would be burdensome. Maria is no different. QEB's demands are thus more manageable than critics fear.

Satisfying the account also does not give people reason to focus on unpleasant tasks. Brennan worries:

If Luke decides to contribute to society by becoming a policeman rather than an investment banker, he will probably bear higher personal costs, given the differences in pay and risk. However, it does not follow that society gains more . . . if Luke wants to contribute as much as possible to society, he will not search for the role that costs him the most. He will search for the role in which he will do the most good.³⁶

This concern might challenge BS or SB, but it is not an objection to the QEB approach. According to QEB, proportionality does not tell us to seek out roles that cost more. It tells us to keep doing beneficial work *until such point as doing more would cost more than the price others incurred to our benefit*. The burden is not the goal; it is the limiting condition. If Luke can do more good as a banker than a policeman, he has reason to be a banker—he simply also has reason to keep banking on some days when he would rather golf.

Finally, defenders of VA might argue that QEB fails to explain society-level duties. To have any teeth, this criticism requires an explanation for why the *nature* of reciprocity changes simply because more people are added. As we will discuss shortly, there are plenty of reasons to think that

34. *Ibid.*, 57–9.

35. G.A. Cohen draws a similar distinction between cost and difficulty. G.A. Cohen, *Rescuing Justice and Equality* (Cambridge: Harvard University Press, 2008), 371–3.

36. Brennan, *The Ethics of Voting*, 58.

the *content* of a fitting return is responsive to numbers. However, there is little reason to think that group size obviates or reshapes the proportionality requirement.³⁷

This is especially true as regards legal compliance, since on most accounts citizens' duties to reciprocate are said to be triggered *by the fact that obedience is burdensome*. The strongest case rests on the fact that relations between members of large groups are typically impersonal. As we will see in section three, this depersonalization alters the content of what qualifies as a fair return. But interactions between strangers routinely trigger duties of reciprocity that take the form we have described. If, heading to the airport, I come upon you struggling with bags of groceries at the subway exit and help you up the stairs, it would be objectionably churlish of you not help me with my luggage unless it would be unduly hard for you.

These arguments support a different understanding of the contribution approach, the *restitution theory of a fair return*. To provide a fair return to burdened benefactors you must:

- (1) *Intent*—intentionally.
- (2) *Content*—work to benefit.
- (3) *Scope*—your benefactor(s).
- (4) *Proportionality*—at least as much as they benefited you, until such point as the costs of further work to their benefit would exceed the burden your benefactor took on to your good.

What results is a quite different assessment of our fellow citizens. On this account, members of just societies must work to benefit those whose compliance advantages them until such point as further work exceeds the burden of obedience.³⁸ Advocates of fair play are thus wrong to measure the quality of a person's reciprocal citizenship simply by her submission.

37. Group benefits raise questions about the aggregation of benefits and burdens but not the nature of proportionality.

38. The claim equally applies to long-term residents who also receive many public goods benefits. It is an advantage that the view positions us to think in nuanced ways about the responsibilities of those who receive divergent benefits, have different opportunities to promote public goods, or are not equally subject to the law. The claim is thus better positioned to respond to the challenges raised by Tommie Shelby, Craig Carr, and others. See for example, Shelby, "Justice, Deviance, and the Dark Ghetto."

Yet advancing the common good is insufficient if your input is too undemanding. Advocates of commensurate contribution are thus also mistaken. A businessman who acquires vast wealth by operating for-profit ambulances may do much good—but he does not satisfy *proportionality*.³⁹ Per Matthew 6:2, “[he] has had [his] reward.”⁴⁰ Conversely, a poor single mother who volunteers as a community health educator may provide more than a fair return, even if she achieves far less. Consequently, she may deserve praise even if she skips a tax payment or two. As in the lesson of the Widow’s mite, others may have, “contributed out of their abundance, but she out of her poverty has put in all that she had to live on.”⁴¹

III. THE CIVIC WORKS ACCOUNT

It might seem to follow straightforwardly from the restitution account that citizens lack a standing duty to obey. However, there is a wrinkle. As I will now show, citizens can provide restitution only by advancing their community’s plan for the production of public goods. Advocates of fair play might therefore argue that their approach is right *in practice* even if wrong *in theory*. While the PP proved mistaken, citizens nonetheless need to join the practice of legal compliance to provide a fair return. My aim in this section is to expand on and accept the claim that citizens must act in accordance with their community’s plan. In the next section, I will reject the purported entailment that citizens must therefore obey the law.

Here we see why group size makes a difference. At issue is *the problem of diversity*. People have different tastes and needs. Chris is allergic to nuts, Jenn dislikes bananas, Gideon hates sugar. In small groups this poses no problem. I can repay Chris with snickerdoodles but not peanut brittle, Jenn with pumpkin bread, Gideon with caviar but not cake.

Such piecemeal solutions prove impossible with large groups. I cannot know the individual aims, preferences, and goals of millions of my fellow citizens. Yet the scope and content desiderata require that I work to their advantage. To act reciprocally, I therefore need to do something that can

39. A fully adjusted progressive tax rate could bring these actions into alignment with the proportionality requirement. However, as we will see in Section IV, this is not a realistic proposition.

40. Michael Coogan et al., ed., *The New Oxford Annotated Bible* (Oxford: Oxford University Press, 2010), 1755.

41. *Ibid.*, 1869.

reasonably be expected to benefit all compliant co-nationals. This is a significant demand, especially for those who believe that benefits must satisfy a pro-attitude condition.

Fortunately, there are actions that qualify—those that promote the same goods whose advancement triggers duties of civic reciprocity. Citizens are said to have such obligations precisely because they receive goods that are presumptively beneficial to all, such as public health, a clean environment, and physical safety.⁴² By extension, contributions to these goods satisfy the content and scope requirements.⁴³

The size of the group owed thus limits how citizens can reciprocate even if it does not alter the nature of reciprocity. In *theory*, citizens can pay their debts in any number of ways: cakes, bottles of wine, airport rides, cat sitting. In *practice*, they cannot do so without undertaking their share of:

Public Contributions: Actions that contribute to public goods and are burdensome; that is, they set back the interests of the person who acts in comparison to the position she would enjoy were another to act in her place.

This argument exposes Zhu's case as an inappropriate analog to civic reciprocity. *Perhaps* John can know that all his street-sweeping neighbors enjoy cake or wish to live in a community where people leave baked goods for general consumption. But he cannot possibly know this of the thousands of people in his city or the millions in his country. Thus, he cannot pay his civic debt in cakes.

The category of potential contributions might still seem near endless. There are numerous ways you might try to improve the environment, public health or safety: design plans to improve public transit, vote for green candidates, pay extra for a Tesla. Yet advocates of a duty to obey

42. This is Klosko's account and is consistent with Brennan's description of qualifying goods. The claim would also apply to residents who receive similar goods.

