

# Moral Desert

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## 1. Introduction

The concept of desert is invoked as frequently in ordinary non-philosophical conversation as it is in moral and political philosophy. Speakers say that a student deserves a high mark on an essay they have written; that a hard-working employee deserves a promotion or a pay rise; that an accomplished or generous individual deserves to be recognised for their achievements or beneficence. Others say that a murderer deserves to be punished for their crime; that a government deserves to be held accountable for its failures; that a narcissistic president deserves a humiliating election defeat.

Indeed, the verb ‘deserve’ is ubiquitous in ordinary discourse. Politicians declare that the public deserve to know the truth, and that every child deserves the best possible start in life. Sports analysts quibble over which team deserved to win the game, and film critics over which film deserves to win ‘Best Picture’. Advertisers promise us the comfort and performance we deserve—after all, we deserve the best.

Many philosophers have placed desert at the centre of their moral and political theories. Some philosophers have said that it is a morally good thing for people to get what they deserve,<sup>1</sup> or that we always have moral reason to give people what they deserve.<sup>2</sup> Some have said that justice is realised when benefits and burdens are distributed according to desert,<sup>3</sup> or that punishment is justified as a way of giving offenders what they deserve.<sup>4</sup>

What may be most striking about the concept of desert, however, is its ability to provoke some of our strongest moral emotions. Many of us feel outrage upon seeing a monstrous individual prosper, and delight in seeing them finally ‘get what’s coming to them’. The familiar lament that bad things so often happen to good people—while good things so often happen to bad ones—is driven by despair at the world’s failure to give people what they deserve.

Desert has not always been assigned a prominent role in moral and political philosophy. For much of the latter half of the twentieth century, desert-based theories of moral goodness were overlooked in favour of welfarist<sup>5</sup> or rights-sensitive<sup>6</sup> ones, while desert-based theories

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<sup>1</sup> See e.g. Kant, *Critique of Pure Reason*, A813–814/B841–842; Ross 1930, p. 138; Feldman 1995a, p. 573; Moriarty 2003, p. 520; McMahan 2009, p. 8; and Kagan 2012, p. xiii.

<sup>2</sup> See e.g. Feinberg 1970, p. 60; Kleinig 1971, p. 76; Cupit 1996, p. 48; Schmitz 2002, p. 774; McMahan 2009, p. 8; and Kagan 2012, p. 629.

<sup>3</sup> See e.g. Aristotle, *Nicomachean Ethics*, V.3, 1131a25; Sidgwick 1907, p. 279; Ross 1930, pp. 26–27; Hospers 1961, p. 433; Cupit 1996, pp. 35–63; and Feldman 2016. John Stuart Mill remarks that a desert-based conception of justice is accepted by ‘the general mind’ (Mill 1864, p. 66) though Mill himself does not endorse this conception.

<sup>4</sup> See e.g. Kant, *The Metaphysics of Morals*, 6:333; Kleinig 1973; von Hirsch 1976; Sher 1987, pp. 69–90; Moore 1997, pp. 83–188; Berman 2008.

<sup>5</sup> See e.g. Singer 1993, pp. 20–21.

<sup>6</sup> See e.g. Sen 1982.

of distributive justice were replaced by egalitarian<sup>7</sup> or libertarian<sup>8</sup> ones. Some philosophers cast doubt on whether people can even deserve anything at all.<sup>9</sup> In 1971, John Kleinig wrote that desert seemed to have been consigned to the ‘philosophical scrap heap’ (Kleinig 1971, p. 71).

And yet desert is a concept that refuses to fade into obscurity. In the last few decades, renewed philosophical interest in desert has emerged, and, once again, philosophers have begun to assign central roles to desert within their moral and political theories.<sup>10</sup> For these philosophers, it really is a good thing when people get what they deserve, and we really do have reason to give others what they deserve. Even when desert seems to have been consigned to the scrap heap, thoughts like these remain compelling.

As widely invoked as the concept of desert is, though, a number of important questions about it have still received relatively limited attention in the philosophical literature. In this thesis, I will try to answer some of these questions. What kinds of entities are ‘deserving’? And what kinds of things do they deserve? If a subject deserves some object, in virtue of what might they deserve it? Must they deserve it in virtue of something for which it would be appropriate to appraise them in some way, or something for which they are responsible? Might they deserve it in virtue of acting morally virtuously, or acting morally viciously? And must they deserve it in virtue of a fact about the past or present, or might they deserve it in virtue of a fact about the future? If people deserve to be well or badly off, do they deserve merely to experience good or bad moments, or to live good or bad lives? What reason is there, beyond this claim’s initial intuitive appeal, to say that it is a good thing for people to get what they deserve? And if this is a good thing, how exactly does the value of a state of affairs vary according to considerations of desert?

Desert is at least a three-place relation, holding between a subject, an object deserved by that subject, and a basis for the subject’s desert of that object. In Chapter 2, I will discuss the first two of desert’s argument-places—those of *desert subjects* and *desert objects*. I will defend two radical claims in this chapter. I will argue, first, that an entity is a desert subject—a subject that deserves—only if it possesses *interests* to be satisfied or frustrated; and second, that the only desert object—the only entity that is deserved—is *well-being*.

In Chapter 3, I will discuss the third of desert’s argument-places—that of *desert bases*. I will argue in this chapter that we should place three constraints on the kinds of facts that can serve as desert bases. These constraints are the *Aboutness Principle*, which holds that the basis of a subject’s desert must be a fact about that very subject; the *Appraising-Attitude Principle*, which claims that the basis of a subject’s desert must be an appropriate basis for

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<sup>7</sup> See e.g. Rawls 1971 and Dworkin 1981.

<sup>8</sup> See e.g. Nozick 1974.

<sup>9</sup> See e.g. Strawson 1994.

<sup>10</sup> See e.g. Feldman 1995a, 2016; Cupit 1996, pp. 35–63; Pojman 1997; Moore 1997, pp. 83–188; Kagan 1999, 2012; McLeod 2003; Berman 2008; and von Hirsch 2017.



holding an appraising attitude towards that subject; and the *Responsibility Principle*, which states that the basis of a subject's desert must be a fact for which the subject is responsible.

In Chapter 4, I will defend another radical claim about desert. We will see in Chapter 3 that the set of facts commonly claimed to be desert bases is extremely diverse. Among the most familiar of such facts, though, are facts about a person's *moral agency*. Seemingly paradigmatic cases of desert are ones in which a person deserves something 'better' in virtue of acting morally—such as when a person deserves recognition for their beneficence—or in which a person deserves something 'worse' in virtue of acting immorally—such as when a murderer deserves to be punished for their crime. In Chapter 4, however, I will argue that moral agency is not a basis for desert after all, and that we have reason to prefer a 'motivational' theory of desert, according to which a person's desert is based only on the quality of their *motives*.

In Chapter 5, I will defend two claims about the *temporality* of desert. First, I will argue that subjects deserve to be well or badly off only in the sense of deserving to experience good or bad *moments*, not in the sense of deserving to experience good or bad lives, or good or bad periods of intermediate length. Second, I will argue that we should place a fourth, temporal constraint on the kinds of facts that can serve as desert bases. According to the *Non-Forward-Looking Principle*, the basis of a subject's desert of a present object cannot be a fact about the future. I will also suggest in this chapter that we have reason to consider a stronger, *presentist* view of desert, according to which desert of a present object is based only on facts about the present.

