**Public Goods: at what cost?[[1]](#footnote-1)**

Liam Shields

University of Manchester

(liam.shields@manchester.ac.uk)

**I Introduction**

The debate about whether and how the costs of public goods should be shared is a long-standing debate in politics, philosophy, and economics.[[2]](#footnote-2) Public goods are generally understood to be those goods that non-excludable and non-rivalrous. Producers of such goods are not able, at least not at reasonable cost, to prevent others from enjoying those goods *if* they produce them. Unlike producers of other goods, producers of public goods cannot restrict their enjoyment other than by not producing them. However, the enjoyment of these goods by some is not diminished in line with how many people do enjoy them. So, producers of public goods are not made worse off by other people enjoying those goods too. Street lighting, clean air, and national defence are often cited as paradigm examples of public goods. While it is possible to make prudential or rational arguments for non-producers to pay for the costs when there supply is in question, it is also important to ask whether there is a moral argument that can be made for cost sharing. One reason for this is that even if the prudential arguments are sound, enforcing them in law requires there to be a normative argument. Another reason is that when it is not individually rational to support public goods, we might nevertheless have good reasons to share the costs.

One set of moral arguments that seek to explain why the costs of public goods should be shared by those who enjoy them focus on the principle of fair play. The principle holds that those who enjoy these goods without paying for them are free-riding and thereby wrong those who incur costs to produce them. Those who enjoy these goods have a duty to pay a fair share of their costs, to avoid free-riding on the efforts of others. The argument is often made in the context of political obligation, but it is also made with respect to specific goods and most recently with respect to children.[[3]](#footnote-3) The debate about public goods and the fair play argument has focussed mainly on establishing the conditions under which those who enjoy those goods have a duty to share the costs with the producer, and answering such questions as: must beneficiaries “accept” benefits or merely enjoy them?; must the benefits be produced as part of a co-operative enterprise?; must the benefit be essential or somehow basic?[[4]](#footnote-4) These debates have, understandably, focused on questions about the establishment of a duty to share the costs of production of certain goods for the reason that one benefits under certain conditions. They seek to establish or undermine a duty of non-producers to share the costs with producers.

But these debates neglect a further important and related question about the size of the costs that can be shared. Answers to this question are required for us to have a clear picture of what fairness requires, because the size of the costs will determine whether the producer pays for the vast majority of the costs of, an equal share, or only a fraction of it. It will also determine the limits of the Fair Play argument since it will determine the total amount of revenue that can be generated and therefore the extent of taxation and transfer that is justified to support aspects of the welfare state. In this paper I address the question of the size of the costs that can be shared if the fair play argument is sound. I argue that whatever other conditions must be met for the costs of public goods to be required by fairness, a further limit must be placed on the extent and nature of the costs of public good production that can be shared. I argue that not all of the costs of public good production give rise to fairness-based duties to share costs and I suggest that in many if not most cases those costs that ought to be shared with non-producers will amount to much less than is, often implicitly, supposed.

The structure of this paper is as follows. In Section II I explain the fair play argument and its relation to public goods. I go on to explain the Standard View that costs can be shared between producers and non-producers and stress the importance of the neglected question of how much non-producers can be required to share. In Section III, I specify The Costs Claim, which I derive from the producer-beneficiary logic of the fair play argument and I identify two ambiguities over what costs can be shared. In Section IV, I address the first ambiguity, which concerns the entitlements the costs of which must be shared. I conclude that only the costs of the entitlements that are necessarily created by production of a public good, rejecting some alternatives along the way. In Section V, I address the second ambiguity, which concerns the size of public good of which necessary entitlements must be shared. I conclude that it must only be the necessary entitlements for the *cheapest* public good, rejecting some alternatives along the way. In Section VI, I conclude that the Fair Play argument will not vindicate the generous cost sharing and so defenders of such sharing must find a further argument.

**II Fair Play and Public Goods**

Fair play arguments for political obligation build on benefit theory.[[5]](#footnote-5) According to this approach, it is by virtue of the receipt or enjoyment of some good that someone incurs a duty to submit to a rule, for example, by either obeying a law or paying a tax. More specifically, for fair play arguments, the benefits in question are public goods, a specific type of benefit whose key features are being non-excludable (one cannot, permissibly or at reasonable cost, prevent people from enjoying the good) and non-rivalrous (the value of the good enjoyed does not diminish as additional people do enjoy the good). Put simply, when some individual or group intentionally incurs costs in order to produce a non-excludable and non-rivalrous benefit that is enjoyed by non-producers, those non-producers incur an obligation to contribute a fair share of the costs that are incurred by the producer(s). To fail to do so would be to wrongly “free-ride” on the efforts of the producers.

