

FAIR PLAY AS RECIPROCITY

ABSTRACT

Fair-play is classically treated as a distinct moral principle distinguished from more general concerns like fairness, consent, or gratitude by its *cooperative scheme* and *rules conditions*, that is, by the fact that the duty is said to arise only when a group of people coordinate their activities to produce particular goods and be satisfied only when a beneficiary undertakes her practice-designated role. In this essay, I reject both these features. Fair-play, I argue, is best understood as one instance of a general *principle of reciprocity* that governs both interpersonal and collective interactions and grants no special moral weight to the rules of a participatory scheme. This approach, I show, provides a more parsimonious and grounded account of our duties—but calls into question long-standing claims about citizens' obligation to vote, pay taxes, or undertake other civic acts.

FAIR PLAY AS RECIPROCITY

*Everything is evened up in the world. The rich have their ice in the summer,
but the poor get theirs in the winter.*

Caroline Fraser, *Prairie Fires*

Sara lives in a city with excellent public transportation. Every day she breezes past the kiosk and rides to work without paying the fare. Jacob lives in a county with a high-quality publicly funded health system. Each year he goes to the doctor for his covered check-up, but he never ponies up the taxes that are meant to support the system.

What, if anything, are Sara and Jacob doing wrong? One widely accepted claim is that they violate the duty of *fair play* by free-riding on fellow citizens' efforts to provide beneficial goods. As John Rawls writes, "when a number of persons engage in a mutually advantageous cooperative venture according to rules, and thus restrict their liberty in ways necessary to yield advantages for all, those who have submitted to these

restrictions have a right to a similar acquiescence on the part of those who have benefited from their submission.”¹ Put more precisely, this argument holds that:

When a person has:

- (1) accepted (or received)²
- (2) the benefits
- (3) of a reasonably just and fair
- (4) cooperative practice
- (5) that requires a sacrifice from participants
- (6) that person is bound to do their part as defined by the rules of that practice.

¹John Rawls, *A Theory of Justice* (Cambridge, Mass: Harvard University Press, 1971), pp. 108-114.

² It is controversial whether acceptance is required, and if so, what qualifies. See, for example, A. John Simmons, “The Principle of Fair Play,” *Philosophy and Public Affairs* 8(4), Summer; Edward Song, “Acceptance, Fairness, and Political Obligation,” *Legal Theory* 18 (2012). Though we will discuss this issue briefly in section three we can largely set this debate aside since our argument reveals something interesting on either account.

Such a duty is said to do everything from explain why citizens should obey the law, vote, or do their share of babysitting, to justifying punishment and civil disobedience.³

Much of the discussion of fair play has focused on the existence of such an obligation or its application to particular contexts. Critics deny that the mere receipt of benefits can create duties or that states are the kind of cooperative enterprises capable of doing so.⁴ My interest, however, lies outside of these traditional debates. I want to ask how those inclined to accept that fair play generates real responsibilities should understand the structure and nature of the duty. Fair play is classically treated as a

³ Such claims are considered by, for example, George Klosko, *Political Obligations* (Oxford University Press, 2005); Jason Brennan, *The Ethics of Voting* (Princeton: Princeton University Press, 2012); Richard Dagger, "Playing Fair with Punishment: *Ethics* 103(3), April 1993; Paul Sheehy, "A Duty Not to Vote," *Ratio* XV, March 2002 0034-0006; Candice Delmas, *A Duty to Resist: when Disobedience should be Uncivil* (New York, NY: Oxford University Press, 2018); Tommie Shelby, "Justice, Deviance and the Dark Ghetto," *Philosophy and Public Affairs* 35, no. 2 (2007).

⁴ See for example John Simmons, *Moral Principles and Political Obligations* (Princeton, NJ: Princeton University Press, 1979).

distinct moral principle distinguished from more general concerns like fairness, consent, or gratitude by its (4) *cooperative scheme* and (6) *rules conditions*, that is, by the fact that the duty is said to arise only when a group of people coordinate their activities to produce particular goods and be satisfied only by undertaking your practice-designated role. As Justin Tosi writes, “To play fair is to follow the rules of the cooperative scheme to which one owes a debt of fairness. Submission to the rules is the only return that qualifies as fair, just as doing one’s part as required by the terms of an agreement is the only way of keeping to an agreement to which one offered one’s consent.”⁵ I reject both these features and the moral structure that they imply. My aim in

⁵ Justin Tosi, “Rethinking the Principle of Fair Play,” *Pacific Philosophical Quarterly* (2018), 8. Most proponents of fair play accept these conditions, though few explicitly defend them. For example, H.L.A. Hart “Are There Any Natural Rights?” *The Philosophical Review* 64, no. 2 (1955): p. 187. George Klosko, “The Principle of Fairness and Political Obligation.” *Ethics* 97, no. 2 (1987); Idil Boran, “Benefits, Intentions, and the Principle of Fairness,” *Canadian Journal of Philosophy*, 36 (1) March 2006; Paula Casal and Andrew Williams, “Rights, Equality, and Procreation,” *Analyse and Kritik*, 1996, 106. For exceptions, see Garrett Cullity, “Public Goods and Fairness,” *Australasian Journal of Philosophy* 86(1) pp. 1-21 (March 2008); Jianfeng Zhu, “Fairness, Political Obligation and the Justificatory Gap,” *Journal of Moral Philosophy* 12, no. 3 (2013), p. 23.

this essay is to show that fair-play is instead best understood as one instance of a general *principle of reciprocity* that governs both interpersonal and collective interactions and grants no special moral weight to the rules of a participatory scheme.

It is important to be clear about the scope of the argument. My goal here is neither to convince those who deny fair play outright, nor to develop a complete account of reciprocity. Both lie outside the scope of a single article. Instead, my aim is to reject the classic fair-play framework in favor of a more open-ended and comprehensive account of the responsibilities we acquire when others labor to our benefit. Those inclined to accept duties of fair play, I will argue, should take the obligation to have this structure. Though limited, this claim is significant. The traditional fair-play framework enjoys widespread support and underlies common views about civic obligation. Discarding it calls for serious revisions to our understanding of fair play's role in our moral architecture and suggests a fundamental rethinking of our approach to fair citizenship. Moreover, as we shall see, it is an attractive feature of the view that it is better positioned to address many of the concerns traditionally levelled against fair play.

The argument proceeds as follows. In section one I lay out the principle of reciprocity. We owe a fitting return to those who do burdensome work to our benefit. In

section two, I apply this principle to collective activities. The duties that arise in cooperative schemes, I suggest, are just an extension of the claims that reciprocity makes in interpersonal cases. In sections three and four I explain the appeal of the classic reading. Advocates of the cooperative scheme and rules conditions, I show, misunderstand the attitudes necessary to trigger concerns of fairness and mistake practical rules of thumb for fundamental features of our moral responsibility. In section five I consider several advantages of this revised approach and address objections. Viewing fair-play as a species of reciprocity, I argue, provides an attractive picture of our relationship to others, solves long-standing puzzles about the scope of our obligations, and better speaks to the imperfect conditions in which we reside.

Section One: Reciprocity

Let me start by saying a little bit more about reciprocity. For now, we will focus on interpersonal interactions.⁶

⁶ That is to say, one-on-one or small group exchanges not plausibly read as ongoing schemes for the production of specific goods.

The idea is a familiar one—you ought to pay your debts. More specifically, you ought to pay back those who undertake burdensome work to your benefit. Picture the following: your friend drives an hour out of her way to bring you the wallet you left at a restaurant, your neighbor waters your plants while you travel, your colleague gives you extensive comments on a draft. In each case, that others sacrificed to your advantage calls out for recompense.

Notice that this concern is distinct from *fairness simpliciter*. The problem is not that some people enjoy more, others less. My neighbor may make double my salary, but I still owe her if she spends hours searching for my lost dog. Nor is the issue an instance of *promise* or *consent*. Worries about reciprocity classically arise when beneficiary and benefactor specified no agreement.⁷ Perhaps your neighbor simply noticed your plants withering and stepped up to help. Instead, reciprocity is concerned with *transactional*

⁷ Even those who treat acceptance of benefits as a prerequisite to obligation do not take the necessary assent to require contract or agreement. Instead, they focus on pro-attitudes. See, Tosi, 4. Analogies to games are thus inapt since appropriate behavior in such contexts is governed at least in part by consent.

fairness.⁸ The issue is that a beneficiary is better off and a benefactor less so *because* the latter worked to the former's good. Such a relationship invites compensation. You should do something to help your friend, your neighbor, your colleague, because they have done burdensome work for you. This is true even if no profit ultimately ensues—you find your lost keys minutes before your friend arrives with the spares, your body rejects the donated kidney. It is enough that they took on costs they reasonably believed would provide much needed assistance.⁹

What you owe such benefactors is a *fitting return*. Reciprocity does not require that you do for your patron what she did for you. That might not be desirable, or even possible—your neighbor may own no dog, your colleague conduct no research. Instead, fairness demands that you provide suitable compensation. As Lawrence Becker writes,

⁸ Certain approaches to distributive justice follow in this vein. See Andrea Sangiovanni, "Global Justice, Reciprocity, and the State," *Philosophy and Public Affairs* 35(1) (2007).