The questions I will address in Chapters 2–5 concern the *intrinsic nature* of desert. In Chapters 6 and 7, I will move to a discussion of the wider *moral significance* of desert. In Chapter 6, I will argue that there is reason for consequentialists about moral rightness to assign a role to desert in their theory of the moral good. By embracing the *axiological* significance of desert, and saying that it is an intrinsically good thing for people to be as well off as they deserve to be, act consequentialists, in particular, can defuse some of the problem cases that threaten their theory.

In Chapter 7, I will further explore the axiological thought defended in Chapter 6—that it is a morally good thing, other things being equal, for people to be as well off as they deserve to be. I will argue that, given plausible background assumptions, we ought to deny that it is always an *equally* good thing, from the standpoint of desert, for people to be as well off as they deserve to be. I will also argue that we should place four constraints on the value of *suboptimal* desert situations—those in which a person is better or worse off than they deserve to be.

In Chapter 8, I will conclude.

By the end of this thesis, then, I hope to have illuminated a number of important issues surrounding one of the most prominent—and most emotive—concepts in moral and political philosophy. But I also hope to have shown that a novel account of the nature of desert is in fact surprisingly plausible. This account is *welfarist*, in that it holds well-being to be the only deserved entity. This account is *presentist*, in that it allows desert of a present object to be based only on facts about the present. And this account is, in an important sense, *non-agential*, in that it denies that people are made more or less deserving by acting morally or immorally. In all three of these ways, this account of desert is highly revisionary. If my arguments in this thesis are successful, though, then this revisionary account of desert is worth taking seriously.

Before I proceed any further, I want to make two clarifications about the conception of desert I am going to adopt in this thesis. First, the claim that a subject deserves some object is not equivalent to the claim that the subject ought to be given that object, or to the claim that it is good for the subject to possess that object.<sup>11</sup> In some cases, we may think that a subject deserves some object, but that there are overriding reasons *not* to give them that object, that no-one is *able* to give them that object, or that there are overriding reasons why it would be a *bad* thing for them to possess that object. And in other cases, we may think that a subject does not deserve some object, but that there are overriding reasons why they ought to be given it, or that there are overriding reasons why it would be a good thing for them to possess it. I am interested in the narrower conception of desert that is employed in judgements like these.

Second, the conception of desert I will adopt in this thesis differs from the purely *institutional* conception of desert favoured by some philosophers. According to these philosophers, desert is explained solely in terms of the rules of social or legal institutions. Under this conception, desert arises only in cases where, according to the rules of some social or legal institution, a subject is *entitled* to some object.<sup>12</sup>

My own conception of desert is *pre-institutional*. Under this conception, desert is *not* explained solely in terms of the rules of social or legal institutions. The pre-institutional conception tells us that, even in the absence of any social or legal entitlement to an object, a subject may yet deserve that object.

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<sup>11</sup> Fred Feldman (1995a, pp. 573–574) makes this point.

<sup>12</sup> The institutional conception does not commit us to the claim that *all* institutional entitlements generate desert; its claim is merely that *only* such entitlements generate desert. If a Nazi law entitles SS officers to property seized from Jewish people, we will likely want to deny that this entitlement generates even *pro tanto* desert of that property (see McLeod 1999a, p. 193 for this example). To avoid this implication, we can say that entitlements generate desert only when the relevant institution satisfies some independent criterion of justice.

See Cummiskey 1987 for a defence of a purely institutional conception of desert. John Rawls (1971) is frequently interpreted as endorsing such a conception, though Samuel Scheffler (2000) argues that this interpretation is mistaken. On Scheffler's interpretation, what Rawls rejects is not pre-institutional desert, but 'prejudicial' desert—desert 'prior to and independent of the principles of distributive justice themselves' (Scheffler 2000, p. 978).

There are at least two reasons to prefer the pre-institutional conception of desert to the purely institutional conception. The first reason is simply that, in many cases, people seem to deserve entities to which they are not institutionally entitled. Our social and legal institutions may not guarantee any reward for moral virtue, but even so, it seems natural to say that moral saints are in some way ‘more deserving’ than moral monsters. Someone who works tirelessly towards some morally desirable end seems to deserve some kind of reward for their efforts, even if no social or legal institution entitles them to such a reward. A sadistic murderer may escape punishment on a legal technicality, but nevertheless deserve such punishment. And even if a country’s laws do not entitle its citizens to education, or to a fair trial, we ought to leave open the possibility that its citizens deserve these things.<sup>13</sup>

The second reason to favour the pre-institutional conception is that social and legal institutions often seem objectionable precisely on the grounds that they fail to give people what they deserve. If a country’s laws do not entitle its workers to any payment from their employers, then it is natural to say that its legal institutions are unjust on the grounds that they fail to guarantee workers what they deserve. The purely institutional conception of desert, however, is unable to make sense of this objection. For this conception tells us that workers deserve payment only when they *are* institutionally entitled to it. But *contra* this conception of desert, the objection that this country’s institutions fail to give workers what they deserve seems perfectly coherent; indeed, it seems highly plausible.<sup>14</sup>

The pre-institutional conception does not imply that desert is *never* explained in terms of the rules of social or legal institutions. Even under this conception, a person’s desert of an object often seems dependent on their institutional entitlement to that object. If a student deserves a high mark on an excellent essay, this desert seems dependent on the marking system’s stipulation that high marks be awarded to excellent essays. The pre-institutional conception merely denies that *all* desert must be institutional in this way.<sup>15</sup> Even if the student’s desert of a high mark is institutional, for example, their desert of *some reward or other* seems pre-institutional. After all, if the marking system were to stipulate that excellent essays be awarded *low* marks, we would likely object that this system were failing to give students the rewards they deserved for these essays.

In any case, I am simply going to assume in the rest of this thesis that the pre-institutional conception of desert is the one we should favour. Let us grant that desert can, in principle, be

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<sup>13</sup> If my argument in Chapter 2 is successful, then well-being is the only deserved entity, and entities like education and fair trials are not deserved at all. But the reason for this—the reason why these entities are not deserved—is not simply that people have no institutional entitlement to them (thankfully, of course, many people do have such an entitlement).

<sup>14</sup> Even if, in light of well-being’s claim to be the only deserved entity, this objection turns out to be mistaken.

<sup>15</sup> George Sher, for example, adopts the working hypothesis that desert ‘involves both natural and conventional elements’ (Sher 1987, p. 17). Likewise, Owen McLeod (1999a) argues that desert is pre-institutional in some cases and institutional in others.

both institutional and pre-institutional. The question for this thesis is, what else should we say about desert?

## 2. Desert Subjects and Desert Objects

### 2.1 Introduction

Desert is at least a three-place relation. It holds between a subject (a *desert subject*), an object deserved by that subject (a *desert object*), and a basis for the subject's desert of that object (a *desert basis*). If John deserves to be happy in virtue of the fact that he is such a good person, then the desert subject *John* deserves the desert object *happiness*, and the basis of this desert is *the fact that John is such a good person*.