There are at least three reasons why the Fair Play argument may appear to be an attractive approach to establishing duties to share costs. These reasons may also explain its prominence. The first is that the argument promises to establish an enforceable rather than unenforceable obligation. An enforceable obligation is necessary to ground the sorts of tax and transfer policies that support the military, infrastructure, environment, education, and health. The second reason is that the Fair Play argument does not rely on any perfectionist premises about justice requiring the distribution of well-being. Arguments for cost sharing based on the contribution certain goods make to the flourishing of some individuals could be reasonably rejected by those who deny it and could be hostage to expensive tastes objections.[[6]](#footnote-6) It would be better, at least, to have an argument that did not rely on such claims and could be the basis for political agreement among reasonable people. The third reason is that the Fair Play argument offers us a normative argument rather than a prudential one. This is important because, although non-producers, as beneficiaries, may have prudential reasons to contribute to the costs of national defence and clean air to incentivize their production, prudential arguments can rarely justify enforceable obligations and, moreover, while it may be in the interests of non-producers to have that good produced it may not be prudent for any individual to pay the costs of its production. This depends on the actions of others. This is the problem of free-riding. It has been much discussed in economics and other disciplines in terms of a prisoner’s dilemma and collective action problem.[[7]](#footnote-7) These disciplines have addressed the problem of free-riding as a problem of incentives or efficiency. They are concerned with behaviour-modifying arguments for cost-sharing for public good production. But these are not moral arguments that can ground a duty to share, never mind an enforceable one.[[8]](#footnote-8) These reasons suggest that the Fair Play argument is well-placed to provide an important justification of cost sharing for public goods.

To date, proponents of the Fair Play argument have focussed on whether and when non-producers have a duty to share those costs of the production of public goods like public health, educational institutions, national defence, clean air, energy, clean water, law enforcement. This, however, neglects a further question, which is also of great significance for the character of a just (welfare) state. Even if non-producers can be required to share the costs of public goods, if the answer to the question of how muchnon-producers can be required to contribute to avoid free-riding is ‘very little’ this will present a significant challenge to received wisdom and will set principled limits to the kinds of government spending that is legitimate, at least on this argument, there may be others. As such, much of what motivates those scholars who discuss cost sharing of public goods turns on, not only on the status of sharing at all, but also on this further question of the legitimate extent of such sharing. Establishing that sharing is required is just the first step towards their conclusion.

One possible reason for the neglect of the question of *How Much?* should be acknowledged immediately and is given by Serena Olsaretti when talking about children as public goods. Olsaretti says that theories of justice have typically assumed the truth of what she calls the Standard View, that parents and non-parents should share equally the costs of the entitlements of children that are created. The same may be true for other public goods. She explains,

“We can conclude that this standard view is typically assumed, because typically theories of justice hold that people’s tax liabilities do not increase in line with whether they have children. Moreover, many egalitarian theories of justice seem to defend a version of the standard view which favours the socialization of some of the costs of care, too, namely, those costs of care that must be incurred to meet the children’s claims of justice.”[[9]](#footnote-9)

While the Standard View seems favoured by many theories of justice, it cannot simply be assumed. It must be argued for. Since the three reasons given above lead us to believe that the Fair Play argument is the best hope for justifying cost sharing of public goods and it has been taken to vindicate part of the Standard View, we should see if it can vindicate that other part, which answers to the question of *How Much?*

**III The Ambiguity of the Fair Play Argument**

To work out how the Fair Play Argument leads us to answer the question of how much of the costs can be shared,we must identify the key commitments of such an approach. Recall that, according to this approach, when some individual or group intentionally incurs costs in order to produce a non-excludable and non-rivalrous benefit that is enjoyed by non-producers, those non-producers incur an obligation to contribute a fair share of the morally required costs incurred by the producer(s) in the productive act(s). To fail to do so would be to wrongly “free-ride” on the efforts of the producers.

While the Fair Play argument is *contingent* on the production and receipt or acceptance of a benefit, the claim that there exist public goods at all is relatively uncontroversial.[[10]](#footnote-10) The maintenance of clean air, public health, national defence, as well as educational institutions, and vital infrastructure are key examples of public goods. But the specific form that the public goods argument should take is a highly contested matter. Some argue that producers must incur at least some costs in the production of the good, though not net costs.[[11]](#footnote-11) There is a further debate over the non-rivalrous and non-excludable nature of public goods and whether a beneficiary must “accept” or merely “receive” those goods.[[12]](#footnote-12) But these issues are not relevant for my discussion. My analysis aims to determine the total costs to be shared that can be derived from the argument’s grounding in benefit theory.

Consider now The Costs Claim, which is central to any public goods argument for costs sharing.

