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The Concept of Desert

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I

When people make claims about justice, or social justice, they very often do so using the language of desert. They say it is unfair when a woman is not given the promotion or the pay rise that she deserves, and if a law or an institution regularly fails to treat people as they deserve – for instance by working in favour of people with the 'right' connections or the 'right' skin colour – it will be condemned as socially unjust. The centrality of desert as a criterion of distributive justice is confirmed when popular conceptions of justice are explored empirically.[1] Political philosophers, by contrast, have generally been far more sceptical in recent years. They have been unwilling to accept popular conceptions of desert and justice at face value, preferring instead either to abandon the concept of desert altogether, or to put forward revisionist accounts of that concept, whose effect is to give it a less prominent role in thinking about social justice.

This scepticism about desert stems from a number of different sources. One is the thought that, rather than being an independent principle of justice, desert is actually *parasitic* upon justice. In other words, rather than establishing first what people deserve, and then deriving from this claims about justice requires them to have, we in fact do the opposite, whether we realise it or not: we begin with principles that define a just distribution of resources, and then we identify what each person deserves as whatever he or she would receive under that distribution. This idea can be found in the work of John Rawls, and has recently been developed further by Samuel Scheffler.[2]

A different source of scepticism about desert is the thought that conventional desert judgements involve crediting people for things that, in reality,

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they can claim no credit for. We talk about clever children deserving to go to university, skilful tennis players deserving to win championships, successful entrepreneurs deserving to make large profits, and so on, but in each case we are talking about qualities or achievements for which the individuals in question can, at most, take partial credit. Much more is due to good genes, a fortunate family background, lucky breaks early in someone's career. Appealing to desert, according to these critics, becomes a way of sanctifying what is in fact largely a morally arbitrary distribution of society's resources.

In this chapter I cannot hope to lay to rest all the reasons one might have for scepticism about desert. My aim is more specific. First I try to explain as precisely as possible what we actually mean when we say that someone deserves something. Then I consider how far desert claims are undermined by the presence of different kinds of luck. Next I look at the particular issue of natural talents: can people deserve on the basis of performances that require special talents to accomplish? Finally I ask how *determinate* desert judgements can be. How far can they guide us in deciding what a just distribution of resources looks like? Overall, I want to show that the concept of desert is in better shape, and of more use to us, than many recent philosophers have thought.

II

Let me then begin with the notion of desert itself.[3] Consider the wide range of cases in which we make judgements to the effect that a person deserves some benefit by virtue of some performance or attribute. I propose to distinguish *primary* desert judgements, which fall within the core of the concept, *secondary* desert judgements, which still invoke the concept but are parasitic on primary judgements, and *sham* desert judgements, which use the language of desert but are really appeals to some other ethical idea.

When primary desert judgements are made, some agent A is said to deserve some benefit B on the basis of an activity or performance P. A is most often an individual but may also be a collective such as a football team. B is something generally considered beneficial to its recipient: a prize, a reward, income, a promotion, an honour, praise, recognition, and so on. P may be a single act or a course of activity extending over time. The important thing is that P should be in the relevant sense A's performance; that is, A should be responsible for P. This rules out a number of possibilities. One is the case in which A is coerced or manipulated into performing P – for example, under hypnosis I accomplish some dangerous task that I would normally be too scared to perform.[4] Another is the case where A performs P inadvertently: he intends to perform Q but because of circumstances beyond his control he ends up performing P. Yet another is the case in which A's performing P is some kind of fluke; although he intends to perform P, the fact that he succeeds is very largely a matter of luck. For example, suppose that I am a very poor archer but manage to

persuade the local archery club to let me take part in its annual tournament. By sheer good luck I send three arrows into the gold, something I could not repeat in a million attempts. I could not on this basis deserve the trophy that is presented to me.[5]