In this chapter, I will discuss the first two of desert's argument-places—those of desert subjects and desert objects. I will make two main claims in this discussion. First, I will argue that an entity is a desert subject—something that deserves—only if it possesses *interests* to be satisfied or frustrated. Second, I will argue that the only desert object—the only entity that is deserved—is *well-being*.

In Section 2.2, I will argue for the *interest-bearers-only* view of desert subjects. While some philosophers have claimed that inanimate objects can be desert subjects, the interest-bearers-only view holds that an entity is a desert subject only if it possesses interests to be satisfied or frustrated. I will argue that the interest-bearers-only view is likely less revisionary than it first appears, since it is unclear that speakers ascribe desert to non-interest-bearing entities as routinely as linguistic data may seem to suggest. I will then argue that the interest-bearers-only view is supported by the intuition that it is intrinsically morally good for people to get what they deserve, since it is natural to think that the fate of non-interest-bearing entities is only ever instrumentally significant—significant merely as a means to an end.

In Sections 2.3–2.7, I will clarify and argue for the thesis of *Welfarist Desert*, the claim that well-being is the only desert object. In Section 2.4, I will argue that Welfarist Desert is supported by the intuition that there is non-instrumental moral value in subjects getting what they deserve, and by the intuition that well-being is the only object of such non-instrumental value. In Section 2.5, I will argue for the thesis of *Desert-Appraisal Supervenience*, the claim that a subject's desert supervenes on facts that are appropriate bases for holding an appraising attitude towards that subject. In Section 2.6, I will argue for the thesis of *Desert-Well-Being Contingency*, the claim that, if an interest-bearing subject were to deserve an entity other than well-being, then their desert of that entity would be contingent on the entity's effect on their well-being. In Section 2.7, I will explain why the conjunction of Desert-Appraisal Supervenience and Desert-Well-Being Contingency entails the truth of a claim close to that of Welfarist Desert.

In Sections 2.8 and 2.9, I will defend Desert-Appraisal Supervenience and Desert-Well-Being Contingency against potential counterexamples. In Section 2.8, I will defend Desert-Appraisal Supervenience against apparent counterexamples involving moral luck and need. I will argue

that apparent cases of moral luck do not threaten Desert-Appraisal Supervenience, since the intuition that desert can be a matter of luck seems underwritten by the thought that the appropriateness of an appraising attitude can itself be a matter of luck. I will then argue that we can defuse an apparent counterexample involving need by saying that, while need is not itself a basis for desert, it does generate desert-based reasons for action. In Section 2.9, I will defend Desert-Well-Being Contingency against apparent counterexamples involving entitlement. I will argue that the claim that entitlement is a basis for desert is undermined, first, by a counterexample I discuss in Section 2.6, and, second, by Desert-Appraisal Supervenience.

In Section 2.10, I will conclude.

## 2.2 Desert Subjects

In this section, I will defend the interest-bearers-only view of desert subjects. I will argue that the linguistic argument presented against this view by some philosophers is unconvincing, and that this view is supported by the intuition that it is intrinsically morally good for subjects to get what they deserve.

In the one desert claim we have encountered so far in this chapter, the apparent desert subject was a person. John deserves to be happy in virtue of the fact that he is such a good person.

While persons do seem to be the entities most frequently claimed to be desert subjects, they are far from being the only common subjects of desert claims. Joel Feinberg, for example, suggests that 'Art objects deserve admiration; problems deserve careful consideration; bills of legislation deserve to be passed' (Feinberg 1970, p. 55), while Fred Feldman and Bradford Skow (2019) remark that 'it seems acceptable to say... that the scene of a horrible massacre deserves to be torn down'. Alternatively, we might say that a loyal pet deserves a treat, or that, taken as a single entity, an excellent football team 'deserves' to win a particular competition. In light of the plausibility of such claims, we may agree with Owen McLeod (2013) that a 'persons only' view of desert subjects seems overly conservative.

In this section, however, I will argue that the set of genuine desert subjects is considerably more homogeneous than this range of apparent desert claims suggests. An entity is a desert subject, I will argue, only if it possesses *interests* to be satisfied or frustrated. By this, I mean that an entity is a desert subject only if it is a *bearer of well-being*. Because persons can be better or worse off, can live better or worse lives, they are candidates for being desert subjects. And so too are many non-human animals; our loyal pet can be better or worse off, and so may yet deserve that treat. But given the plausible assumption that these other kinds of entity do not possess interests to be satisfied or frustrated, art objects, bills of legislation,

scenes of massacres and football teams<sup>1</sup> are *not* desert subjects. Call this the *interest-bearers-only* view of desert subjects.<sup>2</sup>

There are, I believe, at least two points that can be made in defence of the interest-bearers-only view. The first of these points is that, while it is true that speakers often *appear* to ascribe desert to non-interest-bearing entities, it is far from clear that they genuinely ascribe such desert as routinely as this linguistic data may initially seem to suggest. In other domains, it is a familiar proposal that speakers are not making the philosophically loaded claims their language suggests. In epistemology, we should hesitate to conclude that inanimate objects can possess propositional knowledge on the basis of the relative frequency of utterances like ‘the car knows that you’re not wearing your seatbelt’. The most plausible interpretation of apparent knowledge ascriptions of this kind, it seems, is that they are not, in fact, knowledge ascriptions at all. When I say that a car ‘knows’ that a passenger is not wearing their seatbelt, I mean merely that the car has detected that the relevant seat is occupied and that its seatbelt is unfastened. I am not ascribing propositional knowledge to a vehicle. In the moral domain, meanwhile, we should not take speakers to be assigning moral blame to the weather when they say that the rain was ‘to blame’ for an event’s cancellation.<sup>3</sup>

It seems to me plausible that similar interpretations of many apparent non-interest-bearing-entity desert claims are correct. It seems plausible that many ostensible ascriptions of desert to non-interest-bearing entities are not in fact genuine desert ascriptions at all. When I say that a painting ‘deserves’ admiration, perhaps I simply mean that the artist deserves to be admired for having painted it, or that admiration is in some, non-desert-based sense, a ‘fitting’ response to the painting. Or maybe I am not making any assertion at all, and am simply expressing my own admiration of the painting. But it is far from clear that I am genuinely ascribing desert to the painting itself. Certainly, we should not conclude that I making such a desert claim solely on the basis that I have used the word ‘deserves’.

Similar interpretations of the other examples Feinberg, Feldman and Skow give are available. It might be that, in saying that a problem ‘deserves careful consideration’, I am claiming that it is a serious problem, and that we ought to consider it carefully before settling on a solution. When I say that a bill of legislation ‘deserves to be passed’, I am claiming that it ought to be passed. And if I claim that the scene of a massacre ‘deserves to be torn down’, I mean that

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<sup>1</sup> Of course, each *member* of a football team is interest-bearing. But I take it that the team as a whole is not a single, interest-bearing subject. A team is made better off by winning a trophy only in the sense each of its members is individually made better off.