43. It is a point of agreement among advocates of fair play and commensurate contribution that these goods benefit all. However, those of us who accept a hybrid or subjective account of well-being should be cautious. It is possible that some citizens genuinely do not desire these good or do so at much lower levels. Beneficiaries should be alert to this possibility and prepared to advance benefactor's interest in other forms. However, it is sufficient for our purposes that citizens could not provide a fair return without at least advancing these goods, given the breadth of interests in the citizenry.

might argue that interpreting these actions as fair returns understates the content requirement. The issue is this: citizens have to see themselves as at least likely to *actually* advance presumptively public goods. Otherwise they are not aiming at benefiting all their benefactors as the restitution account requires.⁴⁴

This is a tall order for at least two reasons. The first is the breadth of benefit required. Many actions that promote the right *kind* of good—for example, health or safety—lack the scope to benefit the full national collective to whom citizens are obliged. Assisting at a clinic might do plenty for your patients, but unless that clinic is connected to a broader scheme for the communal provision of health it won't do much for those who come nowhere near your door—many of whom you owe a debt. The second is the fact that the successful provision of public goods depends on the efforts of many people aligning. Your transit plan does no good if nobody implements it. Your Tesla has little effect if the electric grid runs on coal.

Given this complexity, the only way to see yourself as making the necessary difference is to act as part of a joint effort. While *you alone* may not meaningfully advance public goods, *together we* can.⁴⁵ Such joint agency requires that participants share a commitment not only to achieving an end, but also to meshing their subplans to ensure they act together in doing so.⁴⁶ On a small scale this is easily achieved. You and I can coordinate a dinner party with an informal chat or simply by noticing who put appetizers in the grocery cart. But in larger groups, more structure is

44. Citizens therefore also have reason to avoid actions that they know to be overdetermined. There may thus be cases where citizens not only *can* satisfy their obligations through means other than legal compliance, but *ought* to do so. I take this to be an advantage of the view, since it can answer longstanding puzzles about civic obligation. For example, it can explain why some citizens ought to vote without entailing either that all citizens are so obliged, or that non-voters lack outstanding duties to contribute to public goods. Here, however, I focus on proving that disobedience is at least permissible. My thanks to an anonymous editor at *Philosophy and Public Affairs* for this suggestion.

45. Eric Beerbohm argues that citizens share liability to wrongdoing in democratic states because they act on such a shared plan. Eric Beerbohm, *In Our Name* (Cambridge: Harvard University Press, 2012). Margaret Gilbert takes political obligation to arise from joint commitment, though she views these obligations as non-moralized. See Margaret Gilbert, *Joint Commitment: How We Make the Social World* (Oxford: Oxford University Press, 2013).

46. Michael Bratman, *Shared Agency: A Planning Theory of Acting Together* (Oxford: Oxford University Press, 2014); Scott Shapiro, "Massively Shared Agency," in *Rational and Social Agency: Essays on the Philosophy of Michael Bratman*, eds. Manuel Vargas and Gideon Yaffe (Oxford: Oxford University Press, 2014), 257–93.

required. Millions of citizens cannot be expected to instinctively align in the right way. To aim at advancing public goods is thus to commit to developing and implementing a shared civic plan. Per the restitution account, citizens can therefore provide a fair return only by doing their share of:

Civic Work: Actions that advance a community's plan for generating public goods and are burdensome; that is, they set back the interests of the person who acts in comparison to the position she would enjoy were another to act in her place.

IV. APPLYING THE CIVIC WORKS REQUIREMENT

Advocates of a duty to obey might argue that the civic works requirement resurrects the case for compliance. The communal plan, they might contend, is at least in large part the law, and compliance is at least one essential aspect to advancing it.⁴⁷ Klosko, for example, writes that he “treats the question of political obligation as interchangeable with why people should obey the law.”⁴⁸ Thus, while reciprocity does not by *nature* demand obedience, citizens can provide a fair return *in practice* only by submitting.

As we have seen, I accept this challenge—but I reject its conclusion. I agree that citizens must advance their community's plan to provide a fair return. Yet I deny that citizens must obey the law to do so. That view, I will show, depends on an underdeveloped model of policymaking and implementation.

A joint plan consists in an understanding of the actions that will be taken to bring about a shared aim and the role each party will play in doing so, as well as a meta-understanding of how these actions and roles should be revised if necessary.⁴⁹ A plan for us to bake a cake, for example,

47. See Thomas Hill Green, *Lectures on the Principles of Political Obligation* (London: Longmans, Green and Co., 1941); Peter Singer, *Democracy and Disobedience* (Oxford: Oxford University Press, 1974); and Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986). The exception is Bhikhu Parekh; however, Parekh is quite vague—he calls upon philosophers to more thoroughly explore the relations between citizens and authority. Our work can be seen as the fulfillment of that request. See Bhikhu Parekh, “A Misconceived Discourse on Political Obligation,” *Political Studies* XLI (1993): 236–51.

48. Klosko, *Political Obligations*, 1.

49. Bratman, *Shared Agency*.

will detail the ingredients to be purchased, the order in which they are added, who mixes the flour, how we pick a recipe, and so on. This plan may not be explicit (indeed, at least some component typically is not) but will involve an ongoing commitment to working out these details together and to aligning subplans to generate the shared end.

One might read those who advocate contribution over fair play as defending a broader account of our community plan for public goods, one that does not simply equate our scheme with the law. In this they are correct. Legally discretionary actions are a vital component of our shared plan. Imagine that all pharmaceutical companies stopped producing drugs, all doctors retired, or all medical schools closed. Participants explicitly and implicitly rely on these actors in their pursuit of public health, and fashion their subplans with an expectation as to how such persons will behave. When these actors behave as expected—when doctors work even if tired, when medical schools update curricula to match latest developments—they advance public goods in line with the plan.

Of course, as we have seen, that something advances the communal plan alone does not qualify it as civic work. The act must also be burdensome. Not everything qualifies. Surgeons are well remunerated for their labor. However significant their work, performing it rarely sets back their interests versus alternatives. But many things done to advance the shared plan for the public good come at personal cost: people take salary cuts to teach in underprivileged areas, show up well informed to vote, forego advantageous legal technicalities.⁵⁰ They do so not because they hate money or free time but because they believe the way their community has structured the pursuit of public goods relies on enough people behaving in that way. Such actions are civic work.