To deserve B on the basis of P, I must intend to perform P and the performance of P must be sufficiently within my control. But although *intention* is in this way relevant to desert, *motive* may very often not be. It is a characteristic mistake of philosophers writing on this topic to suppose that deserving agents must have moral motives for their performances – that to deserve on the basis of P, one must have performed P out of a sense of duty, or in order to confer benefits on others.[6] Clearly there is a *kind* of desert of which this is true, namely moral desert; people who display virtuous qualities when they act deserve praise and moral commendation, and possibly though not necessarily certain kinds of honour. But generally speaking desert depends on the performance itself and not on the motive that lies behind it. The athlete whose performance in the marathon is such that she deserves to win may be motivated to run by ambition, greed, or simply the wish to prove something to herself. The junior lawyer who deserves a pay rise for hard work and long hours may equally be driven by a desire for income or status. Admittedly, having the wrong motive does sometimes appear to reduce a person's deserts, even where the desert in question is not moral desert. But this may be because it reveals something about the quality of the performance itself. Thus if someone carries out a hazardous rescue, but then discloses that he only did it in the hope of being rewarded by his grateful victim, we may revise downwards our estimate of what he deserves, but perhaps this is because we think that someone who did it for *that* reason isn't likely to have found the rescue as scaring as we had supposed. In other cases revealing a bad moral character may generate negative desert, which has to be set against the positive desert of the performance itself. (Many Westerns have central characters who perform good and courageous deeds for what appear to be cynical reasons, leaving the heroine in a dilemma at the end, not knowing what to think of her champion; if desert required a moral motive there would be no such dilemma.)

What of the performance itself? P must be something that is positively appraised or valued by the surrounding community, but once again this need not amount to a *moral* evaluation. The grounds of the evaluation will differ greatly from case to case. The author who deserves to win the Booker Prize does so because he has written a book that is excellent by literary standards. The employee who deserves the biggest slice of the firm's profits is the one who has done most to raise its productive output. The girl who deserves the highest examination grades is the one who has achieved the best mastery of the various subjects. No doubt in the background there often stands some idea of social utility: we appraise literary excellence, productivity and academic achievement positively because we think that the exercise of these qualities enriches our lives in one way or another, but it does not seem to me essential to the idea of desert itself that this should be so. Although athletics

competitions may create social benefits (as entertaining spectacles, for instance), the performances that form the basis of athletes' deserts, such as running down a track very fast, have no social utility in themselves. And to take a case where the performance is in fact socially harmful, there seems nothing incoherent or bizarre in saying that the man who masterminded the bank raid deserves a larger share of the loot than the guy who merely drove the getaway car.

The concept of desert does not itself settle the basis on which people come to deserve advantages of various kinds. It imposes certain requirements – principally, as we have seen, that the performance which composes the basis should be in the right way the *agent's* performance, and that this performance should be positively appraised – but the concrete content comes from elsewhere.[7] This raises the question of whether desert is merely a conventional idea: is it merely being used to signal the benefits and advantages that are customarily attached to performances of various kinds? For the moment I simply want to distinguish claims about desert itself from more substantive claims about the kinds of performance that *ought* to constitute bases of desert.

Finally, we must explore the connection between the performance and the benefit that is said to be deserved. It is implicit in the idea of desert that it is good or desirable for A, who has performed P, to have B; the world is in a better state when he has B than when he does not have it. Furthermore, in most cases some or all of us have reason to ensure that A gets B. The exceptions are cases in which there is nothing we can do to produce this outcome or in which attempting to do so would violate some other requirement of justice. Thus we might say of a scientist who has worked hard at a problem for many years, 'He really deserves to make a breakthrough', but in this case there is nothing we can do to bring about the result. Or we might say of an athlete, 'She deserves to win the gold', but it would be wrong for that reason to try to tip the race in her favour, since we are bound by norms of fairness and impartiality to treat all competitors equally. But these cases are unusual and perhaps marginal. Usually desert gives us a reason to assign B to A, either by direct action or else by changing our practices or institutions so that A is likely to end up with B.

This reason is a basic reason. The performance has taken place, and A's being put in a position to enjoy B is the fitting or appropriate response on our part to that fact. Many people find this relationship a mysterious one, and therefore seek to translate desert judgements into another form in which they do not have the implication that A's doing P at one moment simply *is* a reason for his being given B at some later moment. For instance, it may be said that giving B to A serves as an incentive for A and others like him to perform P in future; or it may be said that A's performing P shows the strength of his ambition to achieve B, so that by giving him B we are satisfying a strongly felt desire. But although it is often the case that requiting desert also achieves aims such as these, the suggested translations do not capture what we mean by desert. Desert belongs together with 'reactive attitudes' like gratitude and resentment within what Peter Strawson has called the 'participant' perspective

on human life, in which we regard others as freely choosing agents like ourselves, and respond to their actions accordingly.[8] If we switch, as we sometimes must, to the 'objective' perspective, regarding others as creatures to be trained, managed, and cared for, either in their interest or in ours, we should drop all talk of desert rather than trying to invent a surrogate meaning for it.

