

Keeping Balance
On Desert and Propriety

PRACTICAL PHILOSOPHY

Herausgegeben von / Edited by

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Peter Schaber • Ralf Stoecker

Band 10 / Volume 10

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Diana Abad

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ontos

verlag

Frankfurt | Paris | Ebikon | Lancaster | New Brunswick

Bibliographic information published by the Deutsche Nationalbibliothek

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliographie;
detailed bibliographic data is available in the Internet at <http://dnb.ddb.de>



North and South America by
Transaction Books
Rutgers University
Piscataway, NJ 08854-8042
trans@transactionpub.com



United Kingdom, Ire, Iceland, Turkey, Malta, Portugal by
Gazelle Books Services Limited
White Cross Mills
Hightown
LANCASTER, LA1 4XS
sales@gazellebooks.co.uk



Livraison pour la France et la Belgique:
Librairie Philosophique J.Vrin
6, place de la Sorbonne ; F-75005 PARIS
Tel. +33 (0)1 43 54 03 47 ; Fax +33 (0)1 43 54 48 18
www.vrin.fr

©2007 ontos verlag
P.O. Box 15 41, D-63133 Heusenstamm nr. Frankfurt
www.ontosverlag.com

ISBN 13: 978-3-938793-18-3

2007

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Printed on acid-free paper
ISO-Norm 970-6
This hardcover binding meets the International Library standard

Printed in Germany
by buch bücher **dd ag**

Acknowledgments

I thank Rüdiger Bittner, Martina Herrmann, Dorothea Kraus, and Ralf Stoecker for their invaluable help and support, Day Petersen for revising the English manuscript, the members of the Kooperative Praktische Philosophie at the Department of Philosophy at the University of Göttingen, where I stayed during the winter semester 2005 / 06, for their instructive comments on the chapter on William Wollaston, as well as the Department of Philosophy at the University of Bielefeld for the opportunity of writing this book there.

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Introduction

Everybody ought to get what they deserve. For a long time this has been the definition of justice, and in everyday life, the concept of desert is still pervasive. People say, for instance, that a football team deserve to win, that a painting deserves admiration, that a criminal deserves punishment, that a good pupil deserves to get good marks, that every person deserves respect. In ordinary language, there is nobody and nothing that could not deserve something, and nothing that could not be deserved.

Talk of desert is not only ubiquitous, though. There is manifestly also a strong normative force connected to it, which is undoubtedly the reason why it was the central concept of justice from ancient times until the 20th century and the emergence of the concept of fairness. Few things move us to such heights of indignation as people not receiving their deserts. The concept of desert seems to entail that something goes singularly wrong if people are denied what they deserve, the whole world seems to be thrown off balance, and we will not rest content until things are put right again and balance is regained.

In view of this, it is rather surprising that the concept of desert has never really been analysed, neither as the *definiens* of justice nor in ordinary language. This is my aim in this book: I want to know what it is to deserve something. I want to know what it takes to keep the world in balance.

I will start in Part 1 by discussing the most seminal paper there is on the subject, written by Joel Feinberg. Feinberg does not give us a substantive account of the concept of desert, but he explains the logic of desert, and most importantly, he does give us a clue: he tells us that to deserve something means that it is appropriate to get it. Thus, desert is grounded on propriety, so the key to understanding the one is to understand the other. Yet, the concept of propriety is not any clearer than the concept of desert and we will have to deal with that first. To start with, I will differentiate between propriety and fittingness and try to illustrate these terms by way of metaphors. Two shards of a broken bowl are fitting to each other, but it is not required that they be put together again. By contrast, playing seven

notes of a major scale and the eighth note of that scale are not only fitting to each other, but playing the seven notes also requires that the eighth follow, something is wrong if it does not. Hence, propriety is a form of fittingness, but differs from it by an additional normative element. On this basis, I will propose a preliminary account that I think grasps the gist of propriety: propriety involves the requirement that incomplete states of affairs be completed.