*The Costs Claim*: The beneficiaries of a public good can be required to pay the producers a fair share of the good value morally required costs of the production of the public good they enjoy.[[13]](#footnote-13)

For our purposes the underlined part is most important. While it may appear that we can simply appeal to an independent account of “fair shares” to help us answer the question of *How Much*? that will not do all the work. After all, a fair share is always a fair share of *something*. The approach cannot rely on an independent account of that *something*, which in our case is the total costs that duty-bearers pay a fair share of.[[14]](#footnote-14) Since an individual’s fair share of a much higher total is likely to be higher than a fair share of a much lower total, this question is of huge significance for the (tax) liability of non-parents and therefore the extent of public support for parenting. The further question of size of the costs that must be shared, then, is really two questions. First, a question of what the total costs to be shared by some group is, in our case beneficiaries of the public good, and secondly, how those costs should be fairly shared by the members of that group, whether equally or in accordance with some other distributive principle. It is the first question that I seek to answer and it is one that must be answered if we are to have a full picture of the extent of enforceable cost-sharing that is justified.

The need to attend to “the good value morally required costs of the production of the public good they enjoy” is necessitated by the need to stop cost sharing from spiralling out of control. First, with respect to “morally required costs”, we can say that anything more than the morally required costs of producing the benefit would be morally optional. For example, the state might provide its military with a beautiful uniform and engraved gold watches. Since the purchase of these things is not necessary for the production of a public good, national defence can be provided without beautiful uniforms and engraved golden watches, they are not necessary costs resulting from the production of the public good.[[15]](#footnote-15) These are optional or discretionary costs. While the state may be permitted to provide them from taxes if there were some other justification or the citizens democratically decided it was a good use of funds, it is not plausible to hold that discretionary costs can be foisted on others by appeal to the public goods argument alone. Any non-producer could rightly complain that these costs were not necessary for their enjoyment of the good, and since the duty is placed on them *qua* beneficiary this seems like a sound objection. Furthermore, if even optional costs can be foisted, then there does not appear to be any principled limit to the obligation to share costs. These are the reasons for limiting the obligation to morally required costs and for accepting that the costs claim must be included within any plausible account of the Fair Play argument.

The same reasons establish that the costs that can be shared should be indexed to a *good value* price for the items required to meet the entitlement. Soldiers must have adequate clothing and housing during their duties to produce the good of national defence. But, for example, the costs of renting Manhattan penthouse apartments for military personnel cannot be shared, even though they are ways of providing for the housing needs of soldiers, which, in turn, is necessary for providing the public good of national defence.

Although practically speaking, states may pay more or less than what is in fact “good value”, the general ambition of getting “good value” for public goods seems to be a very good limit to what costs can be shared and one that we should use when determining whether social security, for instance, should be increased or decreased. We are talking here of benefits that, while citizens enjoy them, they did not consent to pay for beforehand and, their enjoyment of them does not diminish he enjoyment of anyone else. The least that should be required is that citizens get good value for it.[[16]](#footnote-16) However, we should note that since more than the minimal costs of X are not morally required, we can simply speak of the “morally required costs” without separate reference to the “good value requirement”. So, now we can see that this clause within the costs claim places important limits of the size of costs that can be shared with non-producer beneficiaries. This helps us to see how the Fair Play argument will answer the question of *How Much?*

There remain two further ambiguities within The Costs Claim regarding “morally required costs” that must be resolved before we can see how the Fair Play argument to cost sharing will answer the question of how large the total costs to be shared can be and, in turn, determine the extent of legitimate tax raising powers for public goods, including key aspects of the welfare state. We can break down “moral requirements” into certain entitlements and the inclusion of some or all entitlements that yield different total costs to be shared, some of which are more plausible and more congruent with the Fair Play argument than others. There are two ambiguities arising from this aspect of calculating the costs to be shared. The first concerns the costs of which entitlements are included in the total costs to be shared. Are all entitlements, including perhaps, incidental ones, or only those intrinsic to or closely related to the production of the public good? The second ambiguity concerns the size or value of the public good that is created, including the degree of military defence provided, or the cleanliness of the air or water. Public goods can come in different sizes and usually when they do, their necessary productive inputs change and may vary in cost, so we should ask, can citizens be required to share the morally required costs of any public good that is created, even when a smaller or cheaper but still adequate public good could be created instead? Or are citizens required to share the costs that were necessary to produce a public good only up to some adequate size or value? What size of public good is? In resolving this second ambiguity, we will need to consider whether, and if so which, counter-factual baseline determines the costs that can be shared.[[17]](#footnote-17)

One way of thinking about these two components of an account of the costs to be shared is like a shopping list. First, we have a list of items that, if they are on the shopping list, their costs can be shared. The relevant items on the list, in our case, are entitlements arising from the production of the good. Second, we have to get a good price for such items. We insist that for costs to be justly shared, the buyer must get good value for the specific items. In our case, the producer can incur whatever costs they like, but the sharing can only go as high as the limit, which is indexed to good value for the appropriate items and not any bill resulting from a crazed shopping spree.

In the next two sections I will take these ambiguities in turn and show that the only way that they can be plausibly resolved is by committing proponents of the Fair Play argument to quite strict limits on the extent to which non-producers can be required to share the costs of public goods, thus significantly limiting the extent to which this argument justifies enforced cost sharing.