Thus far I have been trying to elucidate the meaning of what I earlier called 'primary' desert judgements, and it will not have escaped the reader's attention that some parts at least of our thinking about desert do not seem to fit into the framework I have proposed. In particular, we sometimes say that people deserve things on the basis of personal qualities rather than performances: we say the ablest candidate deserves the scholarship, that the applicant who has the greatest capacity to perform the job deserves to be offered it, that (in advance of the race) the fastest runner deserves to win it. Here past performance may yield evidence that the person in question does have the qualities that we attribute to her, but the basis for desert seems to be the quality itself rather than the performance. It is sometimes suggested that we should mark this contrast by talking of *merit* rather than desert in these cases.

'Merit is often understood in the same sense as desert, but it is useful to distinguish the two, using merit to refer to the personal qualities a man may possess, and desert to refer to the deeds he has done.'[9]

Although this distinction is a useful one, I propose that merit judgements of this kind are best understood as secondary desert judgements deriving their moral force from others that are primary. Roughly speaking, when we say that a person deserves some benefit on the basis of a quality, we are anticipating a future performance in which that quality is displayed. When we identify A as the fastest runner and say that he deserves to win, we mean that we expect him to turn in a performance when the race takes place such that he will deserve to win.[10] Of course for unforeseen reasons the race may not take place, and even when it does there are a number of factors that may interfere with A's performance that would not lead us to revise our original judgment, so we are not offering a prediction, but something like a *ceteris paribus* judgement. The same applies to the scholarship case, in which the person who deserves it is the person who, other things being equal, will subsequently perform at the highest level, and, as I try to show elsewhere,[11] to the case of deserving a job.

If a judgement of merit cannot be linked in this way to an anticipated performance, then we do not have desert in its proper meaning. Thus when we say, to take a well-worn case, that Miss Australia deserves to win the Miss World contest because we think she's the best-looking contestant, we are simply assessing her according to the criteria used in this contest; we are saying that she fits the criteria best. The judgement involved is really no different from the judgement we might make about the finest dahlia in the annual flower show. It is what I call a 'sham desert' judgement. Sham desert judgements are those in which 'A deserves B' means no more than 'It is right or fitting for A to be given B' without the grounds for the judgement being

performance-based desert as identified above. These include cases where the 'deserving' A is not a human agent ('Horses deserve to spend their last years in comfort'), cases in which we think A is entitled to some benefit under the rules ('They changed the closing date without telling anyone, so Smith deserves to have his application considered'), cases in which we think A needs or can make good use of B ('All patients deserve access to the best available medical care') and cases in which we just think that enjoying B is appropriate to the occasion ('After that piece of good news we all deserve a drink'). In all these cases we could replace 'deserves' with 'should have' and absolutely nothing would be lost, whereas in the case of genuine desert judgements 'deserves' supplies the *ground* for 'should have'. We appeal to desert to explain why somebody should be given or allowed to enjoy a benefit, and it is implicit here that there might be reasons of other kinds to which we are *not* appealing.

III

I now turn briefly to the relationship between desert and *luck*. To what extent can we say that people are deserving when we know that their performances have been affected by different kinds of luck? By luck here I mean random events outside of the agent's control. Luck affects performance in two ways. On the one hand, the performance itself – what the agent actually achieves – may depend to a greater or lesser extent on his luck. I gave the example earlier of a poor archer who shoots three lucky arrows and wins the competition. I shall label luck of this kind 'integral luck'. On the other hand, luck may determine whether someone has the opportunity to perform in the first place. The car carrying the athlete to the meeting may break down so that she has no chance to run. One soldier may be given an opportunity to show courage in battle, while another never gets within range of the enemy. Luck of this kind can be called 'circumstantial luck'.

Integral luck does appear to nullify desert. In other words, when we assess someone's performance in order to judge what he or she deserves, we try to factor out the effects of both good and bad luck. The athlete whose performance is affected by bad luck, such as being tripped by another competitor, may still deserve to win the race. Conversely, the entrepreneur who decides to manufacture a product which turns out unexpectedly to be a runaway success doesn't deserve all his gains – though here it will be much harder to separate genuine luck from an inspired hunch.[12]

It is a somewhat different story with circumstantial luck. It may be luck that a young scientist gets a job in a particular laboratory, but if he then does a pathbreaking piece of research, he may well deserve a Nobel Prize. The performance is entirely his, but it was to some extent a matter of luck that he was in a position to execute it. Equally it may be a matter of luck that I am walking by at the moment when a child falls into the river, but if I plunge in and rescue her then I deserve gratitude and reward in proportion to the

difficulty and danger of my action. How can this be? Consider the position of a second person who claims to be equally deserving on the grounds that she, too, would have done the research or carried out the rescue if she had only been given the chance. Why would we reject her claims as unjustified?