Defenders of compliance might nonetheless argue that it is impossible to advance the communal plan without obeying the law. On that view, reciprocity requires that citizens *both* perform their share of legally discretionary acts *and* comply. That alone would represent a major change in our understanding of civic reciprocity. But such an obedience-plus

50. Evidence suggests that even for-profit companies routinely promote the public good without anticipating personal benefit. They often do so in precisely the cases we have in mind—where legislatures lack the capacity or the will to act. David Vogel, “The Private Regulation of Global Corporate Conduct,” *Business and Society* 49 (2009): 68–87; Rachel Carlson, “Stop the Spread- A Response to Covid-19,” *Medium* (March 14, 2020), <https://medium.com/@rachel.romer.carlson/leading-boldly-on-covid-19-b23ecb2f5093>.

approach misunderstands what reciprocity requires. The claim lacks an explanation as to what distinguishes the law from other civic work.

The answer cannot be that obedience is distinctively *necessary* for the production of public goods. Debates about compliance are of interest precisely because the average citizen's disobedience makes no difference. The success of the plan *does* require that *enough* people obey. But it equally requires that *enough* people undertake other civic work. For example, the safety of American's financial system, forests and chemical supply chain rest on companies setting, enforcing, and complying with extra-legal voluntary standards such as those developed by the privately organized Finance Accounting Standards Board, Forest Stewardship Council, and Chemical Manufacturer Association.⁵¹

Nor can it be that the law's commands are especially *significant* to the success of the plan. Consider, for example, the American Society of Mechanical Engineers (ASME) which has played a substantial role in public health for over a hundred years, responding to a series of mass deaths in the early twentieth century by creating (among other things) the first private technical codes governing boilers and other pressure vessels, standards that continue to provide protection today.⁵² The Supreme Court said of the ASME:

ASME wields great power in the Nation's economy . . . as has been said about "so-called voluntary standards" generally, its interpretations of its guidelines "may result in economic prosperity or economic failure, for a number of businesses of all sizes throughout the country," as well as entire segments of an industry . . . ASME can be said to be "in reality an extra-governmental agency, which prescribes rules for the regulation and restraint of interstate commerce."⁵³

Contrast this declaration with several of the bills President Trump has signed. It's hard to imagine that failure to abide by Trump's command to

51. Catherine Rudder, "Private Government as Public Policy: A Paradigmatic Shift," *Journal of Politics* 70 (2008): 899–913.

52. See Casey C. Grant, *A Look From Yesterday to Tomorrow on the Building of Our Safety Infrastructure*, National Fire Protection Association (Presented at NIST Centennial Standards Symposium, March 7, 2001), https://www.ansi.org/consumer_affairs/history_standards.aspx?menuid=5.

53. *Am. Soc. of M.E.'s v. Hydrolevel Corp.*, 466 U.S. 556, 570 (1982).

rename a Minnesota courthouse for an esteemed judge significantly undermines public health or safety. The members of the ASME ceasing their legally discretionary actions would have a far greater impact.

Equally unpromising is the claim that obedience has special standing because it is baked into the plan, in the sense that others expect it and develop subplans accordingly. It's hard to know exactly what is meant by this claim. Read as a purely empirical claim it is false. Other actors are not planning in expectation of full obedience. Speeding laws are devised for eighty-five percent compliance.⁵⁴ Material safety laws are calculated so that consumer-facing goods like elevators can handle loads several times more than the legal limits.⁵⁵ Environmental regulatory impact analyses account for expected rates of noncompliance.⁵⁶ The Congressional Budget Office plans in expectation of only partial tax payment.⁵⁷ Indeed the success of the plan often depends on a certain amount of disobedience. Laws protecting endangered species are routinely designed in expectation of persistent poaching, such that unexpectedly high compliance creates problematic population growth.⁵⁸ Road safety depends on a certain percentage of people speeding. Courts and other services are routinely funded by fines.⁵⁹

It is true that people plan in expectation of *sufficient* compliance. But it is equally true that they plan in expectation of enough people doing other civic work. By 1995, private organizations were responsible for half of American regulatory standards.⁶⁰ School districts rely on parent-teacher associations; medical specialties rely on guidelines committees; academic

54. Procedures for Establishing Speed Zones, Texas Department of Transportation (2015).

55. Landmark, Elevator, Inc. (2016), *Elevator Safety*, <https://landmarkelevator.com/517-2/>.

56. See, for example, U.S. Environmental Protection Agency, "Regulatory Impact Analysis Proposed National Emission Standards for Hazardous Air Pollutants for Mercury Emissions from Mercury Cell Chlor Alkali Plants," (November 2010), https://www3.epa.gov/ttn/ecas/docs/ria/chemical-mfg_ria_proposed-neshap-chlor-alkali_2010-11.pdf.

57. Janet Holtzblatt and Jamie McGuire, "Factors Affecting Revenue Estimates of Tax Compliance Proposals," Working Paper, *Congressional Budget Office*, (November 2016), accessed August 19, 2019, <https://www.cbo.gov/publication/52199>.

58. Mark Schulman, "A numbers game: Managing Elephants in Southern Africa," *WWF* (2006), <http://wwf.panda.org/?75340/A-numbers-game-Managing-elephants-in-southern-Africa>.

59. Samantha Sunne, "Pay or Stay: The fight to stop New Orleans' courts from funding via defendant fees and fines," *Antigravity* (2019).

60. Tyler R.T. Wolf, "Existing in a Legal Limbo: The Precarious Legal Position of Standards-Developing Organizations," *Washington and Lee Law Review* 65 (2008): 809.

journals rely on unpaid anonymous reviewers. Our plan for public safety and myriad other public goods is clearly dependent on such discretionary labor.⁶¹

The purported special status of the law is more plausibly read as a normative commitment. Citizens believe that others *should* obey.⁶² Those who disobey are not acting as they ought, just as a soccer player who consistently kicks the ball toward their own goal behaves wrongly even if teammates know to plan around it. Regardless of whether it is expected, their behavior is inconsistent with a commitment to the achievement of the end.

There are three ways to understand the claim that noncompliers lack a commitment to the achievement of public goods. The first is empirically confused. Citizens may be ignorant of the role that discretionary behaviors play in the production of public goods and thus falsely believe that those who disobey necessarily do nothing to advance such goods. Or they may wrongly believe that a person who fails to comply necessarily retards the plan more than a person who fails to take up a legally-discretionary component.

The second is morally confused. Citizens may believe that those who disobey are *getting away with something*. This judgment is precisely what our account of fair return disputes. This conclusion is mistaken if there are burdensome ways of advancing the public good without complying. Indeed, citizens make the distribution of labor unfair if they demand legal compliance from those already doing their share by other routes.