**IV Which Entitlements?**

Let’s start by considering the absence of any limits to the entitlements that may contribute to the total costs to be shared fairly. These are like to items on the shopping list.

*All Moral Entitlements:* non-producers can be required to share the costs of all entitlements that arise from the production of a public good.

There is a sense in which all entitlements arising from the production of a public good are morally required. Because they are entitlements, they are costs that must be met by someone. But not all entitlements that may be created in the course of producing a public good are strictly required to produce *that* public good. The costs to be shared must not only be morally required in the sense that they are entitlements of justice emerging from the productive act(s), such as contractual agreements to pay workers who build a new road. They must also be *required by or necessary for the public good to be produced morally innocently* since what grounds the obligation is the benefit and the obligation corresponds to the costs incurred in producing that benefit. We can see this by considering one way of producing military defence.

*Pre-Contract Champagne*: a minister for defence and an arms dealer always negotiate their contracts over fancy dinner and once they reach agreement, but before signing, they insist on ordering the most expensive champagne available.[[18]](#footnote-18)

In Pre-Contract Champagne, the minister and arms dealer create duties and entitlements of justice to pay for the meal and the champagne. Such things must be paid for. But these contractual costs should not add to the total cost to be shared. Foisting these costs onto the tax-payer generally is incongruent with the Fair Play argument, as well as implausible, for the same reason that the costs of beautiful uniforms and gold watches are: these extra entitlements of justice are not *necessary* to produce the public good and therefore, the public good could have been produced more cheaply without violating anyone’s rights. Even if they are in fact incurred in the production process, they are incidental to it. The closeness of the connection between the costs and production, then, will guide us in assessing the relative merits of possible answers to our question. We can now restate the relevant clause in the costs claim: To count towards the total costs that can be shared, entitlements must be restricted to *the morally required costs that necessarily arise from the act of production of a public good*.

Before moving on, let’s consider an alternative explanation of Pre-Contract Champagne. One could argue that the additional entitlements in Pre-Contract Champagne should not contribute to the costs to be shared because they are avoidable, not because they are not necessary to produce the good. They might urge us to consider the following case which involves procreation and assumes that children are a public good.

*Assisted Reproductive Technology*: a couple who cannot otherwise procreate make use of Assisted Reproductive Technology (ART). In procreating, the couple create an entitlement of justice to pay the bill to the ART clinic for use of its services, in addition to the entitlements of the new-born child.

If children are public goods, then the necessary costs of producing children, including meeting their needs, are eligible costs. But I think the fertility treatment bills are, usually, an ineligible cost and cannot justifiably be shared by appeal to the public goods argument because the costs are not strictly necessary to produce a public good without violating anyone’s rights. The public good attributable to the child could have been produced without using ART, albeit by other parents, for example.[[19]](#footnote-19) It is therefore vulnerable to the same objection as above and cannot be included without also including the intuitively implausible cases like Pre-Contract Champagne. But there is an important caveat to my response to the IVF case, and this is why I say “usually ineligible” above. If everyone did require ART to procreate, that is to say, if procreation were just much more expensive, then the costs of ART would arguably be *morally required costs that necessarily arise from the act of production of a public good*. But unless and until human fertility is altered in this way, those costs cannot be shared on the Fair Play argument.[[20]](#footnote-20)

 One could object that the fact that the public good associated with children was not produced more cheaply suggests that the public good could not have been produced more cheaply without violating people’s rights.[[21]](#footnote-21) This can be explained by the plausible claim that forcing the unwilling to procreate and parent a child is a violation of their rights. Just like using forced labour to build a subway system is not a relevant alternative. It is cheaper than paying workers to do it, but it involves violations of rights. With this clarification made, the above examples suggest the following interpretation of Morally Required Costs.

**Necessary Moral Entitlements**: Non-producers are only liable to pay a fair share of i) the minimum costs of meeting moral entitlements that are ii) created necessarily to produce the public good without violating anyone’s rights.[[22]](#footnote-22)

This specifies the relevant moral entitlements, the cost of which determines the total costs to be shared fairly between beneficiaries. But a further question now remains for us to have a determinate answer to the question of how much in total non-producers, as a group, can be required to share. To do so we need to raise a further question: what size or value of public good can be produced such that the total costs of it must be shared? The Fair Play argument does not yet furnish us with an unambiguous and determinate answer to this question. But one is sorely needed because the public good can vary in both its size and its value and differently large and valuable public goods might have differently expensive necessary inputs, a fair share of which non-producers will be required to pay.[[23]](#footnote-23)

**V At What Cost?**

In the case of public goods like large infrastructure, such as highways and public transportation systems, the bigger, more efficient, and more extensive systems will be more costly. This, likely, increases the cost of inputs that are necessary to produce *that* public good, and therefore the total cost to be shared fairly between those liable to share these costs. Should liable parties share the necessary costs of any public good that is created or are they only required to pay the costs of a public good up to a certain size or of a certain type, even if a bigger, more beneficial, public good is created? To avoid free-riding must beneficiaries pay the minimum necessary costs of just any public good that happens to be created and they enjoy, however large and expensive? Or must they only pay for the costs of a public good of a certain size, perhaps a merely adequate public good? What if a more expensive public good led to greater benefit enjoyed? To resolve the ambiguity over the size of the public good that can be created I will consider some possible answers.