Obviously, this needs a lot more explaining, since the next question immediately suggests itself: what is that supposed to mean? Part 2 is dedicated to elucidating this notion. Following Feinberg's lead, I will come first to Roderick M. Chisholm, who examines the logic of propriety. From him we learn that one ought to do what is appropriate if that is not overridden. This establishes the important connection of propriety with what ought to be done, but for all that, it does not offer a substantive account of propriety, either. Still, Chisholm gives us a new lead to follow: he points us to 18th-century rationalism, to Samuel Clarke, Richard Price, and William Wollaston, for whom the concept of propriety was the central notion of their moral theories, and eventually to Immanuel Kant.

Clarke and Price see propriety as some kind of aptitude or suitability, as in a means being apt to achieve a certain end. This account is not without merit, but it is certainly too strong. Manifestly, not in every case where we talk of propriety do we talk about means and ends. Still, Price's theory in particular is of the utmost importance, if not exactly because of his concept of propriety, as he is the first one ever to give an account of desert that is explicitly grounded on propriety. According to him, desert is that propriety that is based on another propriety, or in short: desert is second-order propriety. I will then turn to Wollaston, who does, at last, develop a substantive and viable account of propriety. For Wollaston, acting appropriately means treating persons and things as they really are.

Kant's concept of the worthiness to be happy deals with a special case of desert and propriety, namely the case of deserving happiness in virtue of being moral. It is most illuminating to consider his account, especially since his concept of the highest good offers an answer to the question of why it is even important to us that propriety obtain. In the end, his answer is based on an anthropological fact: we human beings just work that way

that we treat things as they really are and that we need to be able to hope for things to be treated that way.

In Chapter VI of the second part, I will put Wollaston's concept of propriety and Price's account of desert to the test and ultimately develop my own account of what it is to deserve something. I will argue that we can basically accept Wollaston's account of propriety as it stands, but Price's account of desert needs to be modified, since it does not cover all the cases we want to count as cases of desert. Desert cannot be second-order propriety, as, although desert itself is always propriety, it is not always based on another propriety. The problem is that propriety is too strong to serve as a desert base in every case, because it is essentially normative. By contrast, there is no such difficulty with fittingness, as I introduce the term in Part 1, and thus it can serve as a desert base instead. Hence, I will offer this account of desert: to deserve something means that it is appropriate that one get it because one is or has done something fitting.

Yet, a difficulty immediately arises with this account: if the desert base is being or having done something fitting, there needs to be something that what one is or has done is fitting to. In some cases, the only candidates for that are, for want of a better term, some kind of Platonic Forms.

So the account of desert I will offer comes at a high metaphysical price. It presupposes incomplete states of affairs that require something, and it presupposes something like Platonic Forms. I will not endeavour to argue independently for the existence of such entities. Still, if we want to continue talking about desert, and talking about desert presupposes such entities, this is a reason for accepting them.

I will give a further reason for accepting the concept of desert and everything it presupposes in Part 3 by discussing two fields of application. The concept of desert can help us solve some problems in moral philosophy where other concepts fail us. By means of the concept of desert, I will first repudiate a fundamental objection against retributive theories of punishment, and show that retributivism works in principle. Thus, the concept of desert is a tenable means, and maybe even an indispensable means, to justify punishment.

In the second chapter of Part 3, I will turn to the debate on moral dilemmas and argue that no explanation offered so far succeeds in

explaining why there is moral residue. Only by means of the concept of desert can we give a reasonable account of why we ought to apologize or pay compensation, say, in conflict situations.

Hence, as expensive as the metaphysical underpinnings of the concept of desert may seem to be, if we take into account the pervasiveness of the concept in ordinary language and the theoretical work it can do which cannot be covered by other normative concepts, simply abandoning it might prove equally expensive. There just might be something, after all, to our feeling that, when people are denied what they deserve, the world is unbalanced.