The most compelling case for taking compliance with the law to be morally obligatory, and the one that motivates most advocates, is a concern for coordination. On this view, the law is morally binding because it is our procedure for meshing subplans. We need a collective method of selecting among viable courses of action to address, say, childhood disease, guarantee housing, or clear pollution.⁶³

61. Edward Balleisen, "The Prospects for Effective Coregulation in the United States: A Historian's View from the Early Twenty-first Century," in *Government and Markets Toward a New Theory of Regulation*, eds. Edward Balleisen and David Moss (Cambridge: Cambridge University Press, 2009), 55.

62. Tom Tyler, "Psychological Perspectives on Legitimacy and Legitimation," *Annual Review of Psychology* 57 (2006): 375–400.

63. Jeremy Waldron, "Special Ties and Natural Duties," 23–4.

To advocates of fair play, the law solves this challenge by authoritatively announcing a choice. As Klosko writes, “because the goods in question require large-scale, complex coordination, it cannot be assumed that people will organize themselves spontaneously. A general plan or planning agency must be able to issue commands and to assure compliance, if need be through coercion.”⁶⁴ On this reading, those who disobey cannot see themselves as doing civic work because they cannot reasonably believe that their actions are appropriately harmonized with fellow citizens.

However, this claim is also empirically confused, in two ways: first, it oversimplifies the planning process and thus misunderstands what it means for a citizen to commit to coordination, and second it overlooks the fact that the legally specified plan is incomplete in a way that leaves opportunities for citizens to align without obeying the law. I agree that citizens must coordinate, and that coordination will not be spontaneous. What I dispute is this simplistic vision of how alignment is achieved. Rather than being our procedure for meshing subplans, the law is but one tool in a practice far more complex, ongoing, and reliant on legally discretionary behavior than the classic fair play account recognizes. It is therefore possible for a person to both disobey *and* coordinate their behavior with fellow citizens for the promotion of public goods.

At issue is the same concern that drives Klosko to endorse the significance of law—the scale and complexity of the actions required to produce public goods. Achieving these outcomes is not like selecting a direction to drive. You need to make the right choice, again and again on thousands of issues that require context-specific knowledge and technical expertise. Selecting a pathway that will achieve desired results requires awareness of vast details and constant updating to turbulent conditions. Lawmakers often simply cannot issue the necessary commands.⁶⁵ They inevitably know too little, respond too slowly, and have too many distractions and topics of concern.⁶⁶

It thus falls on other actors to play a part in planning and implementing public goods. Those with the knowledge, skills, or position to foresee what alignment requires and to influence the success of our collective efforts make choices that determine how these goods can be achieved and shape

64. Klosko, *Political Obligations*, 24.

65. Jon Pierre, *Debating Governance* (Oxford: Oxford University Press, 2000), 142.

66. Ian Ayres and John Braithwaite, *Responsive Regulation: Transcending the Deregulation Debate* (Oxford: Oxford University Press, 1992).

the chances of success. This includes not only lawmakers but also corporations, nonprofits, technical experts, private standard-setting organizations, scientists, industry leaders, unions, administrative agencies, and others. The successful provision of public goods requires alignment among these actors' legally discretionary actions, coordination that cannot realistically be achieved by legislative fiat.

It follows that our procedure for meshing subplans so as to achieve public goods does not simply consist in hierarchical commands issued by lawmakers. Instead, it involves ongoing negotiation between all these *governors*. As Jody Freeman writes, the production of public health, security, and other goods consists in:

a set of negotiated relationships . . . policy making, implementation and enforcement is dynamic, nonhierarchical and decentralized, envisioning give and take among public and private actors. Information, expertise, and influence flow downward, from agency to private actors; upward, from private actor to agency; and horizontally among private and public actors . . . these exchanges are simultaneous and ongoing.⁶⁷

Consider the New York Stock Exchange (self-regulating since 1934), the North American Electric Reliability Corporation (which establishes standards for the power grid,) the Marine Stewardship Council (which develops guidelines for global fishing stocks), the Financial Industry Regulatory Authority (which regulates brokerages and exchanges), or the World Wide Web Consortium (which sets standards for HTML and CSS). These governors do not simply implement a plan settled by the law; they participate—often as co-equals—in *making* one.⁶⁸ They work to achieve alignment, often in ways that lawmakers cannot effectively oversee or correct.⁶⁹ They do this not only by providing necessary information to lawmakers and regulators at their own discretion,⁷⁰ but also by

67. Jody Freeman, "The Private Role in Public Governance," *New York University Law Review* 75 (2000): 13.

68. Bob Jessop, "The Regulation approach, governance, and post Fordism: alternative perspectives on economic and political change?" *Economy and Society* 24 (1995): 307–33.

69. Matthew Stephenson, "Bureaucratic Decision Costs and Endogenous Agency Expertise," *Journal of Law, Economics, and Organizations* 23 (2007): 469–98.

70. See Nicholas Ashford, *The Role of Advisory Committees in Resolving Regulatory Issues Involving Science and Technology* (Lexington: Lexington Books, 1983); and Richard Stewart,

self-regulating⁷¹ and seeking outcome-promoting harmonization in areas lawmakers lack the functional capacity to direct.⁷² Like jazz players or chefs in a chaotic kitchen, governors engage in ongoing plan-production—signaling their intended actions, responding to the signals of others, adjusting as necessary, providing insight into the consequences of possible courses of action and making public the current state of dialogue and expectations when others require this information to align their own behavior.⁷³ Our subplans would not dovetail successfully without their efforts.

This ongoing dialogue between governors—both lawmakers and others—is in fact our procedure for meshing subplans. Citizens can thus see themselves as acting together with co-nationals to bring about public goods insofar as—and *only* insofar as—they are committed to the success of this dialogue and to ordering their subplans so as to promote its dictates.

Compliance is one way to satisfy this requirement, but it is not the only way. As we have now seen, lawmakers are just one among many governors, and the law one among many tools of social adjustment. Citizens can equally commit to the success of the dialogue by assisting other governors in their alignment-generating labors and undertaking other aspects of the resulting plan. Just as the law requires sufficient compliance, so too many other governors can effectively play their part in planning and implementation only if enough people undertake particular legally discretionary behaviors: *Enough* people need to develop and agree to voluntary corporate monitoring, *enough* people need to avoid legal loopholes, *enough* high-skilled people need to work for nonprofits or think tanks, *enough* people need to vote well, *enough* people need to volunteer their

“Regulation, Innovation and Administrative Law: A Conceptual Framework,” *California Law Review* 69 (1981): 1256–377.

71. Joel Seligman, “Cautious Evolution or Perennial Irresolution: Stock Market Self-Regulation During the First Seventy Years of the Securities and Exchange Commission,” *The Business Lawyer* 59 (2004): 1347–87.