⁹ My account thus diverges slightly from the traditional approach to fair play in taking the obligation-triggering benefit to consist in others' labor to your expected good. This is appealing because it can explain why relations can feel unfair even when expected benefits fail to instantiate—an uber arrives just as I pull up to provide assistance, you get sick and can't enjoy the vacation I helped organize.

reciprocity asks “that we return good for good in proportion to what we receive.”¹⁰ Assistance in car-washing, rides to the airport, casseroles can all pay your debts. Thus, the:

Principle of Reciprocity: when somebody undertakes a burdensome activity reasonably expected to produce a benefit, those who stand to profit from the endeavor are obligated to provide a sufficient return.¹¹

We will further develop this principle in section three when we consider what might ground our interest in fair play. For now, I want to focus on fleshing out what constitutes adequate reciprocation. Such a return is, I believe, characterized by four features: *intent*, *scope*, *content*, and *proportion*. To qualify an act must aim to benefit the right person, to the right degree.

¹⁰ Lawrence Becker, *Reciprocity* (Chicago, IL: University of Chicago Press, 1986), 4.

¹¹ This account differs from some classical readings in not requiring the benefit be substantial. For an alternative, see George Klosko, *Political Obligations* (Oxford University Press, 2005).

The first two features are relatively uncontroversial. While advancing your benefactors' interests need not be your sole reason for action, it must be consistent with the structure of your reasoning.¹² A blundering attempt to murder you by puncturing your tires is no way to repay the work that you have done to my benefit, even if all I succeed at is replacing your worn-out treads.

Similarly, the scope requirement demands that you repay the person who benefited you. I cannot pay back the hours you spent babysitting my child by making my grandmother her favorite meal and then announce I've already provided a sufficient return when you seek my help. I owe you, not her. Of course, actions done to benefit one person can repay another. I can pay the debt I accrued to you when you donated to my education by helping another child, or the hours that you spent painting my house by contributing to your favorite charity or assisting your mother. In each case, however, this is because my actions *indirectly* benefit you. They advance the values and projects that *you* seek to promote.

¹² Many advocates of fair play endorse an attitudinal component. See, for example, Trifan, 162; P. Casal and A. Williams, "Rights, equality and procreation," *Analyse und Kritik*, 17 (993-114).

The latter two features are more contentious. It is clear that a fitting return must be beneficial, to the right degree.¹³ A kick in the groin is no fitting return for help moving or a lovingly prepared meal. Nor is a pack of stale Oreos a sufficient response to weeks of laborious assistance re-roofing my house. But whether that benefit should track objective or subjective goodness or some combination of the two is divisive (to say nothing of whether the relevant goodness consists in desire-satisfaction, the achievement of goals, or feelings of happiness.) So too whether the return must be proportionate to the benefit received, the labor expended, or some combination of the two.

¹³ In addition, I think benefits must be appropriate to the nature of the relationship. The choice of good-type carries semiotic content. It can signal the sort of relationship parties intend. This is why cash transactions are uncommon—though not impossible—between friends. For more see Barry Maguire and Brookes Brown, “Markets, Interpersonal Practices and Signal Distortion,” *Philosophers’ Imprint* 19(14) (April, 2019). However, I set this aside as outside our concern.

I favor a hybrid approach on both counts. On the version that I prefer returns must work to sufficiently advance the set of objectively desirable and subjectively desired goods that come at a cost.¹⁴ A return is proportional when:

¹⁴ Hybrid approaches have several advantages. An account of well-being that includes both objective and subjective features avoids worries about alienation and defective desires. Unlike approaches to proportionality that focus purely on suffering, hybrid accounts do not recommend useless self-flagellation. In contrast to pure-benefits accounts, such views also do not demand that the poor or oppressed continue working endlessly if they are unable to provide the degree of value that they received from well-off benefactors. Equally appealingly, a hybrid approach like QEB explains why we owe more to those who work harder to our benefit and what is wrong with those who do the bare minimum on our behalf without demanding that we do everything possible to benefit our benefactors if they did not do the same for us. See, for example, Fred Feldman, *What is this thing called happiness?* (Oxford University Press, 2010); Gwen Bradford, "Achievement, wellbeing, and value," *Philosophy Compass* 11, no. 12 (2016):795-803; Chris Heathwood, "Desire-Fulfillment Theory," in *The Routledge Handbook of the Philosophy of Well-Being* (Routledge, 2016), pp. 135-147. This appears to be the view employed by most advocates of fair-play. See, for example, George Klosko, *Political Obligations* (Oxford University Press, 2005).

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 good.¹⁵

However, we can set these debates aside. For our purposes, what matters are two features of fittingness shared across any number of ways of fleshing out these desiderata: that the relevant obligation is *comprehensive*—pro-tanto applying whenever another person deliberately takes on burdens to your all things considered benefit—and *open-ended*, demanding that one provide a benefactor with enough of a beneficial return (whether defined objectively or subjectively, by good accrued, burden involved, or both) without further specifying the content of a qualifying benefit. If you water my plants, I can give you a ride to the airport, make you cookies, bring you chicken soup when you are sick. So long as I do enough for you (however defined), I have paid my debts.

Both features are appealing. Consider the alternatives. You spend an afternoon going out of your way to bring your friend her misplaced keys, you notice your neighbor's shed is on fire and brigade water to put out the flames, they do nothing at all

¹⁵ For a more extensive defense of this approach to proportionality see [redacted].

on your behalf. Each of us has reason to value a world where others go out of their way to our benefit in this fashion, even though each of us also has an incentive not to do our part in turn. To take advantage by acting on that incentive in your own case while wanting others not to do the same is to make an unjustified exception of yourself. It is to treat those around you *unfairly*.¹⁶

An open-ended approach to the content of a fitting return is equally attractive. At the extremes, a restricted account is absurd. Consider:

Cat: You go out of town for a week and forget about your cat. Mary steps up and feeds your cat in your absence. She does not own a pet.

If we hold that people can discharge their debts only by undertaking the same act-token they received, it follows there is no way to satisfy your duties of reciprocity in this case. But that is silly: you can make Mary dinner, wash her car, clean her attic. To think otherwise is to ignore the interests of your benefactor and thus to drain the relationship of important value.

¹⁶ This is the intuition on which Garrett Cullity relies in finding violations of fair play to be failures of impartiality. Cullity, *Public Goods and Fairness* (2008), 3. We will consider this grounding further in section three.

Even a slightly broader vision of fittingness that permits substitution when in-kind returns prove impossible fails to capture our intuitions about fairness in exchange.

Consider:¹⁷

Baking: As a runner, John benefits from the fact that his neighbor Carla sweeps the steps in front of their apartment building. John could do the same, but he never does. However, to reciprocate, he bakes cakes weekly (a task that takes him at least as long as Carla's sweeping) and leaves them for Carla to enjoy – which she very much does.

On a narrow account, John treats Carla wrongly. He *could* return her favor in kind, and he does not. But that too seems silly. Carla's package of benefits and burdens is merely different than John's, not better. If she were to rage at John's behavior while eating his cakes, she would treat him unfairly.

A critic might argue that John's actions constitute a fair return because Carla *endorses* his offering. Read this way, duties of reciprocity are not open-ended. What qualifies goods as the sort of thing with which one can pay debts is the fact that they are

¹⁷ Jianfeng Zhu considers a similar case in, "Fairness, Political Obligation, and the Justificatory Gap," p. 6.

the coin in which the person owed deigned to be paid. If Carla demanded that John pay her back by sweeping in turn, fairness would require that he do so.

There is a sense in which this is correct. It matters that the cake *benefits* Carla, or at least that it is reasonably expected to do so. John's actions cannot return the work Carla does to his good if he knows that she hates sweets, or that gluten makes her ill. But Carla's demand or desire that John repay her work in some particular manner does not determine the bounds of the qualifying set. Such a criterion would be hypocritical and unequal. After all, Carla takes it to be the case that John owes her because she provided him with an unrequested benefit, selected at her discretion. To deny John the ability to return her efforts in the same fashion would be to grant herself a privilege that she refuses him. Of course, John has reason to consider Carla's preferences—he does, after all, want to benefit her—but fairness does not require he acts as she commands.

The duty of reciprocity, it follows, asks that you work to help all who labor to your benefit by doing the same.

Section Two: Cooperative Practices

So far we have focused on one-to-one interactions. My claim is that fair play is the collective analogue of these relations. In the interpersonal case duties of reciprocity arise when one individual takes on burdensome work to another's benefit. In the collective case duties of reciprocity arise when a *group* of individuals jointly take on burdensome work to another's benefit.¹⁸ In either case, beneficiaries should provide a fitting return.

On this reading, fair play holds that:

When a person has:

(1) accepted (or received)

(2) the benefits

(3) of reasonably just and fair

(4) labor that requires a sacrifice

(5) *Principle of Reciprocity*: those who stand to profit from the endeavor are obligated to provide a sufficient return to those who work to provide the benefit.

¹⁸ A few scholars suggest such a framework but fail to consider its implications. See, for example, Candice Delmas, "Political Resistance," 468 (noting that fairness is rooted in a norm of reciprocity which requires returning benefit for benefit received.)