First, consider the Pragmatic Answer, which is perhaps the most obvious answer to the question because it requires cost sharing for the size of public good that is in fact provided, with the producer using their discretion in deciding what size of public good that is.

*Pragmatic Answer*: The total costs to be shared by non-producers are the necessary moral entitlements associated with the costs of the public good where each additional feature contributes to the value of the public good, either individually or collectively.

This Pragmatic Answer certainly sets one limit to the costs that can reasonably be shared. It is not consistent with the fair play argument to hold that non-producer beneficiaries are required to share the costs that were not incurred in the production of the benefit that they in fact enjoy. They are only obligated to pay at all insofar as they receive or benefit from the public good and are therefore only obligated to pay for the costs that were necessary to produce the components that make a positive contribution to it. But can they be liable for all morally required costs necessary for the production of a public good of any size? Consider now the cheapest answer.

*Cheapest Answer:* The total costs to be shared by non-producers are the necessary moral entitlements associated with the production of the least expensive public good.

The Cheapest Answer is the lowest cost that would be justified if the public goods argument is sound since it is the least objectionable duty that non-producers could have. If non-producers can’t even be required to pay the cheapest costs, then no cost sharing for public goods could be justified. Tax, for public goods at least, is theft. Since I am assuming the truth of the public goods argument this position becomes our default and our question then becomes whether any deviations from this standard are justifiable. But this answer will fall far short of equal sharing of costs for producers and non-producers, not only because some features of public goods are not necessary, and because the cheapest answer will likely exclude the additional features that do make a positive contribution to the public good, because they produce a surplus public good.

It can be observed that the cheapest costs will usually correspond to a lower value public goods. Can’t more extensive costs be justified if a much better good were achievable? The remaining alternative answers take this point seriously. But I show that none is consistent with the producer-beneficiary logic that drives the fair play argument.

One possible answer is the largest good answer, according to which the costs to be shared are those associated with the largest public good that was created. The larger the good, the larger the benefit and so the larger the total costs are likely to be. For example, buying more and more nuclear missiles will, up to some point, increase national defence marginally.

*Largest Good Answer:* The total costs to be shared by non-producers are the necessary moral entitlements associated with the production of the largest public good.

Even once there are enough missiles to create a substantial public good of national defence, if adding more would create at least some increase in the value of the public good then we can ask whether non-producers should be required to share the costs necessary to produce the larger public good. Can citizens be taxed further and further when the public good of national defence increases? Can citizens be taxed further and further for cleaner and clearer air? Or can they only up to a point?

One problem with moving from the cheapest answer to the largest good answer is that the largest good answer would permit producers and decision-makers to unilaterally increase the demandingness of the duty falling on non-producers based on increasing the value of the public good, which may be well beyond what is required. There can be reasonable disagreement about how large public goods should be, and certainly not all improvements can be justified equally to all beneficiaries, who will have different preferences for difference sizes of pension and other goods they may acquire instead. However, this line of argument may be question-begging since it relies on intuitions that would lead us to reject the public goods argument in the first place, and is reminiscent of the blanket rejections of the argument. For instance, critics of the public goods argument, such as Nozick, argue that foisting any sort of benefit on someone else, unilaterally, who does not agree to pay for it first, cannot generate such obligations.[[24]](#footnote-24) For that reason, compelling as the idea is, we should look for a better argument.

Here we should look again to the producer-beneficiary logic of the public goods argument, where the costs that can be shared are shared by virtue of their being necessary to produce a public good. But note that anything over and above the costs of producing the cheapest substantial public good is not necessary. Indeed, it is debateable whether the additional good created above the substantial public good is a public good at all, since it is, in some sense, surplus and so a cheaper good could have been produced.

It seems more justifiable to require the sharing of costs of the public good that represents the best return on investment, so perhaps departures from the cheapest answer represent a good return on investment could be justified. If further additional contributions would create much greater benefits it might be worth it. On this view non-producers would be required to share only the costs of the greatest value public good for the cheapest costs, which may still far exceed the costs of the cheapest public good.

*Best Return on Investment Answer:* The total costs to be shared by non-parents are the good value morally required costs of the set of children that would produce the largest public good per unit cost.