Two reasons seem to count here. The first is epistemic: we can never really know what she might have done if luck had been on her side. Even if we know on other grounds that she is a good scientist, we can't tell whether she would have had the particular insight needed to crack the problem that the Nobel winner has cracked. Even if she can demonstrate that she has rescued other children in similar circumstances, we can't be sure that when the moment actually came she would have braced herself and jumped into the swirling river.

Even in cases where we can be relatively certain that Jones would have done what Smith actually did if his circumstantial luck had been better, however, we are still reluctant to say that Jones deserves what Smith does, and this is because our notion of desert tracks actual performance rather than hypothetical performance.[13] As noted, when integral luck plays a part, we adjust our estimate of the performance to eliminate its effects, so that the person who finishes third in the race may deserve to have won it if his coming third is due to bad luck. But the athlete who never makes it to the race track, and so does not put in a performance at all, cannot deserve to win. We feel sympathy for her, of course, and we may think that she is the victim of unfairness if her failure to appear stems from causes that the race authorities ought to have eliminated, but the unfairness does not consist in her failing to receive the medal she deserves.

Do differences in circumstantial luck have *any* effect on how much one person deserves compared with others? Whether they do depends on at least two factors. First, the benefit that is deserved may to a greater or lesser extent be competitive as between possible claimants. There can only be one Nobel Prize for chemistry in any given year, whereas there is no limit to the amount of gratitude that can be shown towards acts of kindness or courage. In the first case people who are lucky deservedly gain at the expense of the unlucky, and this may lead us to qualify our judgements somewhat. To the extent that we are convinced that several other scientists might easily have made the discovery that led to the award of the Nobel Prize had they been in a position to do so, we will see the actual winner as less deserving. He's still pretty deserving of course – not many could have solved that problem – but he's not much more deserving than several others who in the nature of the case are excluded from receiving Nobel prizes. In contrast, the rescuer who gets a case of champagne from the grateful parents of the salvaged child isn't standing in the way of some other rescuer being rewarded on some other occasion.

Second, to the extent that the impact of luck is itself under human control, a decision to allow greater scope to luck will reduce desert. Suppose, for example, that we decided to allocate jobs by lottery. Those who ended up in these jobs would still be more or less deserving than others – one would work hard and skilfully, another would shirk, and so forth – but the random allocation would cast a shadow over these judgements. Many could legitimately claim that it was only their bad luck in the draw that prevented them exercising their talents for science or music productively. How can Smith deserve more than me for the work he is doing when I would have done as well or better if given the chance? Desert is strengthened when opportunities to become deserving themselves depend on the initiative and choice of individuals, and are not artificially distributed by some other human agency.

Integral luck nullifies desert, I have argued – we have to factor it out when judging what people deserve on the basis of their performances – and circumstantial luck may lead us to qualify our judgements about the deserts of those who are its beneficiaries. But if we want to keep the notion of desert and use it to make practical judgements, we cannot compensate completely for luck of the second kind. It is luck that I was born in the time and place that I was, with the range of opportunities that my society provides. I become deserving by taking these opportunities and producing intentional performances of an appropriately valuable kind. Judgements about my deserts are not affected by the fact that other people in different physical and social circumstances may have very different sets of opportunities. Circumstantial luck always lies in the background of human performances, and only when it intrudes in a fairly clear and direct way on what different people achieve relative to one another do we allow it to modify our judgements of desert.

IV

The performances on which everyday judgements of desert are based may depend not only on people's circumstantial luck, but also on their natural talents – the capacities and abilities with which they are genetically endowed. These, too, can be regarded as a form of luck. No one has any control over their natural endowments, though he can, of course, decide which of these endowments to develop and exercise. Ought we therefore to discount natural talents when estimating desert, factoring out of people's performances whatever depends on natural talent? Many philosophers have thought so.[14]

If followed through consistently, this suggestion, I shall argue, would sabotage the whole notion of desert rather than, as its proponents believe, refining its moral quality. Note, first, that according to the concept of desert being defended here, people can deserve benefits only on the basis of intentional performances, so though the performance may depend on natural talent – as in the case of the athletic examples I have been using – it also requires choice and effort. The desert is based on the *performance*, not the talent that may be its necessary condition. Where there is not even an anticipated performance, as there is in the case of secondary desert judgements, there can be no desert. It follows that people cannot deserve anything merely for *having*, as opposed to exercising, talents. Whenever people are judged meritorious on the basis of

native endowments alone – as in the beauty contest case – we only have sham desert judgements.