<sup>2</sup> Note that this view does not commit us to the claim that *all* and only interest-bearers are desert subjects; possessing interests is a necessary condition for being a desert subject on this view, but not necessarily a sufficient one.

<sup>3</sup> Feinberg (1970, p. 204) makes a point like this. Feinberg’s own proposal is that the term ‘to blame’ is being used metaphorically here. A similar proposal is that the term ‘to blame’ is polysemous, and that, on one of its meanings, it does not ascribe moral blame. On this view, claims like ‘the rain was to blame for the cancellation’ are not metaphorical; they may be literally true, but only because their literal meaning is less philosophically loaded than it is when the term ‘to blame’ is used in other contexts.

tearing it down would be an appropriate expression of the moral disgust we ought to feel towards the perpetrators of the massacre. In saying that a football team 'deserves' to win a competition, meanwhile, I am simply saying that it has been the best team in that competition. Again, it is in none of these cases clear that I am genuinely ascribing desert to a non-interest-bearing entity.

These alternative interpretations of 'uninterested' desert claims are supported by the fact that, if the speaker's interlocutor were to respond by rejecting a literal desert claim, their response would often seem conversationally inappropriate. If you say that a bill of legislation 'deserves' to be passed, and I reply that bills of legislation are not the kinds of thing that can deserve anything, I seem to have misjudged the content of your utterance. My response would be appropriate if I were to say that the bill requires further examination before being passed, but not if I were to insist that the bill is not a genuine desert subject. If this is right, then it seems that you were only ever saying that the bill ought to be passed to begin with.

Feldman and Skow are right that it 'seems acceptable' to describe non-interest-bearing entities as being 'deserving', but this is more likely a quirk of our language than an insight into the kinds of things that we hold to be desert subjects. We cannot infer, simply on the basis of our linguistic practices, that speakers routinely take non-interest-bearing entities to be deserving of anything.

The failure of this inference does not itself mean that the interest-bearers-only view is correct. The point here is just this. When arguing that non-interest-bearing entities can be desert subjects, philosophers like Feinberg, Feldman and Skow motivate their view solely by pointing to our common linguistic practice of employing the word 'deserves' when discussing such entities. If what I have argued here is correct, then this strategy is unconvincing, and the opponent of the interest-bearers-only view must provide independent motivation for their position.

Even if speakers do sometimes ascribe desert to non-desert-bearing entities, though, there is reason to think that all such desert ascriptions are false. The second point that can be made in defence of the interest-bearers-only view is as follows. Consider this claim:

(Good Desert) It is intrinsically morally good for subjects to get what they deserve.

Good Desert tells us that, other things being equal, a world in which subjects possess what they deserve is morally better, in virtue of this very fact, than a world in which they do not. And this claim does seem to me to be intuitive. Subjects' possessing what they deserve certainly need not be the *only* good-making feature of states of affairs,<sup>4</sup> but it does seem to

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<sup>4</sup> This is consistent with Good Desert, since Good Desert claims merely that it is always *pro tanto* good for subjects to get what they deserve, not that this is always good all things considered.



me to be one such good-making feature. Other things being equal, it seems to be a good thing for subjects to get what they deserve.<sup>5</sup>

The proponent of the interest-bearers-only view is well placed to vindicate Good Desert. In conjunction with the claim that some interest-bearing entity is a desert subject, Good Desert has the following implication:

(Interested Goodness) It is non-instrumentally morally good for some interest-bearing entity to possess some particular object.<sup>6</sup>

If it is always intrinsically good for a subject to possess what they deserve, and if an interest-bearing entity deserves to possess some object, then it follows that it is non-instrumentally good for this interest-bearing entity to possess this object.

Interested Goodness appears an innocuous claim. The fate of interest-bearing entities does seem to be non-instrumentally morally significant. It is natural to think, for example, that it is generally a non-instrumentally good thing for interest-bearing entities to be well off—to live good lives. Persons and other animals living good lives is good not merely as a means to some other end, but also as an end in itself. If we say only that some interest-bearing entities are desert subjects, Good Desert commits us only to the innocuous claim that the fate of some interest-bearing entities is non-instrumentally morally significant.

In conjunction with the claim that some *non*-interest-bearing entity is a desert subject, however, Good Desert has this implication:

(Uninterested Goodness) It is non-instrumentally morally good for some non-interest-bearing entity to possess some particular object.

If it is always intrinsically good for a subject to possess what they deserve, and if a non-interest-bearing entity deserves to possess some object, then it follows that it is non-instrumentally good for this non-interest-bearing entity to possess this object.

Uninterested Goodness seems to me far less intuitive than Interested Goodness. To be sure, it is natural to hold the fate of non-interest-bearing entities to be *instrumentally* morally significant. Passing a bill of legislation might help to create a better society; tearing down the

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<sup>5</sup> See e.g. Kant, *Critique of Pure Reason*, A813–814/B841–842; Ross 1930, p. 158; Feldman 1995a, p. 573; Moriarty 2003, p. 520; McMahan 2009, p. 8; and Kagan 2012, p. xiii for endorsements of the similar—though importantly weaker—claim that it is intrinsically good for *people* to get what they deserve, and Hanna 2013 for a rejection of this claim. This weaker claim does not itself pose a threat to the opponent of the interest-bearers-only view, but I take it that many of those who endorse this weaker claim will accept Good Desert as well.

In Chapter 6, I will argue that act consequentialism about moral rightness is strengthened when combined with Good Desert.

<sup>6</sup> It does not quite follow that it is *intrinsically* morally good for some interest-bearing entity to possess some particular object, since this may be morally good only in virtue of the further fact that the entity deserves this object. But even if this is so, the entity's possession of this object remains non-instrumentally good; this is good as an end in itself, even if this end is good only in virtue of some further fact.

scene of a massacre may be emotionally uplifting; a football team winning a competition will likely delight its players and supporters. But in each of these cases, it is the fate of the *interest-bearing* entities in question that most plausibly makes the resulting state of affairs a good one. My own intuition is that the passing of a bill of legislation, or victory of a football team, is never *itself* a good-making feature of a state of affairs. These events seem to me to derive their moral significance from the effect they have on beings who, unlike bills of legislation and football teams, do possess interests.

Uninterested Goodness' claim that the fate of some non-interest-bearing entity is non-instrumentally morally significant is not indefensible.<sup>7</sup> But the intuition that interest-bearing entities are what ultimately matter is, I think, a powerful one. To the extent that we give weight to this intuition, we should treat Uninterested Value with suspicion. And since we derived Uninterested Value from the supposition that a non-interest-bearing entity is a desert subject (together with Good Desert), this in turn gives us reason to doubt this supposition. If Good Desert is true, then there is reason to deny that non-interest-bearing entities are ever desert subjects.

In summary, then, the second consideration in favour of the interest-bearers-only view of desert subjects is this. It is, intuitively, an intrinsically good thing for subjects to get what they deserve. This claim, Good Desert, poses no threat to the claim that interest-bearing entities are desert subjects, since it is entirely plausible that the fate of interest-bearing entities is sometimes non-instrumentally morally significant. But Good Desert does threaten the claim that *non-interest-bearing* entities are desert subjects. For it is less intuitive to think that the fate of a non-interest-bearing entity is ever more than instrumentally significant.

