

This project attempts to answer a number of central, and to some extent neglected, questions about the concept of desert — a concept that is an important, if unclear, part of the moral outlook of most people. The questions are the following:

(1) Is desert a deontological or a teleological concept? In other words: is that people get what they deserve only a goal to be pursued or is such treatment something we owe to those who deserve it?

(2) How is desert related to rights? More specifically, can we have a right to benefits we do not deserve, and if so how?

(3) It is possible to deserve the attitudes of others (e.g., admiration) as well as different forms of treatment (e.g., rewards and punishment). How are these two types of desert related to each other?

(4) Is it possible to reconcile the thought that persons should be treated as they deserve with a contractualist moral theory (i.e., a theory according to which right and wrong are determined by the rules for human coexistence that rational individuals would accept)?

(5) Is desert comparative or non-comparative? That is, do we determine what persons deserve by comparing them with each other, and if so in what contexts?

(6) Why care about desert in the first place? And is it even meaningful to talk about what persons deserve?

Populärvetenskaplig beskrivning (högst 4500 tecken)

Frågor om vad människor förtjänar är centrala inom både moralfilosofin och den politiska filosofin. Inte minst är förtjänstbegreppet betydelsefullt för de ämnesområden som filosofer alltsedan Aristoteles betecknar med namnen 'retributiv' respektive 'distributiv rättvisa'. Å ena sidan har vi frågor om vad människor förtjänar att få, i form av belöning, i gengäld för att ha utfört arbete eller andra värdefulla tjänster. Å andra sidan ställs vi inför problem som har att göra med hur människor förtjänar att bestraffas för att ha begått olika typer av brott. Inom området förtjänst finns ett mycket stort antal frågor och en minst lika stor oenighet. Syftet med mitt projekt är att besvara några av dessa frågor, eller i alla fall att ta ett rejält kliv närmare sådana svar. Jag har valt att studera sex olika, om än i vissa avseenden relaterade problemområden. Detta urval är delvis grundat på personligt intresse, delvis på en önskan att rikta uppmärksamhet på vissa viktiga men delvis försummade frågor. Den grundläggande frågan om moralisk förtjänst är varför vi ska bry oss om den överhuvud taget; alternativt om det ens är meningsfullt att tala om vad människor förtjänar. Enligt ett skeptiskt synsätt är det bara fakta om framtiden som kan vara relevanta för hur vi bör handla, medan fakta om vad människor förtjänar har att göra med det förflutna. En annan skeptisk tanke är att vi, för att kunna förtjäna något för våra handlingar, måste vara ansvariga för dessa handlingar i en mycket stark mening, och det är osäkert om vi är detta. Dessa frågor är fundamentala men också svåra. Min förhoppning är dock att i viss mån kasta ljus på dem inom projektets ram. De övriga frågorna kommer jag att angripa under antagandet att moralisk förtjänst är ett meningsfullt och viktigt begrepp. Den första frågan är den om huruvida moralisk förtjänst är ett deontologiskt eller ett teleologiskt begrepp. Annorlunda uttryckt: är det bara ett mål att sträva mot att människor blir behandlade efter förtjänst eller är sådan behandling något som vi är skyldiga dem som förtjänar den? Frågan aktualiseras inte minst av en asymmetri i vårt vardagliga moraliska tänkande. Å ena sidan verkar personer som förtjänar belöningar eller annan god behandling kunna klaga om de förvägras denna utan goda skäl. Men å andra sidan verkar inte personer som förtjänar straff eller annan dålig behandling kunna klaga under liknande omständigheter. Nästa fråga rör relationen mellan moralisk förtjänst och rättigheter. Mer specifikt gäller den om vi kan ha rätt till olika förmåner som vi inte förtjänat. Att detta är fallet är en vanlig utgångspunkt i litteraturen och är väl också den gängse uppfattningen (t.ex., rättigheter som uppkommit genom löften). Men stämmer den? Och i så fall varför? Ett tredje problem handlar om förhållandet mellan att förtjäna andra människors attityder (t.ex. beundran) och att förtjäna olika former av behandling (t.ex. belöning eller straff). I synnerhet tycks det som att mycket av den skepticism om förtjänst, som jag noterade ovan, drabbar behandlingsförtjänst hårdare än attitydförtjänst. Är det verkligen så och vad beror det i så fall på? Ett fjärde spørsmål är i vilken utsträckning tanken om moralisk förtjänst är förenlig med den mycket inflytelserika kontraktualistiska moralteorin (d.v.s., en teori enligt vilken rätt och fel bestäms av vilka regler för mänsklig samvaro som rationella individer skulle acceptera). Kontraktualister har tenderat att vara fientligt inställda till många vardagliga föreställningar om förtjänst. Detta gäller generellt för liberala politiska teorier, med vilka den samtida kontraktualismen är nära lierad. Slutligen tänker jag ta mig an frågan om huruvida moralisk förtjänst komparativ eller icke-komparativ. Med andra ord, bestämmer vi vad människor förtjänar genom att jämföra dem med andra, och i så fall i vilka sammanhang?