Second, even those who want to say that having a talent is merely luck would, I think, concede that luck of this sort has a less negative impact on desert than other kinds either of integral or of circumstantial luck.[15] Consider two mountaineers setting out to scale Everest; one succeeds, the other fails. What does each deserve? The second had bad luck in the form of adverse weather and a rope that unexpectedly broke; she was also physically weaker than the first. It would be very odd to treat these as equivalent kinds of luck. We would want to factor out the weather and the broken rope as far as we were able, because these were external to the second climber's performance, the skill and determination she showed. Perhaps on this basis she deserved to reach the top, to have her achievement commemorated in some way. But her physical strength was integral to her performance; indeed it was partly what made it *her* performance as opposed to anyone else's. So to discount it, and to say that what she deserved was what she would have achieved had she been stronger, would be decidedly strange.

Conceding these points, the critic of talent-dependent desert may still argue that one person can only deserve more than another, in the morally relevant sense of desert, on the basis of those aspects of his performance that are under his voluntary control. Let us begin to think through the implications of this principle. Consider a performance that depends on natural talent, such as climbing Everest or playing a Beethoven concerto at concert level. In cases like this the performer must (a) have chosen and worked to turn a natural ability like manual dexterity into a developed talent like musical skill; and (b) have decided to deploy the talent so as to produce the performance – to spend his evening playing a concerto rather than watching television. These choices and exertions are presumably what the critic would want to count as *genuine* desert bases. But now observe that these voluntary acts take place against the background of unchosen factors: on the one hand the performer's native talents, on the other his tastes and preferences (insofar as these are not themselves subject to choice). The person who decides that she wants to become a mountaineer does so on the basis of what she knows about her physical capacities, and also on the basis of her liking for being out in the open air. Of course tastes and preferences can to some extent be cultivated; but they are usually cultivated on the basis of other existing tastes and capacities.[16]

My point is that a greater or lesser element of contingency enters into even those elements of performance that the purist about desert would want to allow in as possible bases. If we say that the concert pianist deserves applause, not for his performance as such, since this depends in part on his natural talents, but for what is left over when the effect of natural talent is removed – the choice and effort involved in raising himself to this level – then we immediately have to recognize that his making those choices and efforts itself depends on contingencies that are not under his control. He did not choose to be born dexterous and with a good musical ear. Other people have not been confronted with the same range of options as this person.

If, in the light of this argument, our critic decides to retreat still further in his search for a desert basis that is not affected by contingencies outside of the agent's control, he is likely to end up saying, with Kant, that the only possible basis is the good will – deciding for moral reasons to try to act in this way rather than that. If Kant is right, moral reasons are completely independent of preferences, and since all that matters is the will to act and not the outcome, the agent's natural talents as well as his external circumstances become irrelevant to his desert.[17] I happen to think that Kant is wrong, but the main point to note here is that desert shrinks to within a tiny fraction of its normal range.[18] We can no longer talk about athletes deserving medals, workers deserving wages, soldiers deserving military honours, parents deserving their children's gratitude, and so on. All we are left to talk about is people deserving moral praise or blame for deciding to act rightly or wrongly.

We therefore stand at a parting of the ways. Do we want to continue using a concept of desert that is able to guide us in making our distributive decisions, as individuals or as a political community, or should we remove it from the armoury of social justice and use it only to make individual moral appraisals?[19] We may, of course, decide that the concept is so fraught with difficulties that we should dispense with it altogether, as Rawls and utilitarians like Sidgwick effectively recommend.[20] But if we decide that we want to keep the concept in a form that captures most of the desert judgements people actually make, then we cannot hope to find a basis for desert that is untouched by contingency. What we need instead is the idea of an agent and a performance, where the performance is intended and controlled by the agent, but makes use of qualities and characteristics that are integral to him or her – natural tastes and abilities among them.[21] We want to factor out luck proper – features of the environment like the fraying rope that makes the agent's performance turn out differently from what she might reasonably have expected – but if we try to eliminate contingency of every kind we find that our judgements are directed at a radically thinned-down idea of the human agent. Instead of assessing the deserts of flesh-and-blood actors who make a visible impact on the world, we find ourselves at best judging the qualities of Kantian noumenal wills.

V

What role can judgements of desert play in our thinking about social justice? How far can we use them to specify a determinate allocation of social resources? To answer these questions, it is helpful to separate desert judgements into different categories, according to their level of determinacy. I shall distinguish four such categories, beginning with the least determinate.