Just as in the interpersonal case, more must be done to work out the details of proportionality. The collective case adds an additional wrinkle: a complete account will need to provide a description of how responsibility for collectively generated benefits is disaggregated.¹⁹ My own view is that the appropriate approach will consider the effort that a person expends to a specific other's good. For example, one voter undertakes towards any given beneficiary of a policy (and thus is owed in return) labor equivalent to the cost of their vote divided by the number of recipients, towards a benefit akin to their expected marginal contribution to that beneficiary's good.²⁰ However, such

¹⁹ For work that might contribute to such efforts see, for example, Avia Pasternak, "Sharing the costs of political injustices," *Politics, Philosophy, & Economics* 10 (2011), Stephanie Collins, "Distributing States' Duties," *Journal of Political Philosophy* 24(3) (2016).

²⁰ According to *QEB* a beneficiary of a large-scale collective good will thus owe any given benefactor a quite small effort on their behalf. However, should they seek to return the favor they received through direct provision of good to each beneficiary rather than by joining a similar collective effort they will thus almost certainly incur additional costs. On my view, they would bear responsibility for these additional costs in cases where it was their choice to select a more burdensome means of return.

calculations are highly contested.²¹ Fortunately, they lie outside the scope of our concern. For our purposes, it is sufficient that there is no reason to think that appropriate aggregative methods would entail that a sufficient return definitionally consists in abiding by the rules of a practice from which you have benefited.²²

Read this way, interpersonal acts and collective schemes generate the same open-ended obligations. Just as John has reason to pay his debt to Carla, so too does the beneficiary of a successful public policy, for example, have reason to pay her debt to those who supported the policy at personal cost. But it does not follow that she is obliged to go to the polls if she can work to their benefit in some other form, anymore than John is obligated to sweep.

The argument for this reading is simple: Analogous moral grounds engender analogous duties. In both individual and collective cases the feature that gives rise to moral responsibility is the same—others have done burdensome work to your benefit. Failing to repay this debt is unfair. This is consistent with how proponents of fair play

²¹ For debates about the use of marginal productivity, for example, see Thomas Mulligan, *Justice and the Meritocratic State*, (New York, NY, Routledge Press, 2018).

²² I thank an anonymous reviewer at *Ethics* for this point.

describe their concern. Rawls, for example, writes, “We are not to gain from the cooperative labor of others without doing our fair share.”²³ Klosko holds that non-cooperation is problematic because “th[e] situation is unfair.”²⁴ Jeffrie Murphy regards lawbreakers as acting wrongly because they enjoy an “unfair profit.”²⁵ Notice that the references to cooperation in these statements do no explanatory work. Just as in the interpersonal cases the complaint is that parties have an unequal relationship: one can expect to receive a better package of benefits and burdens because another labors on her behalf.

The intuition that our moral duties of repayment are comprehensive and open-ended is just as compelling in collective as it is in individual cases. Consider:

School-run: Aaron, Andy, and Chris concoct a scheme to provide their children with snacks at soccer practice. They give Sam’s children Gatorade and oranges as well, which they love. Sam hates grocery shopping and never brings

²³ John Rawls, *The Law of Peoples* (Harvard University Press, 1999), p. 96.

²⁴ George Klosko, *Political Obligations* (Oxford University Press, 2005), p.5.

²⁵ Jeffrie Murphy, *Retribution, Justice, and Therapy* (Reidel Publishing, 1978).

refreshments. Instead, he provides every participating child a ride to and from school each day.

Sam's debt would seem incomplete if he drove Aaron and Andy's children but refused to do anything to ensure that Chris received such a good. The explanation is simple—Chris does something for Sam, and Sam does nothing for Chris. In the same vein, it would seem deeply mistaken to say that Sam does not reciprocate Aaron, Andy and Chris' efforts, even though his actions are not part of, and do nothing to assist the snack scheme.²⁶ While it is important that Sam benefits them, it does not matter whether they consider his behavior part of their practice. After all, given the choice he might prefer they provide *him* a different good. It would seem mighty presumptuous of Aaron to demand that Chris go grocery shopping as Chris drops Aaron's child at his front door.

²⁶ However, the fact that there is a practice can make it possible for Sam to advance others' interests indirectly by promoting the success of the practice he knows works to their good. For example, Sam might repay Chris by driving only Andy's children if he knew that his doing so was a component part of a practice that would collectively ensure that Chris' children also received a ride.

Lest the open-ended nature of a fitting return seem to hinge on the existence of an intimate relationship between the participants, consider an analogue to our earlier case:

Collective Baking: As a runner, John benefits from a cooperative scheme the members of his apartment building set up to clean communal walkways every Saturday. He explicitly refuses to join in. However, to avoid free-riding, he bakes cakes weekly (a task that takes him at least as long) and leaves them in the community center for participating neighbors to enjoy—which they very much do.

If Carla *qua* member of the cooperative scheme were to complain while eating John's cake she would again treat him unfairly. Though different, her package of benefits and burdens remains equivalent.

What opponents of this correspondence lack is an explanation for the moral difference that adding more participants or more structure makes. But perhaps I have been uncharitable. Critics might argue that while in *baking* Carla and John are in equivalent positions, in *collective baking* they are not. To join a scheme for the production of some good is to submit to rules which restrict your liberty. Members of the sweeping

scheme thus confront a burden that John lacks. While they must sweep, John retains the freedom to choose his method of repayment. If he grows tired of baking he can switch to sundaes, bottles of wine, paperback novels.

So he can. But this freedom is unfair only if John occupies the same position as his neighbors. He does not. Some *organized* the scheme. They are bound by consent, not fair play. Others are obliged merely because they received unrequested benefits. Like John, they retain the freedom to choose their method of repayment. If they decide to do so by dedicating themselves to the scheme they became bound by commitment, not reciprocity. In this sense, the freedom that beneficiaries enjoy in repaying the benefits that they receive is precisely fair. Beneficiaries enjoy the same freedom that their benefactors enjoyed when they created or joined the beneficial scheme. Moreover, even if we were to insist that participants' loss of freedom is a cost for which a debt is owed surely John can repay it by taking on additional burdens of his own—say providing milkshakes or bags of homemade granola to accompany every cake.²⁷ If he does so, his neighbors have no further cause for complaint.

²⁷ Tosi notes this possibility. Tosi, *Rethinking the Principle of Fair Play*, 12.

Indeed, the concern for fairness that underlies fair play tells against the classic rules condition. Consider Justin Tosi's suggestion that we equate fair play with consent. The question, "why follow the rules?" he writes has, "the same general form as asking why one ought to perform one's part of a contract as the terms specify, rather than instead compensating others with some payment of equivalent value...But the same objection, when considered against consent is plainly absurd. Few would be moved...by an objection to consent theory that the parties to the agreement owe *something* to one another, but that what they agree to is simply one thing among many that might specify their obligations."²⁸

I agree. Few would find that notion of consent compelling. But this reflects an important sense in which consent is meaningfully different than reciprocity. When two parties make a contract, the resulting obligation is generated by the fact that they each *made a commitment* as to what they would do.²⁹ What is at stake is the parties standing in mutual trust. A promiser solicits confidence from the promisee.³⁰ Violating the promise

²⁸ Tosi, 12.

²⁹ In the United States, contracts are held to represent enforceable promises.

³⁰ Seanna Shiffin, for example, argues that the ability to make binding promises is central to the ability to engage in moral relations with others and thus to have an

thus does damage to the moral relationship even if the promisor is otherwise compensated for the harm caused by their reliance. I believe this feature in part explains why our objection to such compensation dissipates in the context of large corporate exchanges where interactions less embody meaningful interpersonal relations.³¹ We see this reflected in the fact that contract law—unlike most moral accounts of promising—does not demand specific performance and endorses actions like efficient breach.³²

Reciprocity is different. What is at stake is not trust—after all, no commitments have been made—but *fairness*. The moral relation is grounded in the fact that one has taken on costs to the other's benefit. The equality of *this* relationship can be maintained by repayment in the form of actions that work to the former's benefit. There is thus nothing at all absurd in holding that the parties owe *something* to one another, but that the specific good that the beneficiary received is only one thing among many that might satisfy the resulting obligation. It is the extent of cost undertaken and benefit provided,

autonomous life. Seanna Valentine Shiffin, "Promising, Intimate Relationships, and Conventionalism," *The Philosophical Review* 117(4) (October, 2008).

³¹ Seanna Valentine Shiffin, "The Divergence of Contract and Promise," *Harvard Law Review* 120(708) Jan. 1. 2007.

³² Restatement of contracts (second) §355.

not the particular good received, that specifies the obligation. Consequently, nothing in the nature of benefiting from a cooperative practice requires joining in.

Given all this, fair-play is best understood as one instance of a broader principle of reciprocity with which it shares moral grounds (the delivery of a benefit) and which generates the same open-ended obligation in both collective and interpersonal cases (the provision of a sufficient return). Why, then, have the cooperative and rules conditions enjoyed such widespread appeal? It is to this that we will turn in the next two sections.