Mitt syfte är i första hand att sprida resultaten av projektets forskning i internationella tidskrifter. Det primära syftet är att bidra till den teoretiska förståelsen av förtjänstbegreppet. Det är dock också min avsikt att projektet i slutändan ska leda till en bättre förståelse även för hur vi kan använda oss av begreppet moralisk förtjänst både när det gäller fördelning av samhällsliga resurser och med avseende på behandling av brottslingar.

"On Moral Desert"

1. Specific Objectives

The primary aim of the project is to contribute to a lively international debate in moral and political philosophy, about the nature of desert. This topic has always been at the heart of philosophical controversy, but has especially come to the forefront recently. I aim to approach these matters from an angle different from those represented in the recent literature. A secondary aim of the project is to address the more theoretical question of the philosophical basis of desert, of why it is important to attend to it.

2. Survey of the Terrain

I will proceed by addressing a number of interrelated problems. Resolving them all will not yield a complete theory of desert, but these solutions are necessary components of such a theory (but there are other such components I will not address). In what follows I will describe the state of the debate, as I see it, concerning these problems.

(1) The first problem concerns what Olsaretti (2003a) has called the "moral force" of desert claims. One way of putting the question is whether desert is a teleological or a deontological notion. Alternatively we could ask whether it is an impersonal or a personal notion. If it belongs on the right-hand side of either of these two (possibly equivalent) distinctions, then persons have a right or claim to getting what they deserve, or would at least have a complaint if they do not get it. By contrast, if desert belongs on the left-hand side, it is good that persons get what they deserve; and if anyone has duty to satisfy the demands of desert, that duty derives from a general duty to promote the good. Possibly the picture is more complex, with some forms of desert being teleological, others deontological.

Important though it is, this question has not been at the focus of the debate. One reason for this comparative neglect may be that there is an apparent knock-down argument showing that we must take a teleological approach, at least to many forms of desert. This argument is that, at least on many views of desert, we can deserve harmful as well as beneficial treatment, and the idea that persons would have a complaint upon not being harmed seems decidedly odd. (*Cf.* Temkin 2001.) On the other hand, the idea that persons deserving beneficial treatment can complain if they are denied it has considerable plausibility as well, at least in many cases. Here is a matter that definitely calls for further research.

(2) Another issue is closely related. This is the matter of how desert and rights are related. In particular, there are two questions here. The first we have just mentioned, whether there is (perhaps in some attenuated sense) a right to get what one deserves. The other question concerns the converse relationship: to what extent, if any, does having a right to something require deserving that thing? From the very outset of the contemporary debate over desert, in Feinberg (1963), there has been a tradition of separating rights from desert. An important strand in this tradition is that desert is a value notion whereas the notion of a right is deontic (Sher 1987). It does not follow, however, that desert facts are irrelevant to what rights persons have. There is also another traditional tendency in the literature, in tension with the first, of seeing desert as an essential ingredient in justice, and particularly of seeing justice as consisting in giving persons what they deserve. A clear recent exponent of that type of view is Cupit (1996); *cf.* also Miller (1999). If it is correct, then to the extent that the demands of justice coincide with persons' rights, the question of the relationship between desert and rights becomes more urgent. That question is one I want to pursue.