In the first category are judgements to the effect that certain benefits are *not* deserved because they have been allocated by criteria that have nothing

to do with desert – for instance when hiring decisions are affected by the race, sex, or religious affiliation of the job applicants. Such judgements seem relatively unproblematic. In order to make them, we do not have to assume very much about the grounds of desert itself (e.g. in virtue of which capacities or performances people deserve to be hired for jobs). All we need to know is that race, sex or religious affiliation *cannot* be such grounds. And they guide our thinking about social justice when we condemn practices that discriminate between people on irrelevant grounds like social background or sex.

In the second category are claims that when two people are equally deserving, it is unjust if one receives more benefit than the other. Claims of this kind are often made in support of uniform treatment – e.g. if workers in one part of the company are being paid more than workers in another part for doing jobs that are essentially similar in nature. On a wider scale 'comparable worth' legislation is guided by the same ideal.[22] These claims require identification of the relevant desert basis, and judgements to the effect that two individuals or two groups have performed equally by that standard, but they do not require us to say how much *absolutely* any given individual or group deserves – say what absolute level of income a particular job should command. These claims, too, feature frequently in debates about social justice.

In the third category we find more ambitious comparative claims to the effect that there is a disproportion between what group A is receiving by virtue of P and what group A' is receiving by virtue of P'. Examples here would be the claim that nurses are grossly underpaid in comparison to doctors, or the claim that it is unfair if equivalent honours are given to civil servants simply for doing their jobs as to private citizens who have performed supererogatory acts of public service. These claims require us first to make comparative judgements about the deserts of different groups of individuals, and then to make judgements about what, comparatively, would be suitable requital. Such judgements may be more or less precise. In many cases all that is required is an ordinal ranking. If we have to allocate prizes, we have to judge who has written the best book, for instance, perhaps also who should get second prize, but we aren't required to say that the winner has performed 10% better than the runner-up; similarly if we have to allocate a limited number of college places among a pool of applicants. In other cases what we are doing is essentially grading performances, placing them in a number of bands. When implementing a system of military honours, for instance, we have to be able to say that this action displayed the highest form of courage and deserves the Victoria Cross; that action was courageous but less so and deserves the DSO. Where cardinal judgements do have to be made, we are most confident when performances can be judged along a single dimension: we are reasonably happy about attaching numbers to performances in academic tests ('Smith deserves a 65 for that essay, but Jones doesn't deserve more than 58 for his'), far less happy about estimating the worth of different and unrelated jobs, say, where several possible standards of value may conflict (How much is the work of a university teacher worth? It may contribute to knowledge, but how much does it contribute to GDP?)

When used in this way our concept of desert constrains the set of just social distributions without fully determining how different groups should be treated comparatively to one another. If one society pays its doctors five times as much as its manual workers, while another society pays them only three times as much, we cannot say simply by appealing to desert that one of them is more just than the other. The judgements that we can justifiably make are not sufficiently determinate (they are however determinate enough for us to say that a society that pays its doctors *less* than its manual workers is virtually certain to be unjust).[23]

Finally we come to non-comparative judgements of desert: judgements to the effect that people who have performed P deserve some identifiable benefit B without reference to what others have done or are getting. Such judgements, I believe, play at best a marginal role in our thinking about social justice. They are more important in two other contexts. One is in discussions of punishment.[24] When we say that no one deserves to be hanged for stealing a sheep, we are not saying merely that this penalty is disproportionate to others, but that there is an absolute lack of fit between the wrong committed and the proposed penalty. The other is in the sphere of personal relations. Good deeds may deserve gratitude, where the amount of gratitude it is appropriate to feel and express is not dependent on what has been shown to others on similar occasions. And Feinberg has drawn attention to the justice of judgements, where the unfairness of the judgement that A's book is secondrate and derivative does not depend on the judgements passed on the works of others.[25] But if we are thinking about desert of property, positions, prizes, honours, income and so forth, then our judgements are at best judgements about what A deserves in comparison to others.[26]

To sum up, I have argued that we have a coherent concept of desert that is sufficiently independent of our existing institutions for it to serve as a critical weapon in the armoury of social justice. A just society is, in considerable part, a society whose institutions are arranged so that people get the benefits they deserve, and many legitimate complaints about existing societies appeal to this principle. But considerations of desert do not fully determine these institutional arrangements. They do not, for instance, tell us whether we should award prizes for athletic prowess or literary merit at all; nor do they tell us precisely how wide the dispersion of incomes should be. I have tried to steer a course between the view that desert is merely a formal principle that comes into play once we have decided what institutions to establish and the view that it tells us how everything in a society should be distributed. Because it is not wholly determinate, desert leaves room for other principles of justice to operate, as well as contrasting values such as efficiency and social equality.[27] A society can give people what they deserve, but also set resources aside to cater for needs, and be guided in economic matters in part by considerations of efficiency. This is a welcome result.