However, it is not generally permissible to impose larger costs on someone because they will receive larger benefits, despite the rationality of preferring the best return on investment. The good value requirement constrains what non-producer beneficiaries can be required to pay and rules out the best return on investment answer. It holds non-producer beneficiaries hostage to producers’ actions. Imagine rather than creating the cheapest dam that will be functional, producers create a highly efficient super dam.[[25]](#footnote-25) The only thing to be said in favour of the best return on investment model is that it is rational when viewed narrowly in terms of the public good itself. However, it is likely to prove irrational for many in the broader scheme of things because they will value other things more than dams and other public goods. We can say likewise about educational spending, clean air, infrastructure, and national defence, even public health. But the same objection stands. Producing a public good does not require us to produce the one that is the best return on investment, and so according to the producer beneficiary logic of the public goods argument, these further costs cannot be shared.

It might be the case that individuals could voluntarily or democratically agree to share the costs of better and better public goods, but this could not be enforced on everyone without a democratic process, but that would be to gamble on democracy and even then there may be restrictions on what a democratic process can render legitimate when it comes to foisting costs.[[26]](#footnote-26) If there was universal, or valid democratic, agreement it may be imposed, but that agreement could simply be undone, without any injustice, if the agreement ceased to hold. In the absence of such agreement there is no duty emerging from the fair play argument to pay for the public good on this particular argument that is the best return on investment unless it is consented to, at least where the best return on investment is not the cheapest answer.

In summary, answers other than the Cheapest Answer involve costs that are not necessary to produce a public good. Individuals can have different preferences about what size of public good would be best and could negotiate this democratically, but the public goods argument itself, which requires individuals to pay the necessary costs of necessary moral entitlements created, does not plausibly and coherently extend beyond the cheapest costs to create a public good.

I now want to explain in more detail what I mean by the cheapest public good to help clarify the limitations of the Fair Play argument to cost sharing. According to my analysis of the Fair Play argument beneficiaries have a duty to pay for the morally required costs of the cheapest way of producing a public good. To clarify, consider national defence. If military spending could be increased to increase the degree to which the national defence can be provided, on a version of this view tax-payers have no obligation of fairness to contribute to that, even if it offers the best return on investment or the largest value national defence. If some people care so much about national defence, then they may be permitted to spend extra and to try to persuade others to do the same by democratic means, but the public goods argument does not itself create an obligation to pursue military proliferation even when real gains in defence are made and even when those gains offer the best available return on investment for the particular good of national defence.

But we can also ask what prices are relevant to the cheapest costs? For example, in different places and at different times creating a public good were more and less expensive. My focus is on the costs of meeting the entitlements at the time they should be met and this means that the cost of different generations will vary perhaps dramatically based on the costs of labour and natural resources. To try to illustrate this with an example.[[27]](#footnote-27) The costs of building the golden gate bridge would be very different now than they were in 1937. I am inclined to take contextual factors, such as technological development, into account in calculating the total cost, but my conclusion is consistent with other accounts of what is “necessary”.

The upshot of this for the question of how much non-producers can be required to pay according to the Fair Play argument to costs sharing, is that the revenue that can be collected will fall considerably short of the total costs required to meet many of the public goods we enjoy. In particular, it places limits of military spending and infrastructure spending over and above what is required for public goods production. This is what leads me to conclude that the public goods argument will provide us with very little cost-sharing.

Furthermore, this is a significant departure from the Pragmatic Answer, which I associated with the Standard View, and would offer much less extensive cost sharing and therefore less generous public support of the welfare state. The implication of this finding is that the Fair Play argument cannot hope to support the policy implications of the Standard View that costs should be shared equally and the total revenue to be generated by this argument will be far less than the Standard View and proponents of it would have us believe. The Fair Play argument will justify very little cost sharing by non-producers, and less than its proponents have supposed.

This leaves proponents of the Fair Play argument with a choice. Either they must supplement the Fair Play argument with another argument, though the three reasons outlined at the start for thinking that approach is attractive seem almost unique to it, or they must accept that the extent of cost sharing that the Standard View adopts is unjustified.

**VI Conclusion**

In this paper I have argued that debates about Fair Play arguments for cost sharing have neglected an important question of how much costs can be shared by non-producers. I have examined possible answers to this question and found that sharing that can be justified from the Fair Play argument, if sound, will be limited to the costs of the cheapest public good. This will likely place strict limits on taxation and transfer arrangements that can be used to pay for major infrastructure, national defence, and other public goods.

It does not follow from my argument that there is no justification for the welfare state or generous provision for public goods. What my argument shows is that the Fair Play argument is very limited in what it can support in this regard and this is interesting because of the three reasons we have to think the public goods argument was a promising once. First, the public goods argument can yield enforceable obligations, which would be required to support taxation. Second, the public goods argument is anti-perfectionist. Third, the Fair Play argument offers us a normative, rather than pragmatic argument. The first and third reasons do not seem to be easily overcome. A pro-sharing argument that was either non-normative or produced only unenforceable obligations would not be able to provide a principled defence of coercive sharing institutions, such as the welfare state. This suggests that to support the pro-sharing position one must become perfectionist about the value of parenting.