Section Three: Reconsidering the Cooperative Scheme

Start with what the cooperative scheme requirement. This notion—that concerns for fair play only arise when *a group of people undertake coordinated efforts with the aim of producing a specific shared benefit*—is prevalent. Indeed, it has been said to constitute the principle's most fundamental feature.³³

³³ [redacted]

Though repeated like a shibboleth the claim has seen surprisingly little in the way of defense. Even Justin Tosi, one of the few who directly addresses the requirement, simply states this cooperative component to be a distinctive feature of fair-play, providing no independent warrant.³⁴ Still, we can construct potential explanations.

Any justification must identify and explain the morally relevant difference between collective and interpersonal cases. One possibility is that the interpersonal context is governable by explicit consent in a way that the collective context is not. Classically, the schemes that interest advocates of fair play involve large groups of people and so-called public goods, characterized by (among other things) jointness in supply such that the provision of the good to one person entails supplying it to all.³⁵ These features make consent unworkable. It is simply too hard to negotiate terms, communicate agreement, or limit benefits to those who assent. As even proponents of political obligation have long recognized, it is not plausible that citizens meaningfully assent to the laws of their nation. By contrast, I can certainly agree to have you water my plants in exchange for a ride to the airport.

³⁴ Tosi, 8-9.

³⁵ Garrett Cullity, *Public Goods and Fairness*, p. 9.

While it is true that the specific features that make consent difficult in collective schemes are absent in the interpersonal context, similar concerns can arise.³⁶ Recall *Cat*. Your helpful neighbor Mary may not know where you are traveling. She cannot contact you to obtain your consent for the benefit that she provides. Or recall *Baking*. In sweeping the steps, your diligent neighbor Carla provides a benefit to every passer-by. Conversely some collective cases *can* plausibly involve consent—paying the fare to enter the subway—or private goods, as in the case of picking vegetables from a communal garden. An interest in distinguishing cases functionally governable by consent thus does not vindicate the collective scheme requirement, though it might concentrate our attention in other ways.

A second possible justification for the requirement focuses on the wrong that is supposed to be present in violations of fair play, arguing that is absent in the interpersonal context. Free-riding, many contend, is unfair because it contravenes impartiality. Those who avoid contributing permit themselves a privilege that they

³⁶ Indeed, I will shortly argue that such circumstances are precisely where duties of reciprocity are most relevant.

would deny to others.³⁷ If such unjustified partiality is possible only in collective activities, it would merit drawing a distinction between the individual and collective cases.

Isabella Trifan has advanced an argument that might seem to warrant this conclusion. Differential treatment, she notes, violates impartiality only when the parties are similarly situated. On her account, non-participants and contributors are so positioned only when they share:

The Free Rider's Preference: I prefer that others pay for this valuable collective good that I can enjoy for free and for which I would be prepared to pay, in the conditions under which it is offered, if I had to.

Read this way, those who prefer not to receive a given good do not act unfairly if they fail to contribute to its production, while those who participate in a practice for their

³⁷ This approach is defended by Cullity and Isabella Trifan, "What Makes Free-Riding Wrongful? The Shared Preference View of Fair Play," *Journal of Political Philosophy* 28(2) (2020).

own extraneous reasons can complain of no unfairness when others decline to join in. Respectively, they commit and suffer no failure of impartiality.³⁸

Setting aside Trifan's reference to collective goods which goes unexplained and undefended, we can see in this claim the seeds of a potential distinction between the collective and interpersonal contexts. Participants in collective practices, the argument might go, are situated to satisfy the free-rider's preference in a way that those in interpersonal exchanges are not. The schemes that traditionally concern advocates of fair play involve the provision of generally desirable goods—public health, safety, and so on. These goods (or so advocates would have us presume) satisfy the *FRP* for every person: everyone desires to receive them but nobody has sufficient independent reason to take up the actions necessary to ensure their provision.³⁹ By contrast, interpersonal interactions often involve idiosyncratic goods. I have no interest in watered plants, you none in washed cars. Therefore, advocates might argue, the cases differ in kind. Since parties in the interpersonal context are not similarly situated, failures of repayment do not violate impartiality. If they give rise to a moral concern, it is not one of fairness.

³⁸ Trifan, 169.

³⁹ Many like Klosko take only such presumptively beneficial goods to trigger fair play obligations.

But even ignoring the fact that many interpersonal interactions *do* satisfy this standard (sometimes we both have cats who need care) and many collective schemes *do not* (I hate the operettas my neighbors pipe through the airwaves) this narrow interpretation of the *FRP* misunderstands the way in which persons can be similarly situated so as to justify complaints about partiality. While we often lack shared interest in particular goods—watered flower gardens, washed cars—we do have a broader mutual concern for a world where people *provide benefits that enrich our lives*. My life goes better when people go out of their way to return my lost wallet; their lives go better when I refill the printer paper, drop off cookies in the break room. Each of us equally desires others not take advantage of our own such efforts. You do not want your work on my behalf to go unanswered, I want the same for my efforts. Read this way our preferences align just as the *FRP* requires. Each of us desires a good (that others labor to make our lives go better) and each of us wishes not to bear the costs of doing the same in turn but would prefer doing so to a world where nobody works to our benefit.

Notice that nothing in this account of impartiality vindicates the cooperative scheme requirement. While cooperatives can supply us with valuable benefits that we would prefer to receive for free, individuals can surely do the same. My life goes better

if you babysit when I'm in a pinch, yours if I mow your lawn when your work schedule proves overwhelming. With regards to such labor we are thus similarly situated in precisely the manner that generates concerns for impartiality.

This is sufficient for our purposes. Still, it is worthwhile to investigate this way of grounding fair play a little further since doing so pushes us to clarify the principle of reciprocity in a way that makes the view more attractive to both proponents and classic critics of fair play.

Trifan's interest is in achieving what critics have long castigated advocates of fair play for failing to do: drawing a principled distinction between predatory benefits and behaviors that appropriately generate demands for reciprocity. Consider the following case, proposed by Garrett Cullity:

Enterprising Elves: On the first day in my newly carpeted house, I leave my shoes outside. In the morning I am delighted to find they have been extraordinarily well repaired. I am less delighted when I receive the bill.⁴⁰

Many have the intuition that cases like this create no duties of fair play despite the provision of a genuine benefit, telling either against the existence of such a duty or demanding an exception. But what might justify such an exemption? Trifan's explanation follows the narrow *FRP*. "The elves," she notes, "are not interested in the benefit of having their shoes repaired."⁴¹ Thus failing to repay them is not a breach of fairness. But we have already seen that that such reasoning produces the wrong result in other cases. Think back to *cat*. On this reading Mary's work looking after your pet generates no claim for compensation since she has no interest in having you feed the cat that she doesn't own. This is troubling. While something seems off about the elves' behavior, Mary's labor seems precisely the sort of thing that should give rise to concerns of fairness.

⁴⁰ Garrett Cullity, "Moral Free Riding," *Philosophy and Public Affairs* 24(1) (1995) pp. 10.

As we have discussed and will see in section four, a second problem with this case is that the elves take themselves to be able to dictate the terms of their repayment.

⁴¹ Trifan, 169.

The revised FRP suggests a more appealing alternative. The issue with the elves is not that they do not want their shoes cleaned. The existence of reciprocal obligations does not hinge on whether the parties share an interest in the same particular goods. Instead, the problem is that the elves' behavior is not an instance of the sort of labor that we each have reason to wish others take up. At issue is reciprocity's relationship to our broader political and social architecture. Free-lance do-gooding is not the only way we seek to advance our projects. In many cases institutions beyond others' kindness—the market, contract, consensual negotiation—better track our interests, are more effective and efficient means of benefit. We do not wish to frustrate or erode these mechanisms. Actions that contravene or threaten these practices thus do not generate demands of fairness. Beneficiaries can genuinely conclude that they prefer others not take up or reward such acts and thus make no unjustified exception of themselves if they refuse to repay.

This is precisely where the elves fail. Far from attempting to fill in the interstitial gaps where extant practices are unable to fully promote our aims, theirs' is a move to institute a system ill-suited to best advancing our interests, at an advantage to themselves. In trying to build a *business* premised upon the provision of an un-requested benefit at an unnegotiated cost they acted in a way that they should expect to

ultimately harm their victims and benefit themselves vis-à-vis its consequences for extant or potentially available commercial enterprises. As Cullity writes, “a commercial system that recognized this sort of liability would be so cripplingly inefficient that it would impoverish us...”⁴² This distinguishes predatory shoe-shining from behavior like Mary’s that rightly triggers a concern for fairness.

This adds nuance to our earlier account of reciprocity. In place of the claim that the bare provision of benefit generates obligation, we see the:

Refined Principle of Reciprocity: When somebody undertakes a burdensome activity that advances others’ interests in ways that other institutions like markets or consent are not effectively suited to do, those who stand to profit from the endeavor are obliged to provide a sufficient return.

There is much to recommend this version of the principle. In addition to its ability to distinguish predatory benefits, the account of our obligations that the principle supports provides greater explanation for the role and limits of reciprocity in

⁴² Cullity, 14. Here I think strict generalization goes too far. It matters whether there is or likely could be an actual commercial system, not whether it would be bad if this were a widespread practice compared to some merely *possible* alternative.

our moral lives, is more consistent with widely shared intuitions, and is better able to respond to traditional critics.