Notes

1 See the evidence cited in *Principles of Social Justice*, ch. 4.

2 J. Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), sect. 48; S. Scheffler, *Boundaries and Allegiances: Problems of Justice and Responsibility in Liberal Thought* (Oxford: Oxford University Press, 2001), ch. 10.

3 Since my underlying interest is in distributive justice as opposed to the justice of punishment, I shall examine what it means to deserve benefits without asking how far the analysis can be extended to desert of harms. My method is to attempt to identify the core idea that lies behind everyday judgements of desert, and then to see how far this idea can survive the various critical attacks that philosophers have launched against it. At the same time I appeal to these judgements in order to set aside various restrictive or revisionary accounts of desert found in the philosophical literature.

4 In cases of coercion some desert may persist, since the coerced agent may, for instance, still have choices to make, albeit from a restricted range of options, or may be able to display a greater or lesser degree of skill in carrying out the task she is coerced into performing. It remains true that if one is coerced into doing X one's deserts are typically less extensive than if one does X freely.

5 Although under the rules of the competition I am obviously entitled to receive it. I explore the relationship between desert and entitlement more fully in the longer version of this chapter, *Principles of Social Justice*, ch. 7.

6 Among these is Rawls, who formulates the desert principle as 'Justice is happiness according to virtue' (*Theory of Justice*, p. 310) and then proceeds to criticize it on this interpretation. I have discussed Rawls's critique of desert briefly in *Market, State, and Community: Theoretical Foundations of Market Socialism* (Oxford: Clarendon Press, 1989), pp. 158–9, and in *Principles of Social Justice*, pp. 138–41. Hayek is another who assumes that desert must be moral desert; I discuss his views in *Principles of Social Justice*, ch. 9.

7 This argument is well made in J. Lamont, 'The Concept of Desert in Distributive Justice', *Philosophical Quarterly*, 44 (1994), 45–64.

8 P. Strawson, 'Freedom and Resentment', in G. Watson (ed.), *Free Will* (Oxford: Oxford University Press, 1982). The connection between desert and a view of human beings as free agents is also stressed in J. Lucas, *On Justice* (Oxford: Clarendon Press, 1980), ch. 11. 'If we deny people their deserts, we are not really treating them as persons because we are taking them for granted. They are not in our eyes autonomous agents who had it in their power to act or not to act, but merely natural phenomena which we have been manipulating at our will' (p. 202).

9 Lucas, *On Justice*, p. 166. See also J. Lucas, *Responsibility* (Oxford: Clarendon Press, 1993), pp. 124–6.

10 Notice, however, that statements such as 'A deserves to win the 1500 metres' may have different meanings and invoke different desert-bases in different contexts. The desert at issue can be based on past performance: 'Jones has trained far harder than the other competitors; though he's not likely to, he really deserves to win this race'. It can be based on present performance viewed retrospectively: 'Smith deserved to win; it wasn't his fault that he got badly boxed in on the last bend'. Finally, as indicated in the text, it can be based on anticipated future performance: 'Brown is the outstanding athlete in the field; he really deserves to win'.

11 *Principles of Social Justice*, ch. 8.

12 It is not clear to me whether the factoring out goes all the way, or whether a residue is left in the sense that the actual performance still counts for something despite its elements of contingency. In the case in which someone does something harmful, it seems that there is a residue. To use an example of Nagel's, we think that a negligent lorry driver who kills a child deserves more blame and punishment than an equally negligent driver who is lucky enough not to have a child cross his path (T. Nagel, 'Moral Luck', in *Mortal Questions* (Cambridge: Cambridge University Press, 1991)). This can be explained partly on epistemic grounds: we know that the first driver was acting dangerously, whereas we can't be certain in the second case that some countervailing factor might not have eliminated the negligence (for example, that a driver who drove too fast by normal standards didn't have exceptionally good reflexes). (See N. Richards, 'Luck and Desert', *Mind*, 95 (1986), 198–209, for an explanation along these lines.) My view, however, is that the epistemic explanation doesn't account for everything, and that desert in such cases irreducibly depends, in part, on the actual nature or consequences of the actor's performance; I am less sure, though, whether this is also true when we are considering desert of prizes and other advantages.

13 As Nagel puts it, 'we judge people for what they actually do or fail to do, not just for what they would have done if circumstances had been different' ('Moral Luck', p. 34).

