

Deserving to Deserve: Challenging Discrimination Between the Deserving and Undeserving in Social Work

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Abstract

A distinction between the deserving and undeserving has been in some respects a distinguishing, and in many others, divisive, feature of the social work profession. The apparent distinction has traditionally been drawn on the basis of ethical and moral appraisals of virtue and vice. This tradition has a much longer pedigree dating from antiquity in which considerations of personal desert were crucial, indeed decisive, in redistributive and retributive justice (Zaitchik 1977). Over the passage of time, moral authority has yielded more and more power to knowledge (Foucault, 1973). Rationality has superseded dogmatism, and the assessment of those eligible for welfare has been well honed. Although income and means tests form the official basis for distributing welfare, whether or not moral desert has been abandoned remains in question. However, how might desert be managed, if it does indeed continue to exert a powerful, albeit covert, influence on claims to state-provided or sponsored welfare? One possible answer to this question follows, first by noting the obvious, though, unappreciated importance of, desert, followed by a discussion of its integral relation to justice, and finally outlining how social work could use it as a normative force.

Keywords: desert, deserving, distributive justice, charity, entitlement, nudge, retributive justice, undeserving

The Undeserved Neglect of Desert

Few people would deny that persons who work hard deserve success, or in exhibiting outstanding courage deserve recognition, and conversely, that those who do harm or wrong deserve punishment. But, coupled with charity, desert is susceptible to moralisation, and worse still to baser motives, desires and tendencies such as discrimination, blame, and retribution.

Life during the formative period of professional social work, especially in Victorian England, was, as Thomas Hobbes (1960) once described it, solitary, poor, nasty, brutish, and short. It was, indeed, the worst of times (Dickens, 2003), during which charity was hard earned, rationed, temporary and conditional (Woodroffe, 1968). Beneficiaries were compelled to model the virtues of self-discipline, industry and moral edification for the sake of alms.

The Charitable Organisation Society (COS) placed itself at the forefront of a crusade to redeem the deserving from the swelling ranks of the “predatory and grasping paupers wallowing in vice and crime” (Forsythe & Jordan, 2002, p. 857). In attempting to prove their superiority to more conventional forms of philanthropy, the Society developed “procedures that were scientifically designed to expose the fraudulent rascal and to ensure ... that those who were deserving received constructive, purposeful support” (Humphreys, 1992, p. 9). As Forsythe and Jordan (2002) contended, such an approach descended into the

“hypocritical cant and judgemental callousness that was frequently alleged ... against the Charity Organisation Society” (p. 858). Thus, the early notion of desert fell appreciably short of being either charitable or moral.

Although, life for many continues to be brief and hard (Norton, Anik, Akin, & Dunn, 2011), the ascription of deserving and undeserving to those in need that was once both legally and professionally sanctioned has been disavowed. For example, a recent editorial appearing in the United Kingdom’s top-ranking, international publication, the *British Journal of Social Work* (2016), noted that:

The 1834 English Poor Law distinguished between the “deserving” and the “undeserving” poor, the former being those who through no fault of their own—disability, age, sickness—could not provide for themselves, and the latter being the feckless and work-shy, a burden on their communities and undeserving of any but the harshest of treatment from hardworking people and the instruments of the state. The Poor Law was replaced by the modern welfare state, yet its legacy lives on—except that, of course, we have removed the outmoded notion that there are some in our society who will always need the support of others in favour of a rhetorical championing of “hardworking families.” (Golightley & Holloway, 2016, p. 1).

Legal repeal and professional repudiation notwithstanding, the nature and practical significance of desert has become even more pre-reflective and obscured. Again, the BJSW editors proceeded to note, unwittingly, that:

Social workers know as well as any how being caught up in a cycle

of deprivation and disadvantage removes all hope and aspiration and, yes, often our service users behave in ways which are self-destructive, self-defeating and, in the eyes of many may appear to neither merit nor benefit from help offered (Golightley & Holloway, 2016, p. 2)

While the editors acknowledged that “in the eyes of many, service users may appear to neither merit nor benefit from help offered,” they, nonetheless, concede that the behaviour, and by extension, consequences (i.e., disadvantage and deprivation), of service users can, indeed, be self-inflicted, and by implication, deserved if help was not sought or accepted. What is most disturbing about the persistence of these public misconceptions and professional contradictions, is that desert continues to occupy a central place in contemporary schemes of retributive and, implicitly, distributive, justice.