In this section, then, I have sought to undermine one argument for the view that non-interest-bearing entities are desert subjects, and offered one consideration in favour of the view that only interest-bearing entities are desert subjects. While Feinberg, Feldman and Skow are right to say that we often employ the language of desert when discussing non-interest-bearing entities, we cannot infer simply on this basis that we commonly ascribe desert to such entities. And so the interest-bearers-only view may well be less revisionary than it first appears. Even in cases where speakers do genuinely ascribe desert to non-interest-bearing entities, moreover, there is reason to think that these desert claims are false. For while there seems to be non-instrumental moral value in subjects getting what they deserve, it is plausible to think that there is only ever instrumental significance attached to the fate of non-interest-bearing entities.

I will not in this thesis address the question of whether or not *all* interest-bearing entities are desert subjects. It may be that there are further desert-subject eligibility conditions that disqualify some interest-bearing entity from being deserving of anything. Whether there are

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<sup>7</sup> G. E. Moore, for example, suggests that an 'interestless' but beautiful world is morally better than an interestless and ugly one (Moore 1903, pp. 83–85).

any such eligibility conditions is an important question, and one worthy of further discussion, but I will not attempt to answer it here.

### 2.3 Desert Objects and Welfarist Desert

In Section 2.2 above, I defended a claim about desert *subjects*. An entity is a desert subject, I argued, only if it possesses interests. In most of the remainder of this chapter, I want to defend a claim about desert *objects*—namely, that the only desert object is well-being. In this section, I will make a number of clarifications about this claim; in Sections 2.4–2.7, I will present an argument for it.

We have already seen that, if our linguistic practices are indicative of our ordinary conception of desert, then we take numerous kinds of things to be desert objects. While John deserves to be happy, we apparently say that art objects deserve *admiration*, and that problems deserve *careful consideration*. Scenes of massacres deserve *to be torn down*; a loyal pet deserves *a treat*; an excellent football team deserves *to win a competition*.

Indeed, the range of things that we ostensibly hold to be desert objects is striking in its diversity. One criminal deserves a year in prison, while another deserves to be executed. A student deserves a high mark on their essay, and a competition entrant deserves to win the prize. A job applicant deserves to be offered the position; a victim deserves compensation for their injury; an unpleasant married couple deserve each other. Cheating athletes deserve to be disqualified, but every person deserves to have their fundamental human rights protected by law. Speaking generally, wrongdoers deserve punishment, and upstanding citizens deserve to be rewarded. And, on an abstract level, the morally virtuous deserve moral praise, while the morally vicious deserve moral blame.

As in the case of desert subjects, however, it is my view that the set of genuine desert objects in fact contains at most one kind of entity: *well-being*. Call this view *Welfarist Desert*.

Before I argue in favour of Welfarist Desert, I want to make a number of clarifications. First, Welfarist Desert is consistent with the claim that *negative* well-being (or ‘ill-being’) is a desert object. My use of the term ‘well-being’ here is neutral between positive, negative and neutral well-being.<sup>8</sup> This means that, so far as Welfarist Desert goes, it might be the case that subjects sometimes deserve to be *badly* off, or to be neither well off nor badly off. Or it might be that subjects deserve only to be well off. Welfarist Desert is simply silent with respect to this issue.

Second, Welfarist Desert says nothing as to what *constitutes* well-being. It might be, for instance, that a hedonistic theory of well-being is correct, such that pleasure and pain (or the absence of pleasure or pain) are the only entities that are desert objects. Or maybe a desire-satisfaction theory of well-being is true, such that subjects deserve only to have their desires

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<sup>8</sup> I will continue to use this term in this way throughout this thesis.

satisfied or frustrated (or to have an absence of satisfied or frustrated desires). Welfarist Desert simply tells us that, whatever it is that happens to constitute well-being, this is also all that is deserved.

Third, Welfarist Desert is silent concerning the kind of well-being ‘classifications’ subjects may deserve. It could be, for example, that subjects simply deserve one of the three most basic well-being classifications, deserving either to be *well off* (that is, to enjoy some positive well-being level or other), to be *badly off* (to suffer some negative well-being level or other) or to be *neither well off nor badly off* (to experience a neutral well-being level). Call this the *basic-classification* view of deserved well-being. On this view, it is never the case that two subjects both deserve to be well off, or both deserve to be badly off, but also that one of these subjects deserves to be better off than the other. If two subjects both deserve to be well off, or both deserve to be badly off, then this is all there is to be said, and so the two subjects are necessarily identical with respect to what they deserve. And if the basic-classification view is correct, then the demands of desert are relatively light: as long as a subject is appropriately ‘classified’, they are getting what they deserve.

Alternatively, it might be that subjects deserve to experience a well-being level *within a specific range* (more specific, that is, than a basic well-being classification, but not so specific as to consist of only a single value). It might be, for instance, that some subjects deserve to be *mildly* well off, while others deserve to be *moderately* well off, and others still deserve to be *very* well off. And perhaps negatively-deserving subjects deserve to be either mildly, moderately or very *badly* off.<sup>9</sup> Unlike the basic-classification view, this *specific-range* view allows two subjects to both deserve to be well off, or both deserve to be badly off, but nevertheless differ with respect to exactly how well or badly off they deserve to be. But two subjects cannot deserve to be differently well off if they both deserve, for example, to be *mildly* well off. If two subjects deserve to belong to the same well-being ‘range’, then that is all there is to be said, and the two subjects necessarily deserve to be equally well off. And though the specific-range view portrays desert as being more demanding than the basic-classification view (belonging to the appropriate basic well-being classification is not sufficient for a subject to be getting what they deserve), they still leave some room for manoeuvre (belonging to the appropriate specific well-being range *is* sufficient for a subject to be getting what they deserve).

My own view is that deserved well-being is a more precise matter than either of these accounts suggest. For any (finitely morally virtuous or vicious) subject, there is, I believe, a single, finite well-being level that the subject deserves to experience. On this *single-value* view, even subjects who both deserve to be moderately well off, or both deserve to be very badly off (for example), can differ with respect to precisely how well or badly off they deserve

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<sup>9</sup> Perhaps it is also possible for a subject to deserve to be *infinitely* well or badly off. The Christian theologian Jonathan Edwards appears to argue that, since humans fall infinitely short of God’s infinite virtue, they deserve to be infinitely badly off (1974).

to be. And this means that, in at least one sense, desert is extremely demanding: unless a subject is experiencing some particular, precise level of well-being, they are not getting what they deserve.

We can see, then, that Welfarist Desert is compatible with a number of different accounts of the kind of well-being classifications that subjects may deserve. And while I myself favour the single-value view, I will not argue for it here. I will argue only for Welfarist Desert's general claim that well-being, specified in some way or other, is the only genuine desert object.