Consider the notion—inspired by Nozick, endorsed by many, and often used as evidence against fair play—that there is something deeply off-putting in the case of a person thrusting books through our window and insisting they are due a return.⁴³ The refined principle can explain what is wrong with such behavior. As in the case of the elves, such actions almost certainly fail the principles' desiderata. Even in the pre-Amazon days there were surely more accurate means of literary benefit available. But even if this were not so, the principle would still be able to explain why something feels so distasteful about the case. The book-pusher is failing to approach a potential beneficial act in the right way. Since reciprocity's value lies in its ability to fill the interstitial gaps between other practices like markets or consent, we should exercise caution when we undertake ad-hoc efforts on others' behalf; asking consent where possible, being humble in our assessment of others' desires, taking precautions so as not to undermine practices better suited to the ends of those to whose good we labor. The book-pusher does no such thing.

⁴³ Nozick, *Anarchy, State, Utopia*, 95.

Unlike the classic account, the vision of fair play undergirded by the refined principle is thus able to provide guidance not only as to when obligations arise but also as to how benefactors ought to behave when they seek to work to others' good. In this way the principle can make sense of reactions and responses that otherwise seem puzzling, such as the fact that certain acts of genuine benefit can generate feelings of resentment or anger rather than a felt duty to reciprocate. Take a case familiar to many—the warm sweater pushed upon you or hidden in your bag over your protestations by overzealous parents on a day that proves unexpectedly chilly. The sweater is a real good—perhaps even one that in your heart of hearts you would have been willing to pay to receive in your moment of need (you might have run and bought a new sweater when you felt the late afternoon chill). Yet the reaction is typically irritation, not a sense of obligation. Our refined account provides an explanation. Even if the act provides momentary benefit it does so in a way that contravenes ultimately more efficient practices like consent that are readily available in the relevant context. The beneficiary thus makes no mistake in feeling disrespected rather than obliged.

Second, this account is better positioned to respond to the concerns that have often motivated critics of fair play. Prominent skeptics like A. John Simmons and Robert Nozick are discomforted by the fact that fair play (as they read it) holds that persons can be obligated against their will by the receipt of benefits they do not (and perhaps

would not) have consented to take. Simmons, for example, writes that it is “quite irrelevant to our obligations of *fair play*...that the benefits we receive are real and substantial, even according to our own values and preferences.”⁴⁴ On his view we act wrongly only if we *take advantage of others* which he believes we do only if we knowingly and willingly *accept* a good.

As we have developed it, the reciprocity approach can make sense of the value that Simmons and others place on acceptance without sacrificing the intuitive appeal of fair play.⁴⁵ On our reading of the FRP, a person violates impartiality if they are willing to accept others’ work on their behalf but unwilling to repay such labor while expecting reciprocation for their own such efforts. With regards to *this* proposition, the kinds of pro-attitudes that advocates take to characterize acceptance prove morally significant. A person who genuinely does not wish others to labor to her good of their own volition

⁴⁴ Fair play and political obligation 20 years later, 33.

⁴⁵ It is worth noting that once you adopt the hybrid account of benefit I detail in section one the acceptance condition is far less attractive since it involves cases where people reject goods that are beneficial to them by their own lights. Nonetheless, those of us who have spent time with toddlers and teenagers can recognize the real possibility of attitudes like those Simmons’ picks out.

under any condition, or who would never hold it against others if they failed to return her own such efforts does not take advantage of others if she refuses to repay their work on her behalf. Her actions are impartial: she grants herself no exception she denies to others. It thus cannot be said that she acts unfairly, though she may be criticizable on other grounds.⁴⁶

But the same is not true with regards to those who merely refuse *specific* goods—fed cats, mowed lawns. After all, the very thing they have accepted is that others will seek to advance their interests in just those cases where actions like consent or contract are impossible or inexpedient. Even if acceptance has moral significance, persons can thus be obligated by the receipt of goods to which they do not knowingly and willingly accede. Skeptics' error lay in focusing on the attitude people take to the receipt of particular goods, rather than others' willingness to work towards their behalf.

Finally, this reading of the principle of reciprocity can help answer our question: why has the collective scheme requirement seemed appealing if there is so little that can

⁴⁶ Unlike persons who refuse particular goods, I think it is questionable whether any persons exist who genuinely hold this set of attitudes. Still, we can acknowledge the moral status such people would hold should they exist.

be said in its favor? One explanation is that cooperative efforts to provide public goods quintessentially instantiate the refined principle. They provide important resources—health, security, environmental cleanliness, and so on—in contexts to which market and other institutions are (at least on some counts) poorly suited, at costs people would prefer not to pay. This explains why they attract our attention and seem to possess such moral significance. But they are not the only kind of act that satisfy the principle's desiderata. Individuals can equally fill gaps where such practices fail to fully satisfy our needs. Mary does just that if she takes care of your forgotten cat when she lacks an easy way to get ahold of you. Thus, while the refined principle can explain the felt appeal of the collective scheme requirement, it lends the demand no justification.

A final potential explanation for the cooperative scheme condition comes from the fact that schemes support publicly articulable rules. This is important if—as the rules condition holds—beneficiaries are required to abide by the directives of practices from which they benefit. If there are no publicly articulable rules then there is nothing to which beneficiaries can properly be held to account. But as we shall now see, the rules condition is itself erroneous.

Section Four: Reconsidering Rules

While the appeal of the cooperative scheme requirement seems to rest on a misreading of fairness' moral grounds, the attraction of the rules condition lies in an overlooked practical limitation on how we can provide a fitting return in large-scale settings.

It might seem to follow straightforwardly from our earlier discussion of fitting returns that the rules condition is mistaken. Beneficiaries can pay back the goods they received in any valuable coin: they need not do so by acting in accordance with the rules of the scheme from which they benefited. But I want to argue that the situation is more complicated. While the rules condition is not—as advocates and critics have long believed—a constitutive feature of the *nature* of fair play, it is often a practical requirement to the *satisfaction* of such obligations.

This is where the difference between small-scale interpersonal exchanges and large-scale collective practices becomes significant. To see why, think back to our earlier discussion of fitting returns. Recall that such returns must have the right *scope* and *content*. Actions must *benefit* all the relevant *benefactors*.

Efforts to provide a fitting return for benefits that accrue from large-scale cooperative practices run up against two challenges: *the problem of reach* and the *problem*

of diversity. The issue is this—there are many people to whom a benefit is due, and each of those people have different tastes and desires. Jessica loves sweets but can't eat gluten, Asa hates sugar but loves bread, Marta likes lilies but dislikes roses, Emily enjoys roses but not orchids, and so on. In small-scale cases this poses no problem. You can repay Jessica in flourless cake, Asa in sourdough, Marta and Emily in the relevant bouquets.

However, such piecemeal solutions prove practically impossible in large-scale cases. Think back to Sara and Jacob with whom we began our discussion. They each owe a debt to every member of their community who contributed to the transportation and health systems from which they benefit. But it is not possible for them to identify—much less satisfy—the individual aims or preferences of the thousands of people to whom they owe repayment. While they might know that their neighbor would love her garden watered, or their friend would appreciate a round of babysitting, they cannot reasonably say the same of everybody in their community. To satisfy their duties of reciprocity they must therefore do something that will advantage *all* the people who worked to their benefit.

This is a very tall order. Fortunately, there are actions that they know qualify—those that promote the very values whose receipt triggered their obligations in the first

place. Sara and Jacob have every reason to believe that those who benefited them value (respectively) transportation and health. That, after all, makes sense of why their benefactors choose to participate in schemes to promote those goods. Contributions to these goods thus constitute benefits to their patrons. In practice the recipients of benefits from large scale schemes can therefore satisfy their obligations only by advancing the *sort* of goods those very practices are meant to promote.

This explains the appeal of the rules condition but is not enough to reinstate the requirement. As we saw earlier, the condition holds that a beneficiary is, “bound to do their part as defined by the rules of that practice.” What we have shown is that a beneficiary is bound *to advance the goods at which the practice aims*. There may be some conditions in which the two are the same, where the only way to promote the relevant goods is to do as the practice commands. But in most cases large-scale practices and the goods they produce are complicated enough that that it is possible to achieve the former without the latter. Consequently, the rules condition is mistaken.

Consider again Sara and Jacob who are duty-bound to advance (respectively) transportation and health. To say that they must do their part as defined by the rules of the practice is to say that they must buy a ticket at the requested price, pay their taxes. These are certainly contributions. But there are plenty of other ways to advance the

relevant goods. Sara might plow streets, dig out neighbors' vehicles, develop a more efficient car-battery. Jacob might volunteer at a vaccine clinic, donate to mental health care.