72. Wesley Cragg, *Ethics Codes, Corporations and the Challenges of Globalization* (Northampton: Edward Elgar Publishing, 2005), 2–4; Nolan McCarty, “Complexity, Capacity, and Capture,” <http://citeseerx.ist.psu.edu/viewdoc/download;jsessionid=5749D8B6B5BA4D131AC144486C38CD0E?doi=10.1.1.221.7063&rep=rep1&type=pdf>.

73. This picture of governance is consistent with a broad reading of Rawls’ basic structure.

time, or their dollars. Our efforts to simplify the picture of policymaking have unduly elevated lawmaking at the cost of misrepresenting the reality of our broader civic process. A concern for coordination thus does not justify granting compliance special moral status.

Advocates of a duty to obey might disagree. The law, they might argue, has unique standing in our procedure for meshing subplans because it can break ties in cases of conflict where ordinary governance fails. The law can do this only because it is treated as authoritative.

However, even granting the law this role does not make a commitment to coordinated action require obedience. At issue is the law's incomplete specification of the ways a citizen might advance the designated plan.⁷⁴ Consider:

Widgets: Automobile pollution can be managed either by planting enough trees or installing widgets in cars. To achieve alignment lawmakers mandate that all citizens should install widgets—though as with most environmental regulations, the outcome merely requires that a certain percentage do so. Jacob prefers hates the appearance of widgets and prefers tree-planting. He is reasonably certain enough other people will comply, and consequently refuses to install one. However, he wants to do his part to advance his community's plan, so he spends his spare time developing more efficient widgets, pays for others to install widgets who wouldn't otherwise comply, donates to programs improving widget manufacturing and so on.

Though Jacob disobeys, he grants the law authority in his planning. He chooses actions that promote widgets precisely because he is committed to advancing the path the law picks out. His behavior is clearly a case of coordinated intention.⁷⁵ Granting law an important—even distinct—procedural role thus does not make a commitment to shared action synonymous with obedience.

74. Political scientists emphasize the importance of street-level bureaucrats on just these grounds. Michael Lipsky, *Street-Level Bureaucracy* (New York: Russel Sage Foundation, 2010).

75. One worry is that Jacob grants himself a freedom denied to others and thus acts unfairly. This concern was addressed in our discussion of the principle of fair return on page five. While Jacob may alter the balance of reasons that compatriots have to take up particular civic works, they, like him, retain the freedom to choose how they pay their debts among qualifying acts and similarly alter the strength of his reasons in making their selection.

Indeed, successful meshing can *require* disobedience. The joint plan, after all, is not *the law* but the extant negotiated strategy worked out by all the governors described above. To understand the plan, you need to interpret that compact. As in any interpretation, particular voices or pieces of evidence should be rejected when inconsistent with the text as a whole. The law is no exception.

Consider a simple case. It is illegal in New York City for pedestrians to enter streets unless the walk signal is active. However, the timing set by signal devices does not permit pedestrians to fully cross assuming they move at safe and reasonable rates.⁷⁶ Thus participants routinely ignore the law *in order to achieve public safety and traffic efficacy*. In doing so, they act in accordance with the best interpretation of the transit plan. Social workers did the same when they refused to force women seeking welfare support to disclose information about their children's fathers for use in government child-support prosecution (as required by law) when the father was known to be positively involved with his children.⁷⁷ Prison wardens do something similar when they provide condoms to prevent HIV infection even when sex between inmates is illegal.⁷⁸ Each seeks to promote the shared plan for public well-being, recognizing that the law as specified does not advance its own intention in the case at hand.

Critics might argue that these are simply bad laws and should change. So they should. But treating that answer as the end of the moral story ignores the lesson we have just learned. There will always be incomplete policies and bad laws. When citizens work to fill these gaps and mesh their behavior with their best interpretation of the community plan in light of these limitations, they collectively work to produce public goods. If social workers or prison wardens do enough, no fellow citizen can complain that they failed to provide her with a fair return.

The fair play view thus proves just as wrong in practice as in theory; citizens can provide a fair return without obeying. Nonetheless, the

76. Brad Aaron and Ben Fried, "The NYC Traffic Rules that's Completely at Odds with How People Walk," *StreetsBlog NYC* (2015), <https://nyc.streetsblog.org/2015/06/16/the-nyc-traffic-rule-thats-completely-at-odds-with-how-people-walk/>.

77. Blanche Bernstein, "Shouldn't low-income fathers support their children?" *The Public Interest* 66 (1982): 55.

78. Denver Kisting, "We sneak condoms into prison," *The Namibian* (September 25, 2017), <https://www.namibian.com.na/169707/archive-read/We-sneak-condoms-into-prison-%E2%80%93-Haufiku>.

argument reveals important limitations. It might have seemed from earlier sections that civic reciprocity could be satisfied by almost any costly contribution: chicken dinners, rides to the grocery store, magnificent frescos. We can now see otherwise. Citizens can repay conationals only by doing their share of *civic work*. Qualifying acts are more expansive than legal compliance, but more limited than contribution theorists traditionally suppose. What counts depends on the pathways by which particular communities choose to build public goods.

V. ADVANTAGES AND OBJECTIONS

This civic works approach has many advantages as an account of civic reciprocity. Unlike the classic fair play account, the civic works view makes no assumptions as to how public goods are produced. Instead, it asks us to turn to the data. What actions *actually* advance our community plan? This approach improves practical guidance in four ways. First, it permits us to see how we should behave given actual social conditions. Second, it positions us to consider how social and institutional change might alter our obligations. Third, it allows our understanding of reciprocal citizenship to benefit from advances in political science that reveal more about who participates in governance and how complex coordination is achieved. Finally, it equips us to examine something on which discussions of political obligation are typically silent—what reciprocity requires in weak or failing states where the law plays a reduced role in governance. This last point is especially salient, given the conditions in which most people actually live.

Just as importantly, the civic works approach provides a better framework by which to assess our fellow citizens. The fair play view's narrow focus on the law overlooks much of the work that develops and sustains public goods. It thus unjustifiably praises people who may have merely complied, while criticizing those who have contributed much more through other forms of sacrifice. This is especially problematic because focusing on the law overlooks many of the contributions of the poor and marginalized who are more likely to join the military, work on the front lines of public health, provide unpaid childcare, and give to charity.⁷⁹

79. Madison Pauly, "Home Health Care Workers are Underpaid, Uninsured, and on the Front Lines of Fighting Coronavirus," *Mother Jones* (March 5, 2020); Sayoki Godfrey Mfinanga, Stephen Mduma, and Andrew Yona Kitua, "Frontline Health Workers Nobel Role

The civic works approach not only acknowledges this labor, it accounts for the differential costs such labor imposes. Neither the fair play nor the commensurate contribution view addresses the fact that civic work imposes different burdens on the disabled, impoverished and marginalized. It is harder to vote well, serve jury duty, volunteer, or even comply with certain laws when you are disadvantaged. These views thus unduly praise the wealthy and well positioned. In contrast, the civic works approach accords marginalized citizens the standing that they deserve.