Desert, it will be argued, can be harnessed for the benefit of service users if it is not simply completely and mindlessly disavowed. In the discussion that follows, the nature and scope of desert will be clarified, and its (re)appropriation by social work outlined with reference to a Rawlsian conception of institutional justice.

The Sources and Bases of Desert

Desert is evidently a more elusive concept than it has often been taken to be. Nevertheless, conceptual clarity about the structure of desert is possible. Desert may be conceptualised in terms of the interrelationship between its subject, object and bases. As Feinberg (1970) pointed out, “if a person is deserving ... s/he must necessarily be so *in virtue of* some possessed characteristic or prior activity” (p. 58). Feinberg (1970) posited what has become the standard formulation of desert claims: “S deserves X in virtue of F,” where S is the subject of desert, X is the treatment deserved, and F is some fact about S that is the basis of desert (p. 61). Accordingly, the values of F (the various bases of desert) are determined in part by the nature of the

various Xs in question. For instance, what makes a person deserving of a commendation for bravery, is not identical to that which makes her or him deserving of unemployment benefits.

There is an important distinction between merit and desert. Merit refers to a person's admirable qualities, desert to deeds (Miller, 1999). Using merit of any sort as a basis for distributing resources, argues Miller (1999), should be highly restrictive, and in particular not govern the distribution of goods and services that people regard as necessities. Merit, according to Miller (1999), is specific and insular. For example, if the distribution of educational or employment opportunities were based strictly on merit, then considerations of class, gender, ethnicity and race would be ethically irrelevant and precluded. He adds that "if we could envisage a society of simple equality in which everyone was entitled to the same bundle of goods and services, then merit would become redundant" (Miller, 1999, pp. 201-2). So, too, of course, would the notion of desert become superfluous. Desert, then, seems destined to play a more pivotal role in our conventional (dystopian) schemes of distributive justice than it might otherwise.

Desert has primarily been used as a moral concept (Simmons, 2010). However, as Kleinig (1971) long ago observed, desert is not a specifically moral notion. Although desert claims may have moral overtones there is no imperative that they should. In fact, as was noted earlier, many would have been better served by not confining the concept within a purely moral context. Shifting the context enables desert claims to be assessed according to broader criteria. For example, compensation may be deserved for a mistake as much as a misdeed, and reward for audacity as prudence. Taking a broader view of desert would curtail its misuse in evaluating claims on the basis of moral inferiority and superiority.

In an attempt to distil the concept further, some philosophers have tried to distinguish personal from institutionalised desert. Feinberg (1970) argued that desert was a "natural moral notion, not logically tied to institutions, practices and rules" (p. 56). On this

view, what people deserve can be accounted for *pre-institutionally*. The case for pre-institutional desert becomes immediately apparent when we consider the myriad situations in which desert is intuited. For example, as previously mentioned, it seems fitting that people who are unduly wronged deserve sympathy, while the wrongdoers deserve blame. In both cases, it seems natural, following Feinberg (1970), to say that, other things being equal, the person should get what he or she receives simply because he or she deserves it. But, desert can also be tied to institutions, practices and rules (Scanlon, 2013). Deserts of this kind are referred to as *entitlements*. According to Feinberg (1970), people have a right or claim to things that they are duly entitled, or qualified and eligible, i.e., deserve, to receive. Entitlements are conditional, and rule governed, and the products of institutional arrangements. For example, to be entitled to a pension one must be a certain age. Specific institutions are assigned the task of ensuring people get what they are entitled to. As will be argued, entitlement-as-desert offers firmer grounds for desert claims, and on this point, Rawls's (1971) theory of justice is particularly promising.