Fourth, Welfarist Desert says nothing concerning the *temporal extension* of deserved well-being. It could be that subjects deserve a particular level of well-being *at a particular moment*. Perhaps subjects deserve particular balances of well-being over the course of their *lifetimes*. Or maybe the true temporal extension of deserved well-being lies somewhere these two extreme views, with subjects deserving particular balances of well-being over ranges of time longer than single moments, but shorter than entire lifetimes. Indeed, it could be that a combination of all of these views is correct, with subjects having momentary, lifetime *and* 'specific range' desert levels. I will return to this temporal-extension issue in Chapter 5, but will not discuss it further here. Again, Welfarist Desert is simply silent on this issue, claiming merely that well-being of some temporal extension or other is all that is deserved.

Fifth, since Welfarist Desert is the claim that the set of genuine desert objects *at most* contains well-being, it is consistent with the claim that *not even* well-being is a genuine desert object. It is my view that well-being is a genuine desert object, but again, I will not argue for this additional claim in this thesis. I will restrict my argument here to Welfarist Desert's claim that any entity besides well-being is *not* a desert object.

Sixth, and finally, Welfarist Desert is a claim about both *pro tanto* and *all-things-considered* desert. As Owen McLeod notes (1999a, pp. 193–194; 2013), it is often plausible that a subject is *pro tanto* deserving of some entity without being all-things-considered deserving of that entity. In virtue of having performed some morally virtuous action, a person might be *pro tanto* deserving of happiness. But if that person has otherwise only ever committed moral atrocities, then their *pro tanto* desert of happiness may be outweighed by *pro tanto* desert of unhappiness, such that, all things considered, they deserve to be unhappy. Welfarist Desert claims that well-being is the only entity that is deserved even in this *pro tanto* sense.<sup>10</sup>

Even while underspecified in the ways I have outlined, Welfarist Desert is a radically revisionary claim. But there are, I believe, at least two considerations that support it. I will outline these considerations in Sections 2.4–2.7 below.

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<sup>10</sup> Throughout this thesis, the 'desert' I write of will, unless otherwise indicated, continue to encompass both *pro tanto* and all-things-considered desert.

## 2.4 Good Desert and Welfarist Goodness

The first consideration in favour of Welfarist Desert centres on the intuitive force of the following two claims:

(Good Desert) It is intrinsically morally good for subjects to get what they deserve.

(Welfarist Goodness) Well-being is the only entity that it is sometimes non-instrumentally morally good for a subject to possess.

I will shortly explain why the conjunction of Good Desert and Welfarist Goodness entails Welfarist Desert. But why should we accept this conjunction of claims to begin with? I have already suggested, in Section 2.2, that Good Desert is a powerfully intuitive claim: other things being equal, it does seem to be a good thing for subjects to get what they deserve.

For my own part, Welfarist Goodness strikes me as being a similarly intuitive claim. Entities other than well-being can certainly be morally valuable, but I find it natural to think that their value is merely instrumental, derived from their effects on well-being. If a beautiful world is morally better than an ugly one, for example, this is, it seems to me, likely because creatures in the beautiful world are better off than creatures in the ugly world, not because beauty itself has any non-instrumental moral value. If the reader does not share my intuition about this, I can say little to convince them here. But in my own case, at least, this intuition is a powerful one.<sup>11</sup>

If Good Desert and Welfarist Goodness are indeed both true, then Welfarist Desert follows. Good Desert implies that, when a subject deservedly possesses some object, their possession of that object is non-instrumentally morally good. This means that, for an entity to be a desert object, a subject's possession of that object must sometimes be non-instrumentally morally good. But Welfarist Goodness tells us that well-being is the only entity for which this is the case. So if Good Desert and Welfarist Goodness are both true, then it follows that well-being is the only desert object.

Consider, for example, the claim that *imprisonment* is a desert object. In conjunction with Good Desert, this claim implies that it is sometimes a non-instrumentally good thing for a subject to be imprisoned. But Welfarist Goodness insists that this is *never* a non-instrumentally good thing; if it is ever a good thing for a subject to be imprisoned, then this goodness is merely instrumental, derived from the effects of this imprisonment on well-being. So in conjunction with Good Desert and Welfarist Goodness, our starting claim—that imprisonment is a desert object—leaves us with an inconsistent triad. If Good Desert and Welfarist Goodness are both true, then this starting claim must be false.

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<sup>11</sup> While Welfarist Goodness is disputed by philosophers such as Amartya Sen (1979, pp. 471–479), many others seem to accept it. Welfarist Goodness is, for example, an axiological component of utilitarianism (Sen 1979, p. 468; Woodard 2019, p. 5).

The intuitive force of Good Desert and Welfarist Goodness thus gives us significant reason to accept Welfarist Desert. Now, some of those who reject Welfarist Desert may do so because they simply do not share my intuitions that Good Desert and Welfarist Goodness are correct. But even those who do share these intuitions need not take my argument for Welfarist Desert to be convincing. Some readers may say that, while Good Desert and Welfarist Goodness are indeed both intuitive, they are not *as* intuitive as the claim that entities other than well-being are desert objects. These opponents will argue that, in the process of reflective equilibrium, it is our support for either Good Desert or Welfarist Goodness that we ought to withdraw, not our support for the claim that entities other than well-being are deserved. Since entities other than well-being clearly *are* deserved, these opponents will say, at least one of Good Desert and Welfarist Goodness must be false.

Notice that this reply treats the intuition that some entity is deserved to be *methodologically primary*: it begins with the assumption that this intuition is correct, and rejects some further intuition on the basis of that assumption. And there is, I think, reason to view this methodological approach as problematic.

It is true that Welfarist Desert is a revisionary claim, contradicting what appears to be the 'common sense' view that many entities besides well-being are desert objects. But this common-sense view is notably unregimented: there seem to be no general principles guiding the kinds of entities we take to be acceptable desert objects—no single, distinctive characteristic that unites the entities we say are sometimes deserved. Now, this is not a conclusive reason to reject the common-sense view. It may well be that there *are* no general principles that explain what kinds of entities are desert objects. Indeed, perhaps everything is a desert object! But the unregimented nature of the common-sense view does, I think, give us at least some reason to treat this view, and our intuitions that given entities are deserved, with suspicion. For in light of the unregimented nature of these intuitions, they appear likely to be at least somewhat unreliable.

If this is right, then we ought not to take our intuition that a given entity is deserved as methodologically primary. Rather than retreating to these likely unreliable intuitions as a basis for rejecting plausible theoretical principles like Good Desert and Welfarist Goodness, we ought to use these theoretical principles as a basis for determining which of our desert-object intuitions we should trust. For our intuitions about these theoretical principles are not so clearly unregimented. And so, while we may initially want to say that imprisonment is deserved, we ought to be prepared to abandon this intuition under the weight of theoretical considerations like the plausibility of Good Desert and Welfarist Goodness. If we do appreciate the intuitive force of these principles, then we ought to reject the claim that imprisonment is deserved on that very basis. This is, I believe, a more methodologically reliable approach than rejecting Good Desert or Welfarist Goodness on the basis of our intuition that imprisonment is a desert object.

## 2.5 Desert-Appraisal Supervenience

The second consideration in favour of Welfarist Desert emerges from the following two principles:

(Desert-Appraisal Supervenience) A subject's desert supervenes on facts that are appropriate bases for holding an appraising attitude towards that subject.