Of course, recognizing these differential costs does not free people to cultivate a taste for theft or other forms of disobedience. As noted in our discussion of *Katrin the lazy*, citizens have a responsibility to manage their dispositions so as not to unduly add to our collective burdens. But in practice few of the additional burdens born by the marginalized when they contribute to public goods are best attributed to negligent self-management.⁸⁰ Indeed, Jennifer Morton and others have compellingly argued that certain so-called failures of rationality among the poor are in fact reasonable solutions for cognitively limited agents in conditions of scarcity. We ought to account for the real ways in which the onuses of compliance and other forms of civic labor are unevenly distributed.

For similar reasons, the civic works approach is also better positioned to achieve an equitable labor distribution. This is true for two reasons. First, the broader scope of its commands permits greater rebalancing with regards to the structural distribution of burdens. By including extra-legal labor in its account of a fair distribution, it gives corporations, nonprofits, private standard-setting organizations, and other nonlawmaker governors reason to consider the distributional consequences of their legally discretionary choices. Indeed, doing so as part of community planning is among the ways these institutions can do civic work.

in Disease Prevention for Achieving Global Health Security: Why are we not Learning the Lessons?" *Journal of Healthcare Communications* 2 (2017): 1-5; Lucy Ward, "Poor give more generously than the rich," *The Guardian* (December, 21, 2001), <https://www.theguardian.com/society/2001/dec/21/voluntarysector.fundraising>; Paul K. Piff et al., "Having Less, Giving More: The Influence of Social Class on Prosocial Behavior," *Journal of Personality and Social Psychology* 99 (2010): 771-84; Ken Stern, "Why the Rich Do not Give to Charity," *The Atlantic*, April 2013, <https://www.theatlantic.com/magazine/archive/2013/04/why-the-rich-dont-give/309254/>

80. Jennifer Morton, "Reasoning under Scarcity," *Australasian Journal of Philosophy* 95 (2017): 543-59.

Second, unlike the other two views, the civic works account provides practical guidance designed to correct inequality. The classic account orders citizens to comply with the law even if they have already contributed more than others for the same benefit. The commensurate contribution approach holds that a citizen with little power should work *more* even if her sacrifices already vastly exceed those of her co-nationals. Both views thus deepen inequality. By contrast, the civic works account asks citizens to do their share of beneficial labor. If all abide, each receives an equivalent package of benefits and burdens.

Some might argue that these assessment advantages would disappear if the law were restructured so as to correct labor disparities.⁸¹ So it would. But that ignores our earlier lesson. The issues are too individualized, technically complex, and rapidly changing to admit of complete legal solution. The law is too slow moving, inflexible, and unnuanced to respond adequately. Realistically, the existence of public goods will thus always depend on extra-legal labor. Any fair assessment of citizens must properly account for this work.

Despite these advantages, the account is subject to several critiques. The most common focuses on generalization. What if nobody obeyed?

This worry might seem irrelevant. After all, we saw earlier that reciprocity does not require sustaining particular practices. You need merely pay your debts. However, we cannot be so cavalier in the case of civic reciprocity. Citizens can pay their debts only by working to jointly bring about public goods. It is thus a serious concern if the principle is incompatible with sustaining these goods.

Yet the notion that citizens should obey because generalized noncompliance would damage public goods proves too much. Consider:

All-In: Citizens should do actions which are such that if not enough people did them public goods would suffer.

It would follow that citizens ought to comply. But as we have seen, many different actions support public goods. It cannot be that *all* citizens are bound to work as trash collectors, nurses, stop-light repair technicians. That is not merely impractical, it is impossible.

81. This concern was brought to my attention by participants at the Stanford Conference on Market Exchange and Community.

Of course, diverse preferences in combination with ordinary market mechanisms can ensure that enough people do many of these acts. I don't need to concern myself with whether there are sufficient cardiac surgeons. Instead the claim might be:

All-Moral: Citizens should do actions which are such that if not enough people did them public goods would suffer *and* there is a reasonable chance that not enough people will do them but for the belief that they have a moral duty to do so.⁸²

This removes the obligation to be a venture capitalist since the associated financial rewards will ensure that enough people step up to the role even if they don't believe themselves duty-bound to do so.

Yet the view still proves either too much or too little depending on how we interpret citizens' psychology. If we hold that citizens will not reliably undertake burdensome civic labor unless they believe doing so to be a perfect duty, *All-Moral* simply repeats *All-In's* unrelenting demands. Civic work is defined by the fact that it sets back the interests of those who take it up. A good citizen thus simultaneously would have to volunteer as a vulnerable ICU hospital worker during disasters, sit through Forest Stewardship Council meetings developing guidelines for sustaining resources, serve as a crossing guard in the freezing cold, and so on. The principle remains an impossible demand.

We can avoid this conclusion if we assume that there are only *certain* types of civic work that citizens will not reliably undertake but for the belief that they have a moral duty to do so. It would follow that citizens are obligated to comply with the law if obedience fell in this special category. However, it is hard to imagine what would justify such a categorical distinction. Certainly not the fact that compliance is burdensome and inadequately remunerated—that, after all, is the defining feature of all civic work. Why would citizens be willing to do one form of such labor despite believing it to be an imperfect duty, but unwilling to undertake equally costly acts of legal compliance?

Nor can we distinguish obedience on the grounds that public goods require widespread compliance. As noted earlier, many laws do not. And

82. My thanks to an anonymous editor at *Philosophy and Public Affairs* for this suggestion.

for public goods to function many people must equally take up other civic work—vote, avoid advantageous legal loopholes, seek employment as social workers. If anything, the fact that enough people routinely do other forms of civic labor despite not believing that they have a perfect duty to do so should lessen concerns about noncompliance.

Moreover, while the expansive reading of *All-Moral* demands too much, this narrow reading asks too little. There are many civic works such that citizens' belief as to whether these actions are obligatory does not determine whether enough people act. According to *All-Moral*, citizens have no responsibility when actions risk going undone for other reasons—for example, because too many citizens are unable to act, unsure of how to proceed, or selfish. Yet concerns about under-performance seem equally applicable in such instances.

A more attractive approach to generalization recommends:

Vigilance: Citizens should do actions which are such that if not enough people do them public goods will suffer and there is a reasonable risk that not enough will do so.