Desert and Distributive Justice

The notion of desert has become firmly embedded in retributive justice (Clarke, 2013). It forms the basis of legal codes and institutions dedicated to the adjudication and enforcement of just punishment. By the same token, it is considered to play little, if any, decisive role in contemporary theories of distributive justice (Moriarty, 2003). Indeed, even in political philosophy, the idea of desert in assessing the justice of resource distributions has come to be treated with a good deal of suspicion (Roskies & Malle, 2013). This may be a matter of simplicity. Retributive justice is primarily concerned with dispensing one form of desert, i.e., punishment, and there is no question that everyone can be deserving of any or no punishment. Desert is, on the other hand, obliged to play a smaller role in distributive justice, since not everyone is capable of making a contribution or bearing a burden, and hence, deserving (Smilansky,

2006). Moreover, while punishment may not appear to be in short supply, it is not as scarce, unequivocal or inestimable as other deserts of a positive kind, such as liberties, opportunities, and respect.

According to Jeffery Moriarty (2003), the relative neglect of desert-based theories of distributive justice is nonetheless difficult to comprehend. "If people should have the punishment they deserve, shouldn't they also receive the social benefits they deserve? As Moriarty (2003) makes clear, "there is good reason to care about the answer to this question" since "if 'the asymmetry' can be justified, then its justification will likely reveal deep differences in the natures, purposes, and circumstances of theories of distributive and retributive justice" (p. 518).

Despite its importance, there are a number of prominent scholars who reject desert-based distributive theories. They include Robert Nozick (1974), Stuart Hampshire (1972), Kai Nielsen (1985), Michael Sandel (1998), and Richard Wasserstrom (1978). Most notable among them, however, is John Rawls (1971). Rawls (1971) not only appeared to reject, but also endorse, the asymmetry. According to Rawls (1971), desert entails responsibility. People must be responsible for the actions and character traits in virtue of which they are deserving. But, Rawls (1971) argued, no one is responsible for either of these:

It seems to be one of the fix points of our considered judgments that no one deserves his (sic) place in the distribution of native endowments, any more than one deserves one's initial starting place in society. The assertion that a man (sic) deserves the superior character that enables him (sic) to make the effort to cultivate his (sic) abilities is equally problematic; for his (sic) character depends in large part upon fortunate family and social circumstances for which he (sic) can claim no credit. The notion of desert does not seem to apply to these cases (pp. 103-4).

The influence of nature (genes) and nurture (environment) shapes a person's character and actions to an extent that is incompatible with personal, and by extension, moral, responsibility. Desert cannot, therefore, serve as a basis for distributive justice. If Rawls's theory (1971) is correct, then it is evident that desert claims that have been or are avowed by social work must be rendered arbitrary from a moral point of view, and hence, unjust.

Rawls's (1971) view on the matter aligns with the philosophical arguments advanced by incompatibilists (Pereboom, 2016). According to this view, each of us is the product of both birth and breeding, and hence, unfree in the sense that our choices cannot be divorced from our origins and socialisation. For a person to be genuinely responsible for some action or characteristic, it must be freely chosen, and not caused by genes, forces or factors outside his or her control. But, although they contend that there is no free will, like their opponents, the compatibilists, they do not deny the will to be free.

But, Rawls (1971) did not deny that individuals could make choices. Rather, he contended that it was hard to discern what a person was accountable for by *unalloyed* choice and, thereby, deserved. Desert could not, therefore, provide a sufficiently practical basis for apportioning fair dues of burdens or benefits.

However, as two of Rawls's most ardent critics, Sher (1989) and Nozick (1975) allege, the theory is neither justified, nor can it be defended, on this point. The proposal is not only counterintuitive, but if accepted, leads to some rather radically unpalatable consequences. Both Sher (1989) and Nozick (1975) take particular issue with Rawls's view that no one deserves anything, neither praise or blame, nor reward or punishment.

For Sher (1989), Rawls (1971) is right to draw attention to instances where people's natural talents and abilities gives them an unfair competitive advantage over others. However, the argument against desert is not all or nothing. As Sher (1989) explains:

In its current form, the argument does leave room for desert in cases in which all the relevant parties have equivalent sets of abilities. By demonstrating that the Rawlsian argument must be reformulated in comparative terms, we have already compelled a measure of retreat from its initial unqualified conclusion that nobody ever deserves anything (p. 28).