Part 1: Desert

As we will see in greater detail in the first section of this part, desert is a three-place relation, "x deserves y in virtue of z", and the discussion concentrates mainly on the question concerning which individuals may replace the variables. For instance, some say that only persons can deserve something, and only in virtue of actions they are responsible for.¹

I shall not pursue this question in this book. Rather, I want to know what it means to deserve something. In other words, the literature is concerned with the "x", "y", and "z" in the relation; I will be concerned with the "deserves".

The second question is independent of the first. The question what it means to deserve something is not answered by stating what individuals can replace "x", "y", and "z". In fact, it may very well be that this can be stated only if one understands the meaning of the concept of desert first.

For on the face of it, all sorts of individuals can replace the variables, and all sorts of individuals do replace them in actual desert judgments. In Ancient Greece, for instance, people believed that a man could deserve something in virtue of his noble birth. Maybe the above-mentioned champions of desert in virtue of responsible action are right, maybe one cannot deserve anything in virtue of one's noble birth. My point is that the Ancient Greeks may have said something false at worst, but in no event have they said something meaningless or nonsensical. Since their desert judgments must in any case have been meaningful, even though they might have been false, it follows that if they are false indeed, they are so not because the concept of desert does not allow this kind of judgment. It does. If they are false it must be due to other reasons than conceptual ones.²

¹ Cf. Sadurski, *Giving desert its due*, p. 117; Rachels, *What people deserve*, p. 157; Rachels, *The elements of moral philosophy*, p. 143; Sher, *Desert*, pp. 37 ff.; for an opposing view, cf. Cupit, *Desert and responsibility*, pp. 92 ff.; Feldman, *Desert: Reconsideration of some received wisdom*, pp. 186 f.

² Lamont follows a similar line of argument, *The concept of desert in distributive justice*.

Thus, I do not think there is anything to be gained by considering the question of which individuals are fit to replace the variables, so instead I will concentrate solely on the different question of what it means to deserve something.

Moreover, in contrast to "x", "y", and "z", "deserves" is no variable in the desert relation. Hence, I will assume that all desert judgments, as varied as they may appear due to the replacement of the variables with all sorts of individuals, are based on one and the same concept of desert. There are some who tend to fragment desert, depending on context, into two or more concepts which have little in common with each other, but if there is an analysis of desert as a single, unified concept which covers all the cases, this would be, on grounds of simplicity, a superior analysis and therefore preferable. I shall endeavour to give such an analysis.

I. Feinberg's analysis

It is impossible to inquire into the meaning of desert and not take notice of the most important contribution on the subject, Joel Feinberg's "Justice and personal desert" (1963). Feinberg was the first one ever to try to systematically analyse the concept of desert, and to the best of my knowledge, nobody since has participated in the debate who has not referred to this seminal paper.³

1. Basics: "x deserves y in virtue of z"

The first thing to be said in answer to the question of what it means that somebody deserves something is that she ought to get it, although not unconditionally, but just *pro tanto*, as Feinberg puts it. In other words: the fact that somebody deserves something is always a reason for giving it to her, but not always a conclusive reason – something more important could count against it.⁴ Maybe Sawyer deserves the gold medal in heptathlon, but if she does not actually win she ought not to get it.

Probably Feinberg's most important insight is that in order to deserve something one has to fulfil certain conditions he calls desert bases. One cannot deserve something for no reason at all, but only in virtue of something, a property or an action. Moreover, that property or action must be the person's who deserves something in virtue of it – let us call her the desert subject. Sawyer cannot deserve the gold medal in heptathlon for no reason at all, but only because, say, she is the best athlete competing; and she cannot deserve it because of her fans' outstanding support, because that is not a property or action of hers.⁵

It is important to realize that desert always needs a base, since not all desert judgments explicitly state one. Feinberg makes clear that

³ Kleinig, The concept of desert, and Sterba, Justice and the concept of desert, have offered two accounts after Feinberg, but they do not really surpass him.