Unlike *All-In*, *Vigilance* does not ask citizens to take on unnecessary burdens. Unlike *All-Moral* it does recommend that citizens take up any actions that risk going undone. A citizen simply needs to pay attention to what work is genuinely at risk in context.⁸³ This is precisely what the civic works approach requires when it asks citizens to advance their community's plan.

Importantly for our purposes, there is little reason to think that legal compliance will reliably prove at risk if the civic works account is accepted. The account provides no incentive to disobey. Those who do so must take on just as much burden in other forms. Moreover, its directives are responsive to how others behave. QEB requires that citizens work to provide at least as much benefit as they received. In conditions where many people do their part through legally discretionary labor, citizens thus have greater moral reason to comply since doing so provides more benefit than alternative acts. Put another way: a citizen's relative responsibility to obey is strongest in precisely the circumstance critics fear; conversely

83. Derek Parfit makes a similar claim in response to what he calls the threshold objection. Derek Parfit, *On What Matters: Volume One* (Oxford: Oxford University Press, 2011), 31.

obeying accrues comparatively little credit when it creates only marginal benefit versus other civic work.

Perhaps the concern is that many will use the view as an excuse to act wrongly. If so, that *may* be reason not to publicly acknowledge the truth. However, that fact does not alter the real nature of citizens' obligations.⁸⁴

Even this worry is overwrought. Research suggests that citizens' behavior is shaped not only by the conviction that they are obligated to obey the laws, but also by the sense that lawmakers are acting legitimately as well as fear of punishment.⁸⁵ Nothing in the civic works approach undermines these reasons to comply. If too few people obey lawmakers are free to publicly contend that greater compliance is required, and to provide practical motivation to do so. Given their commitment to the achievement of public goods citizens have strong reason to pay attention and few grounds for complaint.⁸⁶ Thus while *vigilance* may recommend legal compliance in special circumstances, there is no reason to think that it will always do so. Consequently, a concern for generalization does not justify a standing duty to obey.

In response, critics might charge that the civic works account is too challenging. It is difficult to know if enough others are complying. Thus, a principle of caution dictates obedience.

Two things speak against this conclusion. First, a realistic appraisal makes it clear that public goods *already* depend on similar assessments.

84. I hold with those who believe that this would not undermine the truth of the principle and should guide those in the know. See David Brink, *Moral Realism and the Foundations of Ethics* (Cambridge: Cambridge University Press, 1989); Katarzyna de Lazari-Raek and Peter Singer, "Secrecy in Consequentialism: A Defense of Esoteric Morality," *Ratio* 13 (2010): 34–58. Nonetheless, for all the reasons noted here, I do not think that such misrepresentation is necessary.

85. See Benjamin Hansen and Gregory DeAngelo, "Life and Death in the Fast Lane: Police Enforcement and Traffic Fatalities," *American Economic Journal* 6 (2014): 231–57; Steven Levitt, "Why do Increased Arrest Rates Appear to Reduce Crime: Deterrence, Incapacitation, or Measurement Error," *Economic Inquiry* 36 (1998): 353; David Abrams, "Estimating the Deterrent Effect of Incarceration using Sentencing Enhancements," *American Economic Journal* 4 (2012): 32–56. Tom Tyler acknowledges as much in his work arguing for the importance of perceived legitimacy in compliance. Tom Tyler, *Why People Obey the Law* (New Haven: Yale University Press, 1990): 21.

86. It is commonplace to believe that citizens' duty to obey laws can be pried apart from the state's right to impose. Arthur Applbaum, "Legitimacy Without the Duty to Obey," *Philosophy and Public Affairs* 38 (2010): 215–39; Robert Ladenson, "In Defense of a Hobbesian Conception of Law," *Philosophy and Public Affairs* 9 (1980): 134–59; Rolf Sartorius, "Political Authority and Political Obligation," *Virginia Law Review* 3 (1981): 3–17.

In 2007, for example, the Consumer Product Safety Administration had just one inspector monitoring over fifteen million containers entering through the Los Angeles ports, leaving security heavily dependent on manufacturers' voluntary standards and monitoring.⁸⁷ Those who think such assessment epistemically impossible are thus hard-pressed to explain how it is that public goods currently exist.

Second, such a strong principle of caution simply throws us back on *all-in's* untenable demands. Prudence thus merely requires we be conservative in our estimations and remain attentive to our cognitive weaknesses. To disobey a legal requirement to install a low-flush toilet is a moral risk, but no more so than failing to volunteer your time to developing new emissions standards.

If anything, the epistemic burden of figuring out whether you should comply with the law is lower than that of assessing whether you should take up other civic work. Lawmakers provide feedback. If too few people obey, the risk of fines or jail is likely to increase. This warns citizens of pressing needs, giving them a reason to comply. Yet they remain free to use their judgment in determining their portfolio of civic work. Their obligation is to properly account for such information in deciding how to act, no differently than if they read a news report indicating that public health was endangered because too few people accepted legally discretionary vaccinations.

A related worry is that a shared obligation to obey provides a clear publicly accessible standard for measuring good citizenship.⁸⁸ Civic works are more challenging to assess, since disputes may exist as to what behaviors count, and it is difficult to know how many actions a given citizen has taken or how burdensome she found them. Therefore, the argument goes, we should prefer the classic fair play account, which allows citizens to identify and acknowledge each other as equal contributors.⁸⁹

I take publicity to be a significant value. Societies whose members share awareness of each other's compliance with mutually accepted moral

87. Balleisen, "The Prospects for Effective Coregulation in the United States," 55.

88. This argument was suggested to me by Abraham Singer.

89. Andrew Williams raises a similar concern against an egalitarian ethos requirement. Andrew Williams, "Incentives, Inequality, and Publicity," *Philosophy and Public Affairs* 27 (1998): 225–47. It is worth noting that a strong interpersonal reading would call into question ordinary instances of reciprocity since they rely on private information regarding benefits and burdens.

principles are more likely to remain stable, enjoy social unity, and participate in a valuable form of community.⁹⁰ This gives us reason to aim for conditions in which each of us not only satisfy our duties of reciprocity, but in which it is common knowledge that we do so. Nonetheless, this does not justify abandoning the civic works approach in favor of a narrow focus on compliance with the law. First, I join those who view shared knowledge as something to strive for, not a desideratum of justice or a restriction on our subjection to such demands.⁹¹ Each of us ought to repay the work others do to our benefit. This is true even if we cannot know whether our fellow citizens do the same, and even if it is challenging to figure out what our repayment entails.