(3) A third issue concerns what persons are capable of deserving. We may distinguish here between two broad classes of desert objects (things that can be deserved). On the one hand we have what Strawson (1962) called "reactive attitudes," such as resentment, gratitude and admiration. On the other hand there are forms of beneficial or harmful treatment. Scheffler (1992, 2000, 2003) has argued that the notion that persons deserve reactive attitudes in response to their actions is integral to the practice of treating them as responsible agents, and so ineliminable. But, as he also points out, it does not follow that the idea that persons can deserve different forms of treatment is equally ineliminable. On the assumption that Scheffler is right about the reactive attitudes, then one important question for a theory of desert is what the difference might be, if any, between deserving attitudes and deserving treatment; a difference that could explain why skepticism is more appropriate in the latter case than in the former, if indeed that is the case. (*Cf.* also Cupit 1996.)

Here is one noteworthy difference between attitudes and treatments. While both of them may count as benefits (or harms), many types of treatment constitute or involve goods that aggregate (such as money), in the sense that a number of instances of such a good combine to form one greater good. Attitudes are not like that. To illustrate: I believe it is good for a philosopher to be generally respected in the profession, yet that is not a greater good today than it was, say, fifty years ago, even though the profession has expanded alarmingly over that period. The mere fact that there are more people respecting one does not matter. It seems more reasonable that what matters is the *share* of the profession who respect me. Contrast that with the case in which I am generally respected, and those who respect me show that by each giving me, say, \$10. Then the growth of the profession of course makes a difference, as it means that I get more money. Probably some of the skepticism about desert stems from the worry that a desert based theory of justice would permit some people to accumulate large amounts of money and the like, goods that do aggregate. It is an important question, then, whether the distinction between deserving goods that aggregate and deserving goods that do not aggregate — a distinction that is certainly important from the point of view of the person who is to enjoy these goods — matters in this context, whether there is some problem about deserving aggregating goods such as money that does not apply to non-aggregating goods such as respect.

(4) One of the most prominent kinds of deontological moral theories is contractualism, according to which the content of morality is determined by asking what rules for cooperation free and reasonable persons could agree upon. This type of theory has been especially influential in recent decades, albeit in a variety of forms. However, contractualists have not tended to be accommodating towards desert. (This point is a theme in Scheffler 1992, 2000. For contractualist skepticism about desert, see especially Rawls 1971, and Scanlon 1988, 1998.) However, I find contractualism to be an attractive moral theory, and so face two questions. First, is it possible to combine contractualism with the idea that we ought to give persons what they deserve? And second, if not, why? From the point of view of someone like myself, who finds the idea of desert appealing, the latter question would take on the shape of locating what is wrong about contractualism.

(5) The biggest issue in the recent desert literature has doubtless been that of comparative *vs.* non-comparative desert (examples below). See here Scheffler (2000, 2003), Miller (2003), Hurka (2001, 2003), Kagan (1999, 2003), McLeod (2003). The earlier literature on comparative *vs.* non-comparative justice is also important here. See Feinberg (1974), Montague (1980), Hoffman (1993). In particular, the emphasis has been on the possibility that the treatment a person deserves depends on how other persons have in fact been treated in the past (or will be treated in the future, as far as that can be known). It is a common view

that comparative desert is especially attractive in the economic field, pertaining to the question of how much money persons deserve for contributing to the economy (e.g., by laboring). For instance, it seems difficult and perhaps impossible to determine how much a person should get for, say, a day's work in the local salt mine, without glancing at what other individuals are in fact getting paid for comparable work. By contrast, comparative desert looks less attractive when it comes to retribution. For instance, that jaywalkers do not deserve beheading seems true regardless of what punishments are in fact the norm. (For explicit endorsements of the contrast between economic and retributive desert, see Scheffler 2003 and Hurka 2003. The notorious asymmetry between these two types of desert in Rawls' theory of justice is also pertinent here; cf. Moriarty 2002, 2003.)

(6) I said at the outset that a secondary aim of the project would be to take on the question of the philosophical basis of desert, of why we should care about it. This fundamental question has been surprisingly neglected, though Sher (1987) and Cupit (1996) do offer sustained treatments. One reason for the neglect no doubt is the difficulty and magnitude of the task, and I doubt that I will be able to offer more than a tentative and incomplete answer within the project.

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3. Project Description

My own work, as well as the literature to which I aim to contribute, is firmly rooted in the tradition of analytic moral philosophy, and I intend to employ the methods characteristic of that tradition. Some participants in the desert debate (notably Miller 1999) employ empirical research about popular attitudes about matters of desert and justice. I will attend to this research as it becomes relevant but will not myself contribute to it. A fully developed theory of desert, such as could be the subject of a book, is not a realistic aim of the present project, though a book may eventually result. Consequently I aim to publish the results of my research in article form.