⁴ Feinberg, Justice and personal desert, p. 60.

⁵ Cf. *ibid.*, pp. 58 ff.

propositions like "You deserved that!" are always elliptical and imply a desert base so that they always have to be supplemented – like this, for instance: "You deserved that because you were naughty!".

Thus, Feinberg shows that all desert judgments are judgments of the form "x deserves y in virtue of z" and that they mean that the desert subject x *pro tanto* ought to get the desert object y in virtue of the desert base z. In our example, Sawyer is the desert subject, the gold medal is the desert object, and Sawyer's being the best athlete competing is the desert base.⁶

At this point, two questions arise, one about desert objects and one about how desert is related to institutions.

2. Polar and nonpolar desert objects

The desert objects Feinberg is concerned with are treatments by persons. Incidentally, the only desert subjects he is concerned with are persons, as well. This is because he wants to examine the connection between desert and justice. Still, this restriction does not mean that things other than persons and treatments cannot be desert subjects and objects. Feinberg does not mean to say that a painting cannot deserve admiration nor a villain to be struck by lightning. He only means to say that the questions whether a painting deserves admiration and whether a villain deserves to be struck by lightning are not questions pertaining to justice.⁷

The subject matter of my inquiry, however, is not as restricted as Feinberg's. I will assume that anything can be desert subject and object, but that aside, I will stay with Feinberg for a moment and see what else there is to learn from him.

The treatments one can deserve, according to Feinberg, are varied, but they have something in common, as well, and that is their being affective: typically, the desert subject experiences them as pleasant or unpleasant. Moreover, Feinberg orders the various desert objects into five classes: first,

⁶ On this point, cf. McLeod, *Contemporary interpretations of desert*. Introduction, pp. 61 f.

⁷ Cf. Feinberg, *Justice and personal desert*, p. 55.

awards of prizes; second, assignments of grades; third, rewards and punishments; fourth, praise and blame; and fifth, compensations.

It is not important to Feinberg whether or not this list is exhaustive. What is important to him is that the typical desert objects he is concerned with fall into these classes, and that they are not reducible to one another.⁸

These classes have what Feinberg calls different symmetries: the first two are classes of nonpolar, the other three are classes of polar desert.

What exactly does that mean?

In respect to polar desert, one can be said to deserve good or to deserve ill – reward or punishment, praise or blame, and so on. [...] Nonpolar desert, on the other hand, has a different sort of symmetry. When it is a prize, an honorable office, or a grade that is in question, we divide persons not into those who deserve good and those who deserve ill, but rather into those who deserve and those who do not.⁹

Feinberg's point here is that in some cases we speak of somebody deserving good or ill, whereas in other cases this does not make sense and we rather speak of somebody deserving something or not.

"Reward and punishment" is a pair of polar notions, of antonyms; the one is good desert, the other ill desert. By contrast, a grade one deserves for a piece of homework does not have an antonym, and that is why it does not make sense to speak of good or ill desert with regards to grades. The only thing that can be said about a grade in this respect is that you either deserve it or you do not.¹⁰

This is an instructive illustration of our ways of speaking about desert objects in different cases, but one has to be careful about what exactly is at issue here. Feinberg's differentiation of desert objects into polar and nonpolar is first and foremost a linguistic differentiation, not a substantial one. "Reward" has an antonym, "grade" has not, therefore we can talk differently about each of these desert objects.

Nonetheless, any desert object is always either deserved or not. Someone who does not deserve a reward does not for that reason alone

⁸ Cf. *ibid.*, pp. 62, 56.

⁹ *Ibid.*, p. 62.