Sher (1989) posits that there is at least one innate ability that may be comparatively similar in everyone, and that is, effort-making. If effort-making did, indeed, constitute a relatively homogenous ability, then this would make it plausible to suppose that people deserve rewards for their greater use of this ability in shaping their character and accomplishing their goals, etc., than those who use it less or not at all. Note that desert does not depend on successful effort. Effort itself is both a necessary and sufficient condition for desert, and it appears to offer a more inclusive and equitable basis for desert. For to reward only successful effort would be to credit far fewer people; ironically those with unearned added advantages bestowed upon them by the social-genetic lottery. The alternative seems to open desert to everyone capable of making an effort.

But, the question remains: Is effort-making ability equally distributed? Sher (1989) offers no evidence for his claim. While he rightly points out that differences in the amount of effort people do make does not prove differences in ability, neither does it demonstrate equal ability. Given that people differ substantially in many other natural abilities, it is difficult to believe that effort-making would be an exception. And, even if it were not, it begs the further question of how much effort does desert require? Making *some* effort is evidently not sufficient to claim desert in non-egalitarian societies like our own, and those, who by disinclination or incapacity make no effort, are, strictly speaking, entirely undeserving. The question about desert-for-effort

thus returns us to the initial starting point between deserving and undeserving and the moralistic bases upon which the otiose distinction has rested. As Rawls (1971) explains:

The precept which seems intuitively to come closest to rewarding moral desert is that of distribution according to effort, or perhaps better, conscientious effort. Once again, however, it seems clear that the effort a person is willing to make is influenced by his (sic) natural abilities and skills and the alternatives open to him (sic). The better endowed are more likely, other things equal, to strive conscientiously, and there seems to be no way to discount for their greater good fortune (p. 312).

Nozick (1974) appears to offer a more challenging criticism of Rawls's apparent anti-desert thesis. Nozick (1974) asks, "Why shouldn't holdings [such as property, money, status and material goods] partially depend on endowments?" (p. 216). If Rawls's (1972) claim about the arbitrariness of desert is accepted, then not only does it diminish personal responsibility, but it negates personal autonomy altogether. Attributing who individuals are and what they do entirely to external sources removes everything that is noteworthy about them. As Nozick (1974) explains:

Denigrating a person's autonomy and prime responsibility for his (sic) actions is a risky line to take for a theory that otherwise wishes to buttress the dignity and self-respect of autonomous beings; especially for a theory that founds so much (including a theory of the good) upon a person's choices. One doubts that the unexalted picture of human beings Rawls's theory presupposes and rests upon can be made to fit

together with the view of human dignity it is designed to lead to and embody (p. 214).

However, as Simmons (2010) made clear, Nozick's (1975) vision of individual autonomy is far less dignified and just than any he condemns Rawls for proposing. More specifically, Nozick's (1974) attack is as flawed as it is polemical. Nowhere in his seminal work, the *Theory of Justice*, does Rawls (1971) deny the significance of personal autonomy. Rather, his intention is to highlight its importance and provide a stronger and fairer endowment for exercising it. Rawls's (1971) theory of justice is, in this respect, more robust than Nozick's (1974) right-trumping theory of entitlement (and tax-minimisation scheme). Indeed, Nozick (1974) advocates the primacy of individual rights over personal liberty without much accompanying responsibility. In his *Anarchy, State and Utopia*, he proposes a system in which people acquire goods according to principles of just acquisition that are purely "historical" in nature (Nozick, 1974, p. 153). Goods are considered to be acquired justly provided they are either obtained directly from nature, subject to the proviso that there must be as much and as good left over for others or from another person (through sale, gift, bequest, etc.). The resulting system is a very pure form of market economy. In fact, it is misleading, according to Nozick (1974), to talk of distribution of goods, because there is no legitimate central agency entrusted to organise the acquisition of goods from individuals. Acquisition happens either by individual procurement or by voluntary transfer involving only the individuals concerned. Nozick (1974) believes such a system is more just than any other, since anything else would be coercive and a direct violation of individual rights. Indeed, he considers any form of taxation aimed at enlarging the autonomy of marginalised people as itself an undeserved privation. By contrast, Nozick (1974) holds the view that the marginalised are not entitled to, and thereby deserve, relief. Unlike Rawls (1971), not only does Nozick (1974) not discredit the distinction between un/deserved personal

desert, he uses it as the basis of his theory of justice. The theory serves to justify the entitlements that the so-called 1% claim to deserve (Dorling, 2015).