We should, however, be careful. The situation is not so simple. What constitutes a contribution capable of discharging duties of fair play in such cases is complicated by two-factors. The first is the breadth of people whose interests must be advanced. Many actions that promote the right *kind* of good fail to reach all the people to whom a debt is owed. It is not enough to simply improve *somebody's* access to health or transportation.⁴⁷ Sara benefits *you* if she plows the snow off your street—but that does nothing for a person who also helped fund the subway she rides but lives on the other side of town and never drives your way. The second complication has to do with the collective production of the goods in question. Often the successful provision of these goods depends on alignment between the actions of many people. Your brilliant transit plan is of little value if nobody implements it. Sara's innovation is for nought if the battery she designs is never installed in an automobile.

⁴⁷ I do think that this could be sufficient in cases where benefactors simply desire that goods be advanced, no matter who receives the benefit. However, this is not the typical mindset with which people pay taxes.

It follows that you can only view yourself as making the difference necessary to satisfy your duties of reciprocity if you act as part of a *joint effort* to benefit the relevant population, that is, the entire set of people who worked to your good. While you alone cannot achieve the necessary benefit, we together can. When you contribute to the joint effort, you can see yourself as advancing the relevant goods and thus as promoting the interests of your benefactors.

Such joint agency requires that participants share a commitment to appropriately meshing their sub-plans.⁴⁸ In small-scale cases this is easy to achieve. You and I can succeed at waltzing together by chatting briefly about choreography or noting how each other moves. But in large-scale cases such alignment is harder to realize.⁴⁹ The

⁴⁸ Michael Bratman, *Shared Agency: A Planning Theory of Acting Together* (Oxford University Press, 2014); Scott Shapiro “Massively Shared Agency” in *Rational and Social Agency: Essays on the Philosophy of Michael Bratman*, eds. Vargas and Yaffe (Oxford University Press, 2014).

⁴⁹ Jeremy Waldron discusses the importance of the different ways that we might combine behaviors to produce benefits. Jeremy Waldron, “Special Ties and Natural Duties,” *Philosophy and Public Affairs* 22 (1993): 3–30.

pattern of behavior required to ensure the occurrence of the tens of thousands of tasks necessary to maintain a transportation or health system is complex; such schemes are rarely achieved by individuals going it alone without structured coordination. To aim at advancing the goods that such collective actions generate is thus to commit to promoting a shared plan for their achievement, and typically an organized one.

The rules of a cooperative practice, we might argue, are a central component of the relevant shared plan. That people pay their taxes or buy a ticket is a feature of how we together aim to bring about transportation and health. There are other ways we might have coordinated to provide these goods, but this is the plan we choose. If Sara and Jacob do otherwise, they cannot see themselves as part of the relevant joint effort, and thus cannot discharge their debts.

In the ordinary case this gives each of us good reason to abide by the rules of (large-scale, complex) practices from which we benefit. It thus makes sense that the rules condition has appeared so attractive. But it matters that the relevant reasons are at heart pragmatic, not a feature of fair play's moral constitution. The structured component of most complex practices has limitations. Lawmakers, for example, routinely lack the knowledge, attention-span, resources, or interest to provide adequate

direction to effectively produce goods like transportation or health.⁵⁰ The success of these projects thus depends on enough others voluntarily stepping in to fill the gaps. Those who have the knowledge to recognize such spaces and are positioned to help rectify these limitations do work that advances the scheme. They can therefore contribute to the joint project in ways other than abiding by the rules of the scheme. When they do so, they pay back their debts. Even in practice, the rules condition thus has its limitations.

Section Five: The Case for Reciprocity

Understanding fair play as a species of reciprocity has several advantages. We have already seen one of the most prominent. Unlike the traditional account, this approach places beneficiaries and benefactors on an equal level. Both can decide the form in which they advantage the other, limited only by the requirement that their actions reasonably aim to provide a benefit. Neither has the right to simply dictate the terms of the relationship. This is consistent with treating persons as equals.

⁵⁰ Jody Freeman “The Private Role in Public Governance” *New York University Law Review* 65 (June, 2000), 13.

But there are many other benefits to this approach. Notably, recognizing fair play as merely one instance of reciprocity evinces greater and more parsimonious explanatory power than its traditional analogue.

Consider that the view creates continuity across our intuitions. The classic approach to fair play presumes that there are two separate principles: one for individual interactions and one for collective schemes. It is puzzling why such a distinction should exist. Picture, for example, two cases:

Collective well: A large group of neighbors join together to dig and maintain a well on public land at considerable expense. Jones refuses to support the process. However, each night he sneaks down to the well and takes some fresh water.⁵¹

⁵¹ This case is inspired by A. John Simmons, "The Principle of Fair Play," *Philosophy and Public Affairs* 8(4),

Individual well: Alice digs and maintains a well on her property at considerable expense. Jones refuses to support the process. However, each night he sneaks down to the well and takes some fresh water.⁵²

The classic approach distinguishes these situations, but struggles to explain why.⁵³ After all, in each case, the moral concern is the same. Jones acts *unfairly*, acquiring an unjustified profit by free-riding on the hard work of others.

By contrast the reciprocity approach has an easy answer. There is no moral difference between the collective and individual cases. The same principle applies in both instances. However, there *is* a practical distinction. In the former case, Jones has pragmatic reason to join the scheme because it is (barring extraordinary powers and knowledge of his many neighbors) the only way that he can reliably repay those who

⁵² Daniel McDermott raises a similar concern. Daniel McDermott, "Fair-Play Obligations," *Political Studies* 52(2) (2004) pp. 220-22.

⁵³ Tosi, for example, simply insists that the principle does not apply to non-collective cases. Tosi, 9.

have worked to his benefit.⁵⁴ In the latter case there is no such pressure. Jones can easily repay Alice in any number of ways: cat-sitting, cookies, car washes, depending on her circumstances. The reciprocity approach thus makes sense of what would otherwise seem discordant intuitions—the widely shared belief that our friends and neighbors gain no right to specific performance when they act to our benefit, and the simultaneous belief that we ought to abide by the rules if we are to treat our co-citizens fairly.

In addition, the reciprocity view offers a more appealing account of cooperative schemes, in two ways. It advances a more attractive picture of how beneficiaries should relate to causally non-productive rules, and it provides better guidance to those of us who inhabit less than perfectly fair social schemes.

⁵⁴ Even if we reject my earlier claim that others' labor directed to our good is itself an obligation-triggering benefit and insist that Jones does not acquire a moral responsibility until the well is already completed, he can still pay his debt by contributing to ongoing maintenance. The same holds true more generally since public goods require ongoing efforts. I thank an anonymous reviewer at *Ethics* for drawing this to my attention.

The classic fair play approach suggests that people must do *whatever* is demanded by the rules of the cooperative scheme from which they benefit, so long as the scheme is sufficiently fair and just. It follows that they can be required to undertake actions that do nothing to create or sustain the good that triggers their obligation. Say, for example, that we find ourselves in a sinking boat whose Captain announces that we must all bail out the ship in rhythm and declare Bon Jovi the best singer ever. By this logic, fair play requires not just that you do the helpful work of wielding your bucket, but also that you announce your eternal love for “Living on a Prayer.” But why does *fairness* require you do the latter?⁵⁵ For that matter, why do the benefits you receive from laws that provide essential government services like public safety or access to a vaccine make it *unfair* of you to leave a package in your mailbox for a friend to pick up, go trick or treating at fifteen, or wear your religious habit while teaching an elementary school class?⁵⁶

⁵⁵ Michael Huemer raises this objection to fair play. *The Problem of Political Authority* (Palgrave-MacMillan,2013), 90.

⁵⁶ Mailbox access restricted to postage paid U.S. Mail, https://about.usps.com/news/state-releases/tx/2010/tx_2010_0909.htm; Nuns banned from wearing habit in classroom, *Premier Christian News*, <https://premierchristian.news/en/news/article/nun-banned-from-wearing-habit-in->

The alternative position is equally unappealing. Critics suggest that beneficiaries have *no* reason to act in accordance with the parts of a practice that do not causally contribute to a beneficial outcome. “One must,” Michael Huemer writes, “examine the content of a particular law to determine whether the behavior it enjoins genuinely contributes to the provision of political goods before one can say whether one has *any* fairness-based reason to follow the law.”⁵⁷ The conclusion that orchestral music contributes not at all to the education of health-workers from which you benefit thus leaves you with no reason at all to pay that portion of your taxes which supports the arts.⁵⁸

The reciprocity account offers an appealing middle ground. Fairness does not require that participants do *whatever* a scheme demands (indeed, it does not in theory require that one do *anything* a beneficial scheme requires.) However, you do have *reason*

[classroom](#), Is 15 Too Old to Trick-or-Treat? One City said Yes, *New York Times*,

<https://www.nytimes.com/2019/10/24/us/trick-or-treat-age-limit.html>.

⁵⁷ Huemer, 91 (emphasis added.)

⁵⁸ George Klosko concedes as such in “Multiple Principles of Political Obligation,” *Political Theory* 32(6) (2004), 807-808.

to take up the non-causally contributive components of a collective practice: they are something that (at least many of) your benefactors *want*. That is, presumably, why they are part of the scheme.⁵⁹ All else being equal, the action thus constitutes *a* way of contributing to their good—even if it provides no further value.⁶⁰ You thus have a morally relevant *reason* to take up the task, even if you are not *required* to do so as long as there exist alternative coins in which you can pay your debts. Praising “Bed of Roses” does nothing to keep the ship afloat—but it provides something valued by your Jovi loving shipmates who work to your benefit.