(Desert-Well-Being Contingency) If an interest-bearing subject were to deserve an entity other than well-being, then the subject's desert of that entity would be contingent on the entity's effect on their well-being.

In this section, and in Section 2.6 below, I will explain why we should accept the conjunction of Desert-Appraisal Supervenience (DAS) and Desert-Well-Being Contingency (DWC). In Section 2.7, I will explain why this conjunction entails a claim close to that of Welfarist Desert.

Let us first consider DAS. As the name suggests, an appraising attitude is an attitude that, when held towards a particular subject, in some way 'appraises' that subject. In the positive case, these attitudes include approval, admiration and gratitude; in the negative case, they include disapproval, contempt and resentment.

Some facts about a subject are appropriate bases for holding an appraising attitude towards that subject. The fact that someone is morally virtuous is an appropriate basis for feeling admiration towards them, while the fact that someone is morally vicious is an appropriate basis for feeling contempt towards them. Other facts are inappropriate appraising-attitude bases. It is not appropriate to admire someone, or hold them in contempt, for having blue eyes. DAS claims that a subject's desert can be influenced only by facts that *are* appropriate appraising-attitude bases.<sup>12</sup>

DAS follows from the thought that desert is a *morally evaluative* concept. The claim that someone deserves some benefit seems to entail some positive moral evaluation of that person, while the claim that someone deserves some harm seems to entail some negative moral evaluation of that person. The claim that one person is 'more deserving'<sup>13</sup> than another seems to entail some superior moral evaluation of the more deserving individual. Desert, this is to say, supervenes on moral evaluations of subjects.

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<sup>12</sup> DAS is a claim not merely about *what* a subject deserves, but also about the *bases* of their desert. If two subjects are alike in all appraisal-justifying respects, then DAS tells us that they cannot differ with respect to what they deserve. But it also implies that these subjects cannot differ with respect to what *makes* them deserving of whatever it is they deserve.

<sup>13</sup> The phrase 'more deserving' is potentially misleading. Throughout this thesis, I will use this phrase to mean 'deserving of something better', not to mean 'deserving to a greater degree'. Likewise, I will use the phrase 'less deserving' to mean 'deserving of something worse', not 'deserving to a lesser degree'. The question of whether desert is a matter of degree, as Feldman (1995a, p. 573) suggests it is, lies beyond the scope of this thesis.



Moral evaluations of subjects, moreover, are themselves appropriate bases for appraising attitudes towards those subjects. A positive moral evaluation of someone is an appropriate basis for admiring them, while a negative moral evaluation of them is an appropriate basis for holding them in contempt. So if desert supervenes on moral evaluations, then it will, ipso facto, supervene on appropriate bases for appraising attitudes.

Even if desert does not supervene on *moral* evaluations, though, it may still supervene on appropriate appraising-attitude bases. While a naturally talented artist may not be morally praiseworthy for their talent, we may still think that this talent is relevant to the artist's desert. We may, for example, think that the artist deserves to have their talent recognised. But if we do think this, then we will likely also think that it would be appropriate to *admire* the artist for their talent. Even if the artist's desert is influenced by facts irrelevant to a moral evaluation of them, therefore, it remains plausible that their desert supervenes on facts that are appropriate bases for appraising attitudes.

John Kleinig seems to endorse DAS. He writes:

[I]t is appropriate and correct to say of a certain subject, *X*, that it deserves *A*, where *A* is a form of pleasant or unpleasant treatment, when *X* possesses characteristics or has done something, *B*, which constitute a positive or negative evaluation of *X*... in saying that *X* deserves *A* we are *evaluating* or *appraising* *X*. (Kleinig 1971, p. 76, original emphasis)

DAS explains the intuitive irrelevance of certain kinds of fact to what subjects deserve. Consider this case:

*Criminals*: Two individuals, Popular and Unpopular, maliciously commit the same serious crime. Despite being equally malevolent individuals, Popular and Unpopular have, for no good reason, vastly different reputations in their community. While Popular is beloved by all those around them, Unpopular is universally despised.

Now, consider the following desert claim:

(Populist Desert) Unpopular deserves a harsher punishment for their crime than Popular deserves.

Populist Desert is implausible. Popular and Unpopular are equally malevolent individuals who have committed the same crime. If they deserve to be punished at all, they deserve the same punishment. To be sure, the differing reputations of Popular and Unpopular may be a *reason* to inflict a harsher punishment on Unpopular than Popular, thereby reducing their community's outrage. But this would be a utilitarian reason, not a reason of desert. If Popular and Unpopular ought to be given different punishments, this is because considerations of desert are not morally exhaustive. Regardless of what their punishments ultimately ought to be, it remains clear that Popular and Unpopular do not *deserve* different punishments.

DAS explains why Populist Desert is false. Being equally malevolent, and having committed the same crime, Popular and Unpopular are alike in all respects that are appropriate appraising-attitude bases. It would be appropriate to hold both Popular and Unpopular in contempt for their malevolence and criminality. Popular and Unpopular are substantively different only with respect to their levels of popularity, and these are *not* appropriate bases for holding appraising attitudes towards them. When one person is more popular than another, of course, there will often be reasons for this difference that are appropriate appraising-attitude bases. But this difference in popularity is not *itself* a reason to appraise the two people any differently. The fact that someone is in fact greatly admired does not make admiration an *appropriate* attitude to hold towards them. So in the absence of any good reason for Popular and Unpopular's differing reputations, there is nothing to justify any difference in our appraisal of them. This, DAS tells us, is why Popular and Unpopular cannot deserve different punishments. Their differing reputations are irrelevant to their desert because their desert supervenes on facts that *are* appropriate bases for appraising attitudes towards them.

In *Criminals*, then, we have a clear case in which DAS vindicates and explains our intuitive assessment of individuals' desert. And many other cases like this will lend support to DAS. If you and I descriptively differ only with respect to our eye colour, our race, or our gender, it is natural to think that we cannot differ with respect to what we deserve. And it is natural to say that this is because eye colour, race and gender are not facts about us that justify any kind of appraising attitude towards us. In all cases like these, DAS is shown to be a highly explanatorily powerful principle.

Without committing to either the truth or falsity of DAS, David Miller (1976, p. 89) endorses a weaker account of the connection between desert and appraising attitudes. On this weaker view, the *basis* of a subject's desert must always be an appropriate basis for holding an appraising attitude towards that subject.<sup>14</sup> Call this claim *Desert-Appraisal Grounding* (DAG):

(Desert-Appraisal Grounding) A subject's desert is based only on facts that are appropriate bases for holding an appraising attitude towards that subject.

In cases like *Criminals*, however, DAG is explanatorily insufficient. DAG alone does not explain why Populist Desert is false. Populist Desert claims that, due to Unpopular's poorer reputation, they deserve a harsher punishment for their crime than the one deserved by Popular. But this does not commit one to saying that Unpopular's poorer reputation is the *basis* of their desert. Even if Unpopular deserves a harsher fate, the basis of this desert is presumably still the fact that they have committed a serious crime, not the fact that they are so unpopular. Even the proponent of Populist Desert will want to avoid saying that

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<sup>14</sup> Miller goes as far as to say that, if we did not experience appraising attitudes, 'we would not and could not use the concept of desert' (Miller 1976, p. 89).

unpopularity is itself something that can make one deserve to be punished. Their suggestion is not that unpopularity is a basis for desert of punishment, but that, when such a basis is *already* present, unpopularity exacerbates this desert.