The Institutional Basis of Desert

As Scanlon (2013) has argued, Rawls was in fact more sparing of desert than his critics have claimed. He did not reject personal desert *tout court*. Rather, he insisted that "distributive shares do not correlate with *moral worth*" (italics added) (Rawls, 1971, p. 312), and argued instead that the legitimacy of desert as a primary basis of distribution depended upon just institutions. Rawls (1971) drew the analogy between desert and theft:

For a society to organize itself with the aim of rewarding moral desert as a first principle [of justice] would be like having the institution of property in order to punish thieves (p. 313).

In other words, just as the concept of theft makes no sense in the absence of an established institution of property, so too, is the concept of desert rendered nonsensical without any pre-established institutional context. Simply put, just as no one can be said to have stolen anything if there is no institutionalised notion of ownership, no one can claim to deserve anything if there is no institutional warrant. Any pre-institutional claim to desert is bound to be arbitrary and weak. While desert may be estimated by the calibre of one's character, it is without doubt presupposed, reliant upon and calibrated by the principles of justice that govern institutions. According to Rawls (1971):

It is incorrect to say that just distributive shares reward individuals according to their moral worth. But what we can say is that, in the traditional phrase, a just scheme gives each person his (sic) due: that is, it allots to each what he (sic) is entitled to as defined by the scheme itself (p. 313).

“Desert is understood as entitlement acquired under fair conditions” (Rawls, 1971, p. 64). Hence, to focus on *personal* desert as the basis for distributive justice is to look in the wrong place. As Rawls (1971) pointed out, “the claims of individuals are properly settled by reference to the rules and precepts (with their respective weights) which just economic arrangements take as relevant” (p. 313). Desert derives its ethical (deontological and teleological) weight from the principles of justice that members of a society are prepared to accept as the constitutive basis of their institutions.

Institutionalising desert has undeniable advantages. Institutions reflect normative aspirations and standards and galvanise allegiance to these. Whatever the enterprise, institutions harbour a particular vision, and make it their business to realise it. Without recourse to corresponding institutions, claims to desert are liable to remain idiosyncratic, and difficult, if at all possible, to justify. Individuals cannot properly be praised, blamed, rewarded, compensated or punished for acts that have no pre- or proscriptive legitimacy. It is the existence of the relevant institution that makes performance or capacity a possible basis of desert. According to Rawls (1971):

It is perfectly true that given a system of cooperation as a scheme of public rules and the expectations set up by it, those who, with the prospect of improving their condition, have done what the system announces it will reward are entitled to their better situations; their claims are legitimate expectations established by social institutions, and the community is obligated to meet them (p. 103).

As this passage makes clear, Rawls (1971) does not denigrate the role of desert. Entitlement or legitimate expectation is used to add meaning to the term. Not only does Rawlsian entitlement defy the narrow confines of the classical and highly moralistic conception of desert, but it also marks a radical departure from the sense in which it is used by Nozick

(1974), and other libertarians. In contrast to Nozick (1974), entitlement refers to the legitimate expectations “presupposed by the existence of a cooperative scheme,” not a competitive market economy.

The Recuperation of Desert by Social Work

Desert claims are inescapably evaluative and, hence, normative. Normative notions of desert can be used as the basis of distributive institutions. In fact, prototypes for their design already exist in the form of courts, the United Nations, and a host of non-government organizations. However, a particular problem that has plagued welfare institutions is that discrimination is (mis)taken for desert. The issue, as Sorin Baiasu (2006) has cogently argued, is to ensure that the nature and scope of desert are clearly understood, given primacy, and made explicit in the establishment and regulation of public institutions.