Equally importantly, the considerations that weigh in favor of publicity are weaker in the case of civic reciprocity than in debates about distributive justice where they classically arise, for two reasons. First, our reciprocal obligations exist because we have *already* received public goods. Whatever benefit is to be gained from knowing our fellow citizens are committed to promoting these goods is thus already meaningfully present. Second, the difficulty of designing and implementing a set of rules for economic equity, however challenging, looks easy by comparison to the achievement of other public goods. Taxation is relatively straightforward: lawmakers can allow people to behave at will and then redistribute the results. However, achieving public health or safety requires alignment among a wide array of specialized institutions, resources, and practices in rapidly changing conditions. Fish stocks must be managed in the right way, doctors must be trained in the needed skills, the electric grid must not be unduly strained. Consequently, our plan for the fulfillment of such goods necessarily relies on enough citizens undertaking burdensome legally discretionary work; lawmakers are not up to the task.

This fact weakens the connection between publicity and social unity. Such unity is often thought to arise from the shared sense among citizens that nobody is taking advantage. When we know that others accept and

90. Kyla Ebels-Duggan, "The Beginning of Community: Politics in the Face of Disagreement," *The Philosophical Quarterly* 60 (2010): 55; Kasper Lippert-Rasmussen, "Publicity and Egalitarian Justice," *Journal of Moral Philosophy* 5 (2008): 34.

91. Ben Eggleston, "Rejecting the Publicity Condition: The Inevitability Of Esoteric Moral Theory," *The Philosophical Quarterly* 63 (2013): 29–57; Derek Parfit, *Reasons and Persons* (Oxford: Oxford University Press, 1984), 24.; G.A. Cohen, *Rescuing Justice and Equality* (Cambridge: Harvard University Press, 2008), 348–51.

comply with principles, we know that we are not putting ourselves in a position to be exploited if we do so.⁹² Here, however, narrowing our measure of reciprocity to compliance with the law has the opposite effect. The production of public goods depends on many citizens engaging in burdensome legally discretionary behavior. They can rightly feel exploited if we only credit them for their legal compliance. Their work for others is neither counted against their own debts nor treated as due compensation despite being part of our shared plan.

The link between assurance and publicity is similarly anemic for two reasons. First, on some accounts publicity's significance rests in providing confidence that others are acting in accordance with the same demands. We are not bound, the theory goes, unless we know that others subject themselves to similar restrictions.⁹³ However, as just noted, our reciprocal obligations are backwards facing. We owe those who have *already* worked to our benefit.

Second, those who suggest that such assurance is impossible with regard to legally discretionary acts ignore the lessons of our earlier empirical discussion. As it stands, the provision of public goods depends on many people doing such work. That we *currently* receive these advantages is thus evidence of others' willingness to do their share of what they believe to be imperfect duties. As citizens, we receive ongoing evidence that others are engaged in a good-faith effort to do their bit in the form of the very goods we enjoy. We may never know with exacting precision who performed which work, or how much labor it required. Nevertheless, we can have general awareness that many are doing their part.⁹⁴ This provides assurance enough.

Limiting our assessment of good citizenship to compliance with the law for reasons of publicity is especially problematic because the application is likely to undervalue already marginalized citizens. Whether or not individuals obey is itself nonpublic. Of course, there are some widely accessible sources of information; Google can reveal my neighbor's criminal

92. Andrew Mason, "What is the Point of Justice?" *Utilitas* 24 (2012): 541.

93. Thomas Nagel, "The Problem of Global Justice," *Philosophy and Public Affairs* 33 (2005): 116.

94. G.A. Cohen defends the sufficiency and public checkability of good faith effort. Cohen, *Rescuing Justice and Equality*, 352. Historical evidence buoys his claim. See, for example, Avner Greif, "Contract Enforceability and Economic Institutions in Early Trade: The Maghribi Trader's Coalition," *The American Economic Review* 83 (1993): 525–48.

record. Yet these signals are systematically distorted. Patterns of policing, prosecution, and sentencing are such that citizens of color and the poor are statistically more likely to be tagged with such demerits.⁹⁵ Treating compliance as our sole measure of good citizenship is thus likely to wrongly identify these persons as failing to pay their civic debts. However rough and ready its calculations, a civic works approach will likely better capture the quality of these individuals' citizenship.

A concern for social unity, assurance, civic friendship, stability and the other goods instantiated or promoted by publicity thus gives us reason to continuously seek ways to increase awareness of the civic work citizens do, and to make apparent their costs as much as possible. But the difficulty of fostering this publicity is not a reason to abandon a civic works standard. Our interest in ensuring that justice be seen to be done pushes us to look harder and find ways of seeing more clearly, not to don blinkers.

VI. CONCLUSIONS

Theodore Roosevelt held that "the first requisite of a good citizen. . . is that he shall be able and willing to pull his weight."⁹⁶ Our work here has shown just how right Roosevelt was. Reciprocity demands that citizens repay co-nationals who work to their benefit by taking up their fair share of the burdensome aspects of advancing public goods.

This approach provides a more refined account of reciprocal citizenship, one that is at once more flexible and more demanding. Citizens do not need to obey the law. They can undertake other civic works. But compliance with the law may also be insufficient. Reciprocity requires that citizens do their share of labor in creating and implementing our complex joint plan for generating public goods. Given all that others do, mere obedience may leave some in arrears. Just as political communities are complex, so membership in such communities is a complex role. Doing right by our fellow citizens requires careful attention to all that is being done to our benefit.

95. Radley Balko, "There's overwhelming evidence that the criminal justice system is racist. Here's the proof." *The Washington Post* (April 10, 2019).

96. Tom Huizenga, "Sing out, Mr. President: Teddy Roosevelt 'Pulls His Weight'" *Deceptive Cadence, NPR Classic*, <https://www.npr.org/sections/deceptivecadence/2011/02/20/133600959/sing-out-mr-president-teddy-roosevelt-pulls-his-weight> .

Think back to Fred, our tax-avoiding car dealer. On the fair-play account, Fred acts wrongly. He ought to obey the law. On the commensurate contribution approach, he is doing just fine. By selling cars, he adds to the stock of common goods. The civic works approach pushes us to examine Fred more closely. Has he lost profit by choosing to sell only cars that meet higher-than-required environmental standards? Has he started an industry group to push internally for better safety standards? Does he take time and energy to make sure he informs himself, goes to the polls, and votes for the general good? Or is he simply generating economic and transportation value at great personal profit? How we think about Fred's standing as a citizen rests on such considerations.

This discovery raises as many questions as it solves. What constitutes an individual citizen's share of civic work? Which acts qualify? How do they differ across country and community? What counts as a burden? Are all such works commensurable with all others? This article is far too short to provide answers. Yet merely recognizing these issues is a step forward. The research agenda at which these questions hint opens up the possibility of a more nuanced approach to good citizenship, one that better integrates with our ordinary intuitions about reciprocity and that accounts for the complex institutional and interpersonal structures that mediate our civic relations.