Similarly, the reciprocity view presents a more attractive account of how we should approach the often-imperfect schemes which so many of us inhabit. The classic reading of fair play holds that a person should *act in accordance with the rules of the cooperative scheme from which they benefit* so long as the scheme is *sufficiently fair*.

⁵⁹ This has the additional benefit of explaining the diminution of such obligations in cases where elite or special interest capture raises doubts that such goods are in fact desired by many benefactors.

⁶⁰ Because I endorse a hybrid account of benefit, I would exempt cases where benefactors are interested in an act because they erroneously believe it instrumental to some good.

The problem is that most of the schemes that proponents have in mind are in practice notably unequal. It is harder for single parents to take time off to vote—and if they do, they will likely find voter ID laws more burdensome, polling places more limited, and so on. Poor people face higher effective tax rates, and are more likely to have their lives limited by rules against loitering, or occupational licensing restrictions on professions like shoe-shining.⁶¹ They are more likely to be the victims of over-policing or police harassment, and more likely to take on dangerous ill-regulated jobs like logging, or military service, or be sexually assaulted in the workplace.⁶² In practice, they are less

⁶¹ For a helpful discussion of some of these differential burdens, see Tommie Shelby, “Justice, Deviance and the Dark Ghetto,” *Philosophy and Public Affairs* 35, no. 2 (2007).

⁶² Radley Balko, “The ongoing criminalization of poverty,” *Washington Post* May 14, 2015, <https://www.washingtonpost.com/news/the-watch/wp/2015/05/14/the-ongoing-criminalization-of-poverty/>; Poverty Explains Racial Bias in Police Shootings, *Replicability-Index* <https://replicationindex.com/2019/09/27/poverty-explain-racial-biases-in-police-shootings/>; Leah Fessler, “The poorest Americans are 12 times as likely to be sexually assaulted as the wealthiest,” *Quartz*, <https://qz.com/1170426/the-poorest-americans-are-12-times-as-likely-to-be-sexually-assaulted/>.

likely to enjoy physical security and other goods, but more likely to suffer the burdens of surveillance, arrest and detention.⁶³

Faced with these failings, proponents of the classic approach have two options. They can declare the extant distribution of benefits and burdens *unfair*, and thus conclude that principles of fair play do not apply.⁶⁴ Here and now, citizens have no

⁶³ Benjamin Harris and Melissa Kearney, "The Unequal Burden of Crime and Incarceration on America's Poor," *Brookings* (April 28, 2014) <https://www.brookings.edu/blog/up-front/2014/04/28/the-unequal-burden-of-crime-and-incarceration-on-americas-poor/>; Abigail Elise, "Poor people are more likely to be victims of violent crimes, says report," *Wesh 2* (March 18, 2017), <https://www.wesh.com/article/poor-people-are-more-likely-to-be-victims-of-violent-crimes-says-report/9143572#>; Barton Gellman and Sam Adler-Bell, "The Disparate Impact of Surveillance," *The Century Foundation* (December 21, 2017), <https://tcf.org/content/report/disparate-impact-surveillance/?agreed=1>.

⁶⁴ An exception is Candice Delmas who holds that fairness creates duties to resist injustice. Delmas does not, however, consider how to approach cases where the unfairness is real, but not radical, and does not consider whether citizens could in such cases retain duties to support—rather than merely reform—institutions.

debts of fairness to each other. Or they can go with a loose standard and insist that the distribution is *sufficiently fair* to generate these obligations. But given the rules condition, to go this latter route is to hold that poor and marginalized citizens *have a duty of fairness* to take on the unequal share of the burdens of social life apportioned to them by our social schemes. Both choices are unappealing.

The reciprocity approach eschews both these unattractive conclusions. Because it does not require that beneficiaries assume their assigned roles, it can acknowledge the real benefits a scheme provides without demanding that beneficiaries undertake actions that impose unjustified burdens. Their duty is to provide a sufficient return for the goods they actually receive. In an unevenly arranged scheme, that will permit some beneficiaries to undertake less work than the rules of the scheme ask of them.⁶⁵ The reciprocity approach thus better achieves what the traditional fair play approach purports to realize: it treats persons as equals who should be granted equivalent rights and subject to equivalent demands, while recognizing the genuine significance of collectively produced goods.

⁶⁵ For an example of how this might happen, see Shelby (2007), also Brookes Brown, "Reciprocity Without Compliance," *Philosophy and Public Affairs* 48(4), October, 2020.

The principle of fair play has been subject to serious critiques, to which the reciprocity account offers appealing answers. The first has to do with the extent of our obligations. Many scholars fear that adopting an expansive view of fairness results in too capacious a responsibility. Ronald Dworkin writes, “there is no general moral principle that requires me to contribute to the cost of producing what benefits me: I may be selfish when I pass a street musician by without tossing him a bill, but I violate no obligation even if I have enjoyed his music—even if I have paused to hear more of it.”⁶⁶ To hold otherwise, Justin Tosi suggests, would be “absurd.” He writes, “Positive externalities of others’ actions are all around us, yet we do nothing wrong by enjoying these free benefits of social life without contributing to their production.”⁶⁷ The challenge is that for proponents of fair-play like Tosi, this kind of response seems utterly ungrounded. Why do we owe some people who provide us with non-requested benefits repayment for their work but not others? Advocates appear to be faced with an unhappy dilemma – either reject that the mere receipt of benefits generates obligations (and thus meaningfully leave fair play itself ungrounded) or conclude that we are under a constant and near all-encompassing duty to toss dollar bills at almost everyone we pass.

⁶⁶ Ronald Dworkin, *Justice for Hedgehogs* (Harvard University Press, 2011), pp. 303.

⁶⁷ Tosi, 5.

The reciprocity approach provides a more satisfactory response. It acknowledges that we gain tremendously from those around us, who provide “free benefits of social life.” This is what President Obama had in mind when he said, “If you were successful, somebody along the line gave you some help...Somebody helped to create this great American system that has allowed you to thrive.”⁶⁸ And it is not just infrastructure. We benefit from the beauty that others bring to our world, the resources they add to our collective stock of ideas. I am a better philosopher because I overhear the conversations of my colleagues, a better chef because somebody else tested spices, a better parent because others have posted carefully researched advice on the internet.

Some of these benefits impose no attendant burden. My friends and colleagues and neighbors are better off because I plant flowers in my yard, raise bees for honey, learn to read. But these actions do not set back my interests in comparison to the position that I would enjoy were another to act in my place. I do not wish it was *they*, *not I* who had taken on the relevant role. However, some benefits come at a cost. The roads we drive, the schools we attend, the public gardens we stroll are built on others labor. And this generates obligations. This is precisely why, as Obama noted, “There are

⁶⁸ President Obama, July 13, 2012, Roanoke Virginia.

a lot of wealthy, successful Americans who...want to give something back. They know they didn't...get there on their own." When others do uncompensated work to our benefit, we owe them, the street musician no less than any other.

But—and this is where the reciprocity account demonstrates its advantage over classic approaches to fair play---that you benefit from the street musician does not entail *that you are obliged to toss him a bill*, however much he might like you to do so. Though that would be one way of paying your debt, there are many others. Perhaps you support the arts, perhaps you lobby to allow busking in the subways, perhaps you join the musician's efforts to provide joy and beauty by contributing in your own way. Just as each of us gain greatly from the benefits of social life, each of us also does much that adds value.⁶⁹ Discharging our expansive duties proves every bit as easy as acquiring them.

This addresses the concern at the heart of Dworkin and Tosi's worry: wouldn't it be altogether too much work if we had to repay the positive externalities we gain from those around us? The price, we can now see, is rarely so high. Our friends, neighbors,

⁶⁹ Jason Brennan advances a version of this point with regards to business activity. Jason Brennan, "For-Profit Business as Civic Virtue," *Journal of Business Ethics* 106 (2012).

and community members regularly do us good at little cost. I am better off because my neighbors stop to chat,⁷⁰ or plant flowers⁷¹, or join me on a community soccer team.⁷² Insofar as any of this constitutes labor on their part, I pay my debts almost without thinking—I give them a thumbs up as they run by, enthusiastically high-five their goals even when I am tired, take the time to hang funny Halloween decorations. Even when the price is more exorbitant, I enjoy discretion over my method of repayment. What matters is that I work to improve their lives. And of course, should the cost ever truly become too dear, my obligations drop off. For this to be true is just to say that I have already paid my debt.⁷³

⁷⁰ L. Fratiglioni et al, “Influence of social network on occurrence of dementia: a community-based longitudinal study,” *Lancet* April 15 2000.

⁷¹ Marc Zimmerman, “Want to fight crime? Plant flowers with your neighbors,” March 22, 2018 *The Conversation*.

⁷² Eva Oberle et al, “Benefits of Extracurricular Participation in Early Adolescence,” *Journal of Youth and Adolescence* 48 (2019).

⁷³ This is an advantage of approaches to proportionality like QEB which account for the burdens involved in producing a benefit.