The shift in emphasis from a naive pre- to thoroughgoing institutionalised understanding of desert has several important implications for social work practice. The first, and most obvious, concerns the basis or derivation of desert claims. Social work must turn its attention from the purely personal, and highly subjective, to the normatively stable and rationally tempered, sphere of adjudication. But, this rebalancing of perspective does not entail depersonalisation. On the contrary, it reinforces the profession’s long-established view of the person-in-situation. Pre- and institutional desert are no longer coincidental or ambiguous, but rather interdependent, and social work is tasked with ensuring that institutions accommodate the just deserts of individuals.

The shift in focus also serves to neutralise the moralisation of desert claims. As was argued earlier, basing desert on moral worth is precarious; it is unmoored and defies impartial arbitration. Equally, it is typically retrospective. When we say that a work-shy, or conversely, hard-working, person deserves what she or he gets, the focus is on past, rather than future, actions or events. But this backward-looking orientation is extremely

puzzling. It begs the question why it is not more rational to set aside any preoccupation with an unalterable past, and concentrate more fully on possible futures? What individuals institutionally deserve is not confined to what they have, or failed to have, done, but envelopes what they deserve to do and who they deserve to become. Potentials, or what Nussbaum (2003) and Sen (2004) coined *capabilities*, determine opportunities for acquiring desert. People are capable of getting what they deserve, provided they have the institutional means to do so. Capabilities-as-desert become entitlements, in the Rawlsian, as opposed to, Nozickian, sense, and the task of social work is, once again, to ensure that claimants receive their dues.

This shift in perspective “nudges” (Sunstein, 2014; Thaler & Sunstein, 2008) the current emphasis on negative behaviour-modifying conditionals, such as sanctions for non-compliance, placed on service users by neoliberal governments (Curchin, 2017), in the opposite direction. It is hardly surprising that they are more likely to behave “counter-productively,” as the editors of BJSW, and others, have observed, when situated in circumstances hostile to their welfare. Desert, thus, acts as an incentive, rather than a corrective.

Of course, the institutional approach to desert is not without problems. As Sher (1989) maintained, tensions exist between actual and ideal institutions. While this may be so, imperfection only serves to add impetus to realising the ideal. If desert is formally institutionalised, then determinations can be subject to scrutiny and redress for their insensitivity to valid claims. Monitoring the probity of public institutions serves to reduce discrepancies between actual and ideal performance.

Even arch critics of the institutional approach to desert such as Sher (1989) concede, “despite its problems, some version of it may ultimately ... provide the best obtainable justification of desert-claims” (p. 17). The alternative is to concede that “desert is merely a derivative category of moral thought, and that it plays no basic role in determining what justice requires” (Sher, 1989, p. 17).

Conclusion

The notion of desert has been undertheorized and, as a consequence, misapplied. Its origins date back to antiquity, where the attempt was made to provide a logical basis for the concept. The ancients saw it is a person’s due for her or his virtue or vice. Over the course of time, it became increasingly mired in moralism. It was, as a consequence, used uncharitably by the antecedents of an evolving social work profession

More recently, desert has been viewed as a basis of exchange. Sher’s (1989) notion of desert for effort is a case in point. In fact, genuine desert is unsolicited (Feinberg, 1970). Nor is it, as Rawls (1971) cogently argued, based on performance or contribution, since these are irrevocably attuned and confounded by endowments which are themselves undeserved. As such, the recognition of desert must have an institutional basis. It would simply be a matter of personal opinion otherwise.

If desert is explicitly instituted, then the distribution of benefits and burdens would at last have to be justified on grounds that are not arbitrary from a moral, nor any other, point of view. The social work profession has a particular historical account to settle in this regard. It must repudiate any claim that desert cannot be applied successfully to contemporary institutions. In the process of doing so, moreover, it is poised to drive social institutions towards the egalitarian ideal of distributive justice. As the profession well knows, just desert requires a stronger foundation than piety or charity.

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