14 These include Rawls, *Theory of Justice*, sects. 17 and 48; J. Rachels, 'What People Deserve', in J. Arthur and W. H. Shaw (eds.), *Justice and Economic Distribution* (Englewood Cliffs, NJ: Prentice-Hall, 1978); W. Sadurski, *Giving Desert its Due: Social Justice and Legal Theory* (Dordrecht: D. Reidel, 1985), ch. 5; T. Campbell, *Justice* (London: Macmillan, 1988), esp. ch. 6.

15 In an interesting discussion of the causes of social inequality, Nagel gives reasons that inequalities deriving from differences in talent are commonly regarded as less unjust than inequalities arising from discrimination or from inherited class differences. See T. Nagel, *Equality and Partiality* (New York: Oxford University Press, 1991), ch. 10.

16 On this point see A. T. Kronman, 'Talent Pooling', in J. R. Pennock and J. W. Chapman (eds.), *Nomos 23: Human Rights* (New York: New York University Press, 1981).

17 See the discussion of Kant in Nagel, 'Moral Luck'. The original source is I. Kant, *Foundations of the Metaphysics of Morals* (Indianapolis: Bobbs-Merrill, 1959), First Section.

18 Wrong about the nature of morality. But one might also ask, more specifically, whether he is correct in supposing that a person's capacity to will rightly is unaffected by contingent facts about him such as his preferences and natural capacities.

19 I present this as a stark choice, though there may be intermediate possibilities: for instance, it is sometimes argued that because of worries about desert we should not allow people's incomes to depend on differences in their economic performance, though we might permit such differences to be recognized in other ways – by tokens of esteem, for instance. (See, for instance, G. Marshall, A. Swift and

S. Roberts, *Against the Odds? Social Class and Social Justice in Industrial Societies* (Oxford: Clarendon Press, 1997), p. 166.) I am not, however, convinced that this is a cogent proposal. Although there may be other grounds for preferring tokens to cash as a way of recognizing desert (considerations of need, for instance), if it is wrong in principle to reward people for their talent-dependent performances, then *any* form of reward, material or immaterial, is wrong. Conversely, if people do deserve differently on this basis, I cannot see what argument would rule out financial rewards as an appropriate form of requital.

20 According to Rawls, 'desert is understood as entitlement acquired under fair conditions' (J. Rawls, *Justice as Fairness; A Restatement* (Cambridge, Mass.: Harvard University Press, 1990), p. 64). According to Sidgwick, 'the only tenable Determinist interpretation of desert is, in my opinion, the Utilitarian: according to which, when a man is said to deserve reward for any services to society, the meaning is that it is expedient to reward him, in order that he and others may be induced to render similar services by the expectation of similar rewards' (H. Sidgwick, *The Methods of Ethics*, 7th edn. (London: Macmillan, 1963), p. 284). Note that both Rawls and Sidgwick are happy to continue using the *words* 'desert' and 'deserves' so long as their meaning is transformed as each of them proposes.

21 As Sher puts this point, we need the idea of a self with its constitutive preferences and abilities. 'No being that did not stand in some suitably intimate relation to its preferences, values, skills, talents and abilities could choose and act in the full sense.' (G. Sher, *Desert* (Princeton: Princeton University Press, 1987), p. 159.)

22 This is legislation aimed primarily at eliminating the gap between men's and women's levels of pay by applying the principle of equal pay for work of equal value, regardless of whether the work is traditionally done by men or by women.

23 Can we imagine a society in which manual work is genuinely valued more highly than medical practice? Hypothetically we can, but it is interesting to find that in the Soviet Union, which in its heyday went to great lengths to glorify manual labour, the occupation of doctor was still ranked considerably above that of manual worker. See A. Inkeles, *The Soviet Citizen: Daily Life in a Totalitarian Society* (Cambridge, Mass.: Harvard University Press, 1959), pp. 76–80, for evidence to this effect.

24 See J. Feinberg, 'Noncomparative Justice', *Philosophical Review*, 83 (1974), 297–338.

25 Ibid.

26 I have explored the comparative and non-comparative aspects of desert judgements in much greater detail in 'Comparative and Non-Comparative Desert', in S. Olsaretti (ed.), *Desert and Justice* (Oxford: Oxford University Press, 2003). In this article I also examine further the role played by judgements of desert in our thinking about social justice.

27 For discussion of how desert and social equality may be reconciled, see my articles 'Complex Equality', in D. Miller and M. Walzer (eds.), *Pluralism, Justice and Equality* (Oxford: Oxford University Press, 1995), and 'Equality and Market Socialism', in P. Bardhan and J. Roemer (eds.), *Market Socialism: the Current Debate* (New York: Oxford University Press, 1993).

Part III

Issues