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1. I am grateful to audiences at the ‘Family Justice seminar series’, Universitat Pompeu Fabra, Barcelona; the workshop on Economic Justice at Dartmouth College, USA; research seminar, University College London; the Nuffield Political Theory Workshop, University of Oxford; Philosophy Departmental Colloquium, University of Victoria; MANCEPT research seminar, University of Manchester; CELPA research seminar, University of Warwick. I am particularly grateful to Louis-Philippe Hodgson for providing a very helpful response to my paper at Dartmouth, to Hillel Steiner, Matthew Clayton, and Isa Trifan for comments and helpful discussion on an early draft. [↑](#footnote-ref-1)
2. For the original statement of the fair play argument see Hart, H. L. A. (1984) ‘Are There Any Natural Rights?’, in J. Waldron (ed.), Theories of Rights. Oxford: Oxford University Press, pp. 77–90. Nozick, Robert, 1974. Anarchy, State, and Utopia, New York: Basic Books. Pp. 90-95. [↑](#footnote-ref-2)
3. For some recent uses of the fair play argument for the costs of children see Olsaretti, Serena. "Children as public goods?." *Philosophy & Public Affairs* 41.3 (2013): 226-258 and Tomlin, Patrick. "Should kids pay their own way?." *Political Studies* 63.3 (2015): 663-678. [↑](#footnote-ref-3)
4. See McDermott, Daniel. "Fair-play obligations." *Political Studies* 52.2 (2004): 216-232. Cullity, Garrett. "Moral free riding." *Philosophy & Public Affairs* (1995): 3-34. Trifan, Isabella. "What makes free riding wrongful? The shared preference view of fair play." *Journal of Political Philosophy* 28.2 (2020): 158-180. Zhu, Jiafeng. "Fairness, political obligation, and the justificatory gap." *journal of moral philosophy* 12.3 (2015): 290-312. Arneson, Richard J. "The principle of fairness and free-rider problems." *Ethics* 92.4 (1982): 616-633. Klosko, George. "Presumptive benefit, fairness, and political obligation." *Philosophy & Public Affairs* (1987): 241-259. Renzo, Massimo. "Fairness, self-deception and political obligation." *Philosophical Studies* 169.3 (2014): 467-488. A number of further distinctions are considered in Miller, D. and Taylor, I. “Public Goods”, in Olsaretti, S. ed. *The Oxford Handbook of Distributive Justice*, Oxford University Press, 2018: 556 – 575. [↑](#footnote-ref-4)
5. For the original statement of the fair play argument see Hart, H. L. A. (1984) ‘Are There Any Natural Rights?’, in J. Waldron (ed.), *Theories of Rights*. Oxford: Oxford University Press, pp. 77–90. See also Rawls, J. *A Theory of Justice*, Belknap Press,1999: p. 96. [↑](#footnote-ref-5)
6. For the problem of expensive tastes see R. Dworkin, *Sovereign Virtue*, Harvard University Press, 2000: p. 48 – 59. [↑](#footnote-ref-6)
7. Hampton, J. “Free-rider problems in the production of collective goods” *Economics and Philosophy* 3, 1987, 245-273. [↑](#footnote-ref-7)
8. See Olsaretti, Serena. "Children as public goods?." *Philosophy & Public Affairs* 41.3 (2013): 226-258; Olsaretti, Serena. "Children as negative externalities?." *Politics, Philosophy & Economics* 16.2 (2017): 152-173. [↑](#footnote-ref-8)
9. Olsaretti, Serena. "Children as negative externalities?." *Politics, Philosophy & Economics* 16.2 (2017): 152-173: p. 155 [↑](#footnote-ref-9)
10. McDermott states that “The great strength of the fair-play theory is that it rests on an uncontroversial empirical claim: people in many existing societies really do benefit from the provision of goods by their political communities” in McDermott, “Fair play obligations”, *Political Studies,* 52: 216–232: 217*.* [↑](#footnote-ref-10)
11. Olsaretti, “Children as Public Goods?” [↑](#footnote-ref-11)
12. See Simmons, A. John, 1979. *Moral Principles and Political Obligations*, Princeton, NJ: Princeton University Press: 31-35 and Renzo, Massimo. "Fairness, self-deception and political obligation." Philosophical Studies 169.3 (2014): 467-488. [↑](#footnote-ref-12)
13. The costs claim must also be endorsed by those who have offered variation on the public goods argument for the costs of children because, in spite of the important differences, they mimic the producer beneficiary logic of those arguments. See Olsaretti, “Children as Public Goods?” and Tomlin “Should the kids pay their own way?”. [↑](#footnote-ref-13)
14. For the idea that the argument from fair play or public goods has a distinctive account of fair shares see Duus-Otterström, Göran. "Fair-play obligations and distributive injustice." *European Journal of Political Theory* (2018): 1474885118778621; Miller, D. and Taylor, I. “Public Goods”, in Olsaretti, S. ed. *The Oxford Handbook of Distributive Justice*, Oxford University Press, 2018: 556 – 575. [↑](#footnote-ref-14)
15. A possible exception might be if, in order to provide adequate national defence we must incentivise volunteers to join the armed forced and part of the necessary incentives are the uniform and watch. I am grateful to Hillel Steiner for this thought. I discuss the condition under which such incentives will and will not be included later in the paper. [↑](#footnote-ref-15)