Critics of fair play often complain that the view is inconsistent with important values like gifting and friendship. “Others,” Daniel McDermott writes, “do not gain rights against us when we accept gifts from them, since if a gift came with an obligation to reciprocate then it would no longer be a gift...any claim that they had gained such a right would be inconsistent with the very concept of friendship, since this would reduce friendship to the status of a contractual relationship, one in which the rights of the parties would shift after every friendly gesture and every beneficent act.”⁷⁴

It would certainly tell against fair play if it made the realization of these values impossible. The reciprocity approach, however, has the resources to explain our intuitions in these cases. Start with gift-giving. The practice exists in two forms. Some gifts *do* come wrapped with an expectation of return. If a Japanese businesswoman gives a gift to a colleague, she expects to later receive a similar item. If I give an adult friend a birthday gift every year, I expect that they will do something similar for me. That the item plays the social role of a “gift” does not obviate the need for reciprocation—it merely alters the signaling value of the exchange and marks out the *kind* of return that is viewed as appropriate.

⁷⁴ McDermott, 227.

The second category, what we might call *gifts outright* consists of instances where benefactors genuinely desire to provide value while receiving nothing in return. In such cases, it (can be) appropriate to leave benefits unreturned. However, this is not because the gift-giver has no innate *claim* for return. That she does is precisely what makes her act so generous. By indicating that she intends to provide a gift, she renounces a claim that she could otherwise make, choosing to prefer paying the price over receiving compensation and thus making it consistent with impartiality that her beneficiaries leave her act unanswered. That gift-giving requires the absence of IOUs is thus not proof against the reciprocity account. Instead, it *explains* the act's value, just as a wronged parties rightful claim on blame does work to explain the value of forgiveness.

Similarly, our account of reciprocity is consistent with ordinary views of friendship. Intimate relationships do not float free of a duty to pay our debts. Of course, the kind of affection in which friends hold each other makes the relationship a regular site of gifts outright. But in cases where favors do not qualify as such—as they routinely do not—recompense is due. This is precisely why something seems out of whack when one friend routinely does favors for another without receiving the same care in return.

Still, friendship *is* different, in three important ways: the depth of inter-personal knowledge available, the length of the relation, and the presumption of goodwill. I

know whether my friends like dark or milk chocolate, what television shows they watch, whether they are afraid of spiders. This allows reciprocity's open-ended nature its greatest reign. If my friend does me a favor, I can repay her in popsicles, concert-tickets, emptied mousetraps. Moreover, I enjoy (relative) discretion over the time-frame in which I provide recompense. Our relationship is ongoing and indefinite. It makes little sense to say, "we are friends but only for another week." Participants thus enjoy greater flexibility over the interval in which they pay their debts. I need to pay my cab driver now, or I'll never see him again. Less so my friend. Finally, friends wish—and are known to wish—each other well. They are thus relieved of the need to pay careful attention at any moment to the status of assets owed and accounts settled on the assumption that their interlocutor has a strong interest in fair repayment. That such an inventory nonetheless exists is, however, apparent in the fact that inequality in benefits and burdens can be a reason to end a friendship, and that an accounting of debts often becomes more urgent towards the end of a relationship when the presumption of ongoing relations and goodwill is weaker. Confronted with the same obligation of reciprocity, friends will thus behave differently than their more estranged counterparts. Yet these differences are consistent with general subjection to the principle.

Finally, the reciprocity approach offers the hope of more deeply grounding fair play. Traditional accounts make no effort to provide more fundamental bases for the

duty, simply treating the obligation as a given reflected in our intuitions about fairness in particular exchanges.⁷⁵ The division the classic approach draws between collective and interpersonal cases leaves it mysterious what might underlie the duty. Natural fits for the role—like the notion that one shouldn't take advantage of others—fail to make sense of the distinction. As we saw in section three, the reciprocity approach offers a way forward. Our concern for fair play reflects a deeper interest in fairness, itself grounded in the value of impartiality and our mutual dependence on others for the success of our projects. As J. Wallace writes, “interpersonal morality...might be thought of as a set of requirements that reflect the fundamental insight that we share a world with other individuals whose interests are in some sense neither more nor less important than our own.”⁷⁶ Read this way, the duty of reciprocity reflects our deeply connected lives and projects. Each of us stand to benefit from the labor of others. Each of us worries that others will profit at our expense. The notion of fairness in exchange embodied in the reciprocity approach seeks to bridge these twin concerns, allowing us both better experiences and right relations.

⁷⁵ As we saw earlier, Cullity and Trifan are exceptions.

⁷⁶ J. Wallace, *The Moral Nexus* (Princeton University Press: 2019) p. 1. A similar relational notion is advanced by Eric Beerbohm, Garrett Cullity, Steven Darwall, T.M. Scanlon and others.

Section Six: Conclusion

Discussions of fair play have long been stalled, stalemated between proponents who argue that the duty makes specific demands—that citizens vote, pay taxes, and so on—and opponents who deny that others' efforts on our behalf create obligations. The account we have developed promises to move beyond this impasse.

As we have seen, the classic approach to fair play is rife with undefended assumptions that leave the view unattractive even to those inclined to accept non-voluntarist duties. It has limited explanatory reach and an underdeveloped foundation. As formulated, the view insists with little in the way of justification that obligations arise only in the context of organized collective schemes and that they demand specific performance in the form of compliance with practice assigned-tasks. In doing so, the approach places beneficiaries and benefactors in unequal positions. As a principle it either applies in few contexts or asks more of the already marginalized and oppressed.

By contrast, the reciprocity account presents a more simple, powerful, and likely less demanding portrait of what fairness requires. Unlike the classic formulation, this approach speaks to both individual and collective exchanges without drawing an arbitrary distinction between the two. In each case, the view builds from the same

concern: an interest in transactional fairness between benefactor and beneficiary, one that stems from their shared desire to benefit from others' labor. And in each case it makes the same demand—that beneficiaries equally work to the good of their benefactors.

Read this way beneficiaries are not—as the traditional formulation would have us believe—at risk of being conscripted against their will into potentially useless actions. Instead, they are asked to provide a more open-ended fitting return to those who work to their benefit. At the same time, the reciprocity account can explain in a principled fashion why our intuitions often differ between small scale or intimate interactions and large, anonymous transactions. The view is thus better positioned than its traditional counterpart to speak to the full range of ways in which we work to the good of our friends, neighbors, and community members.

Think back to the cases that we have considered. Unlike the classic account, the reciprocity approach can tell us not only how to think about Sara and Jacob—our fee- and tax avoiding co-citizens—but also about John, Jones, and Mary our variously helpful and unsupportive friends and neighbors. In each case the questions that we must ask are the same: is the person working to provide a sufficient return to their benefactors? Is Sara doing enough for those who contribute to the public transit system?

Has Jones re-paid the neighbor of whose well he makes use? If the answer is yes, they act fairly. If not, the principle of fair play can tell us where they went wrong.

At the same time, the reciprocity approach hints at new insights into old debates. Discussions of fair play have typically focused on good citizenship—specifically, whether citizens are obliged to obey the law, or to vote. Standardly, the question is *whether* citizens are genuinely subject to duties of fair play. It is simply presumed that *if* they have real obligations to their fellow citizens who pay their taxes and show up at the polls, they must do the same in turn.

The reciprocity account promises to both ground and challenge this presumption. *Practically speaking* citizens can often contribute to their benefactors' good only by advancing the cooperative schemes from which they have benefited. Given the complexity of the relevant schemes, often the best way to pragmatically ensure you do so is to undertake your practice-assigned tasks. The view can thus explain why fair citizenship often seems to make specific demands when fairness more generally does not. At the same time, the reciprocity approach provides a framework for identifying exceptions—and potentially for challenging the way such questions are classically framed. On this account a citizen discharges her debts to her hard-working co-nationals so long as she does enough burdensome work to advance the goods they value.

Obeying the law or voting are ways to do this. But a citizen can also satisfy her obligations if she knowingly takes on sufficient other sacrifices to advance the relevant goods or the interests of fellow citizens. A businessman might choose not to take advantage of a legal loophole that would threaten social services but benefit him. A scientist might donate her research to the common good. A doctor might take a less lucrative job in public health. And the repayment of debts may commensurate across traditional categories. Why is a person who does more than her share of such labor to advance public goods *also* obliged to go to the polls or pay taxes? In this way, the approach calls into question both how we think about fair citizenship and who we consider to have done their part.

Of course, there is much more work to be done. Questions remain about both the reciprocity account and its application to particular contexts: What counts as a burden? What is the right way of calculating an individual's share of contribution to collectively produced goods? How does a citizen's portion of benefits and burdens differ across country, community, or socio-economic condition? To what degree can actions supportive of schemes for the production of different public (or even private) goods be treated as commensurable? Yet merely recognizing the existence of these questions represents progress. The research agenda such questions reveal suggests the prospect of a more nuanced, systematic, and attractive picture of fair play, one whose attendant

account of good citizenship can make space for the concerns that motivate skeptics while better speaking to the complex institutions and interpersonal relations in which we reside. In this way the approach not only promises to be a better match for our ordinary intuitions and our lives together—it holds out the hope of moving beyond traditional divides about fair play's place in our moral landscape.