4. Preliminary Results

I have worked on some of the above problems already and have also reached tentative results.

- ❖ I am skeptical of rights that exist independently of all facts about desert. In particular I have argued that there can be no right to undeserved benefits generated through promises. At any rate I hold that there are strong reasons for denying the possibility of

such rights and that arguments for promise rights do not plausibly extend to undeserved benefits.

- ❖ I asked above whether there is some problem about deserving aggregating goods such as money that does not apply to non-aggregating goods such as respect. My sense is that there is. Specifically, I hold (very tentatively) that deserving some aggregating good from a person requires having made some specific effort or sacrifice with respect to that person. As a consequence, it will be difficult to appeal to desert in justifying a free-market style distributive system.
- ❖ As far as the comparativity debate goes, my perspective is on the whole anti-comparativist. That is to say, I prefer to think of persons as deserving harms or benefits independently of how others have fared. Though I have not worked on this issue directly, I have addressed the closely related issue of whether persons can have *rights* in virtue of facts about how they compare with others, arguing that they cannot.
- ❖ My point of departure in approaching the difficult problem of the philosophical basis of desert is that treating persons as they deserve is required as a proper response to the value, positive or negative, inherent in persons' actions. (That approach is obviously incomplete, in that it does not account for all desert claims we are likely to want to endorse. However, I believe such incompleteness is unavoidable.) But at present this is little more than an intuition. Plainly much work remains to be done.

5. Significance

I see the significance of this project as primarily theoretical: its primary aim is to improve our theoretical understanding of the concept of desert, of its role within ethical theory. But indirectly theoretical progress should also lead to progress in the sphere of application. In particular my hope is that the project could enhance our ability to apply the notion of desert both to the problem of the distribution of social resources and the problem of the treatment of criminals.

CV for David Alm

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3. Earlier employment. (i) Instructor in philosophy, Auburn University. August 1998 to June 2000. (ii) Lecturer in philosophy, University of Arizona, Tucson. August 2000 to June 2001.

Account of Earlier Research

(The following account is not exhaustive, but does cover most of my research)

Apart from work on topics related to the present project, I have done research in a number of areas in moral philosophy. My dissertation (Cornell University, 1998) was in the field of meta-ethics. In it I defended a non-cognitivist position, i.e., the view that a moral judgment is a non-cognitive mental state, such as a desire or an emotion. To some extent my post-dissertation work has continued along the same lines. In particular I have written about how to understand conditional sentences with moral antecedents from a non-cognitivist viewpoint, and about how non-cognitivists can account for validity in inferences involving moral statements. I have also argued that facts about how we classify moral judgments as reasonable or unreasonable provide some support for non-cognitivism. But on the whole I have shifted gears and have been working recently in three fields: (a) value theory; (b) the foundations of practical reason; (c) normative ethics.

In the field of value theory I have defended an atomistic view of value making properties against holistic positions. That is, I have defended the view that there are properties whose effects on the value of objects is invariable, and so not dependent on context. I have also argued that related considerations show that there cannot only be agent-relative value, or value for individuals, but there must also be agent-neutral value.

In my work on the foundations of practical reason I have been developing a broadly Kantian theory of how to defend fundamental requirements of practical reason. This is work in progress, however and I have not yet reached any definite results.

In the field of normative ethics I have been occupied with a number of projects, apart from the work on desert described in Enclosure A (under the heading "Preliminary Results"). In close connection to that work, I have argued that there is no right to be equal with others (with respect to well-being or whatever), because that would be a comparative right — a right that obtains in virtue of facts about how the right holder compares with others — and I claim that there can be no such rights. I have also done research on the problem of deontological restrictions: the problem of explaining why it is wrong, if it is, to violate certain moral rules, such as the prohibition on killing, even when doing so will lead to fewer such violations in the world overall. I hold that at least a partial solution to that problem is possible on the basis of a Kantian theory of obligation (related to the theory of requirements of practical reason mentioned above). Finally, I have been concerned to show that consequentialism is incoherent because it conflicts with the notion of the deontic which it itself presupposes.