16. Purchases through Eminent Domain in the US or Canada or compulsory purchase in the UK and Ireland are carried out on the basis that the previous owner will receive the market value of the property prior to the diminution caused by the existence of a compulsory purchase order. Such cases are analogous in some ways because consent is asymmetrical. [↑](#footnote-ref-16)
17. The importance of a baseline is also noted in Bou-Habib, Paul, and Serena Olsaretti. "Children or migrants as public goods?" *Forthcoming* [↑](#footnote-ref-17)
18. One might be tempted here to say that these obligations, though they are of justice, are voluntarily incurred. But the obligation generated by productive acts, when they involve contracts, are also voluntary. [↑](#footnote-ref-18)
19. This may seem unfair or even cruel that those for whom procreation is much more expensive than others cannot be reimbursed by the public goods argument, but I am minded to think that the public goods argument is unfair and cruel in at least some ways. Think also of the situation of those whose children suffer some severe disability such their public good contribution, at least in terms of economic productivity, is zero. One could respond by saying that the question of *To Whom?* is the relevant one for whether parents who do not produce children who qualify as a public good, since the total revenue from contributions from non-parents may allocated equally among all parents, regardless of their contribution. For an equal sharing view amount parents see Clayton, M., *Justice and Legitimacy in Upbringing*, Oxford University Press, 2006: pp. 61-75. This simply supports one of my claims at the beginning that we need to attend to a wider range of questions than we have done so far to understand the demands of Justice in the Costs of Children. [↑](#footnote-ref-19)
20. A similar point can be made about the costs of children and the alternative of migration. See Bou-Habib, Paul. "The Case for Replacement Migration." *Journal of Political Philosophy* 27.1 (2019): 67-86. See also Bou-Habib, Paul, and Serena Olsaretti. "Children or migrants as public goods?" *Forthcoming*, wherein the authors argue that a compelling interest we all have in procreative freedom can ground cost sharing beyond that is optimal for non-parents, pp. 15-25. [↑](#footnote-ref-20)
21. I am grateful to Hillel Steiner for suggesting this point. [↑](#footnote-ref-21)
22. All necessary costs of producing the public good could be part of the total to be shared in some cases. Imagine I dig into my own savings to create a public good. I do not create a just entitlement by doing this, at least not in the same way as if I borrow it from someone else, but it would seem relevant to the costs to be shared. [↑](#footnote-ref-22)
23. See, for example, Jean Hampton’s discussion of step goods, incremental goods and mixed incremental goods in “Free-rider problems in the production of collective goods.” [↑](#footnote-ref-23)
24. This point resembles what Isabella Trifan calls Nozick’s “voluntarist objection”, though my version is restricted in that it grants that some costs of public goods can be justified. See Trifan, Isabella. "What makes free riding wrongful? The shared preference view of fair play." *Journal of Political Philosophy* 28.2 (2020): 158-180. [↑](#footnote-ref-24)
25. One could argue that best return on investment answer is the cheapest answer since, from the point of view of the individual who enjoys those benefits, it would be a net benefit. However, the benefit will be enjoyed regardless of their contribution to it and our question is how much they can be required to contribute. Since they could prefer a lower cost, to spend on other sorts of benefits which may be optimal from their own point of view, it is not so obvious that we can force individuals to pay into the optimal scheme. I am grateful to Tom Sansford for pressing me on this point. [↑](#footnote-ref-25)
26. I am very grateful to Louis-Philippe Hodgson for pressing this objection. [↑](#footnote-ref-26)
27. Perhaps the most salient examples of this kind of example of immigration whereby meeting a child’s needs in a developing country may be much cheaper than meeting a child’s needs in a developed country. On the *Cheapest Answer*, the cost of a sufficiently large and skilled generation of immigrants is a relevant counter factual, so long as they can be attracted to the society in question without violating anyone’s rights. For some discussion o the problems of so-called ‘brain drain’ see Gheaus, Anca. "Care Drain as an Issue of Global Gender Justice." *Ethical Perspectives* 20.1 (2013): 61-80 and Oberman, Kieran. "Can Brain Drain Justify Immigration Restrictions?." *Ethics* 123.3 (2013): 427-455. [↑](#footnote-ref-27)