¹⁰ Cf. *ibid.*, pp. 66 f.

deserve punishment. Whether or not punishment is deserved is a different question and independent of no reward being deserved.¹¹

3. The preinstitutionality of desert

A second question Feinberg treats concerns the connection between desert and institutions. According to him, desert is "logically prior to and independent of public institutions and their rules", or "preinstitutional" for short.¹² This marks the fundamental difference between desert and claims, and Feinberg rightly shows that desert cannot be reduced to claims.¹³

Yet, this is controversial. N. Scott Arnold and David Cummiskey have tried to show that desert can be rightly understood only from within institutional contexts. According to them, desert is dependent on institutions, as both the desert bases as well as the desert objects are determined by the aims of the institutions.¹⁴ For instance, the aim of the Olympic Games is to distinguish the best athletes. This aim determines what the desert base is, namely to be the best athlete, and what the desert object is, namely a token of distinction like a medal. Only within the institution is the practice of distinguishing best athletes at all comprehensible; without it, it is unclear why being the best athlete is something so wonderful that one ought to get something for it. In other words: for them, desert is "institutional".

This is not altogether far-fetched. It is not self-evident why that person, of all people, who runs a distance of 110 metres, of all distances, and is the fastest to cross ten hurdles along the way, of all obstacles, ought to get a gold medal, of all things. All of this is arbitrary, after all, and therefore it seems plausible to say: this is just the way we set the rules for racing

¹¹ Cf. Sverdlik, *The logic of desert*, p. 319.

¹² Feinberg, *Justice and personal desert*, p. 87, cf. p. 56; also cf. Galston, *Justice and the human good*, p. 170; Lucas, *On justice*, p. 167; Miller, *Social justice*, p. 91. The term "preinstitutional" is McLeod's, *Contemporary interpretations of desert*. Introduction, p. 68.

¹³ Feinberg, *Justice and personal desert*, pp. 85 ff.; on this point, also cf. Feinberg, *The nature and value of rights*, and Feinberg, *Duties, rights, and claims*.

¹⁴ Arnold, *Why profits are deserved*, pp. 390 f.; cf. Cummiskey, *Desert and entitlement*, p. 18.

hurdles at the Olympic Games, and that is the only reason why the fastest runner at hurdles ought to get a gold medal.

However, this institutional account of desert faces two problems.¹⁵ The first is that it makes desert judgments relative to institutions. This relativity is problematic, because we can easily imagine institutions that give people things they do not deserve, and indeed, institutions are sometimes criticised for not distributing goods according to desert. This criticism would be groundless if desert were institutional. We can imagine a system of "criminal justice" the aim of which is the furtherance of humiliation and in which, appropriate to this aim, rapists are treated to three weeks' vacation in the Caribbean for their deeds.

Arnold sees this problem and tries to solve it like this:

The objection proceeds too quickly; from the fact that someone deserves something, it does not follow that, all things considered, he ought to get it. [...] desert claims are best thought of as having *prima facie* significance. An analogy with promise keeping is illuminating: from the fact that A promises B to do x, one cannot conclude that A ought to do x. It is, however, one reason in favor of A's doing x, though that reason may be overridden by other moral considerations. Similarly, desert claims within evil institutions do, on the interpretation offered here, have some moral significance, but such claims are easily trumped by a consideration of the wickedness of the institution in question.¹⁶

So, Arnold's point is that within "evil institutions" people do deserve what they are afforded by them; in that particular system of criminal justice, rapists do deserve their vacations. Still, from the fact that they deserve it, we cannot infer that they really ought to be treated to their vacations, because that is outweighed by other considerations and the desert judgment is overridden.

If Arnold's opponents' "objection proceeds too quickly", his own justification sets in far too late. It is utterly unconvincing to concede even so much that rapists can deserve vacations at all, and then try to escape the unwelcome consequences of such an account by pointing out that that is

¹⁵ For the following line of argument, cf. Sher, *Desert*, p. 15; McLeod, *Desert and institutions*, pp. 186 f.

¹⁶ Arnold, *Why profits are deserved*, p. 394.