Because Populist Desert need not *base* Popular and Unpopular's desert on facts that are inappropriate appraising-attitude bases, it is compatible with DAG. And this means that we cannot employ DAG alone to explain why Populist Desert is false. To explain why Unpopular's poorer reputation cannot make *any* difference to what punishment they deserve, and thus why Populist Desert is false, we must employ a stronger principle than DAG. And as we have seen, DAS is a prime candidate for being this principle. Populist Desert is compatible with DAG, but not with DAS.

While Miller restricts himself to an endorsement of DAG, therefore, cases like *Criminals* show that he ought to have gone further than this. It is not simply that a subject's desert must be based on facts that justify appraising attitudes towards them, but also that their desert supervenes on such facts.

## 2.6 Desert-Well-Being Contingency

What, now, about the second of our two principles, DWC?

(Desert-Well-Being Contingency) If an interest-bearing subject were to deserve an entity other than well-being, then the subject's desert of that entity would be contingent on the entity's effect on their well-being.

DWC is most clearly supported by cases like the following:

*Sadist*: Sadist, a generally despicable individual, commits a series of horrific, premeditated murders, for which they feel no remorse.

On the basis of this information, it would be natural to infer:

(Sadistic Desert) Sadist deserves to be imprisoned.

Now suppose, however, that we make a surprising discovery about Sadist:

*Sadist (Continued)*: Sadist would be enormously better off in prison than they would be in the outside world.<sup>15</sup>

Given this additional information, Sadistic Desert no longer appears plausible. The thought underwriting Sadistic Desert, after all, is that Sadist deserves to be *punished*. It is natural to

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<sup>15</sup> We can imagine, for example, that Sadist greatly enjoys being imprisoned, that they will acquire many other objective goods only by being imprisoned, or that they have a strong non-instrumental desire to be imprisoned.

think that Sadist deserves to be imprisoned because it is natural to think that some length of imprisonment is a fitting punishment for Sadist's crimes. In reality, though, imprisonment does not function as a punishment for Sadist at all. Given its positive effect on their well-being, imprisonment instead functions as a *reward*. And Sadist surely does not deserve to be rewarded for their crimes.<sup>16</sup>

If Sadist were *ever* to deserve to be imprisoned, therefore, then their desert of imprisonment would be contingent on imprisonment's effect on their level of well-being. Even if Sadist were to deserve imprisonment when it makes them *worse* off, thus functioning as a genuine punishment, they do not deserve it when it makes them considerably *better* off, thus instead functioning as a reward. This, then, is a case in which a subject's apparent desert of something other than well-being is at best contingent on that entity's effect on the subject's well-being.

Desert-Well-Being Contingency also seems supported by cases like this:

*Hard-Worker*: Hard-Worker, a generally pleasant individual, works extremely hard at their job, and performs excellently.

From this information, we might be inclined to infer:

(Hard-Working Desert) Hard-Worker deserves to be promoted.

But suppose that we now make this discovery:

*Hard-Worker (Continued)*: Promoting Hard Worker would make them enormously worse off.<sup>17</sup>

Given this information, Hard-Working Desert is no longer plausible. The thought underwriting Hard-Working Desert is that Hard-Worker deserves some kind of *reward* for their diligence and high performance. But since Hard-Worker would be made worse off by any change to their job, a promotion would instead function as a *punishment*. And Hard-Worker clearly does not deserve to be punished.

If Hard-Worker were ever to deserve a promotion, then, their desert of this promotion would be contingent on its effect on their level of well-being. Even if Hard-Worker deserves a promotion when it would make them better off they do not deserve one when it would make

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<sup>16</sup> Two alternative readings of this case are worth mentioning here. First, it might be claimed that, while Sadist does still deserve to be imprisoned, this is only *pro tanto* desert, and is outweighed by Sadist's desert of a genuine punishment, meaning that Sadist does not deserve to be imprisoned all things considered (see McLeod 1999a, pp. 193–194 for a proposal similar to this). Second, it might be said that, while Sadist does still deserve imprisonment (even all things considered), they *ought* not to be imprisoned, since there are overriding non-desert-based reasons not to imprison them (see Feinberg 1970, pp. 84–85 for the view that reasons of desert are non-exhaustive). Neither of these readings strikes me as being satisfactory: my intuition is that Sadist is not even *pro tanto* deserving of imprisonment, and that we have a strong desert-based reason not to imprison them.

<sup>17</sup> It might be, for instance, that Hard-Worker loves their current job, and would be devastated to lose it; that they will acquire several objective goods only by staying in their current job; or that they have a strong non-instrumental desire to continue in their current job.

them considerably worse off. This is, therefore, another case in which a subject's apparent desert of something other than well-being is at best contingent on that entity's effect on the subject's well-being.

So far, we have seen that both *Sadist* and *Hard-Worker* seem to support Desert-Well-Being Contingency. And these are far from the only two cases that do so. In many instances, the plausibility of a desert claim seems contingent on the effect the apparent deserved entity has on the subject's well-being. We say that a friendly couple deserve good weather on their honeymoon on the assumption that they enjoy good weather; we would surely retract this desert claim if we knew that good weather would make the couple miserable. An unpleasant couple may deserve each other, but not if their relationship is a blissful one. A vicious criminal may deserve to be executed, but not if this will usher in a heavenly afterlife.

To establish DWC, though, it is not enough to point to these individual cases. For DWC claims that *all* instances of well-being-bearers deserving entities other than well-being would be 'well-being-contingent'. Do cases like *Sadist* and *Hard-Worker* point us towards this far stronger claim?

Closer reflection on the lessons learned from *Sadist* and *Hard-Worker* suggest that they do indeed support this stronger claim. Consider again our diagnosis of *Sadist*. Since imprisonment makes Sadist enormously better off, and Sadist does not deserve to be made better off,<sup>18</sup> Sadist does not deserve to be imprisoned after all. Crucially, this reasoning does not apply only to imprisonment. Sadist surely does not deserve *anything* that makes them enormously better off. If Sadist would somehow be made this much better off by us fining or flogging them, then they do not deserve these fates either. The principle at work here thus seems to be as follows. If a subject does not deserve to be made better off, *then they do not deserve anything that would make them enormously better off*. This is why Sadist does not deserve to be imprisoned.

Likewise, consider again our diagnosis of *Hard-Worker*. Since a promotion would make Hard-Worker enormously worse off, and Hard-Worker does not deserve to be made worse off, Hard-Worker does not deserve to be promoted. Crucially, again, this reasoning is not restricted to promotions. Hard-Worker does not plausibly deserve *anything* that would make them enormously worse off. Just as they do not deserve to be promoted, they surely do not deserve to be fired or seriously assaulted. Here, then, the principle at work appears to be the following. If a subject does not deserve to be made worse off, *then they do not deserve anything that would make them enormously worse off*. This is why Hard-Worker does not deserve a promotion.

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<sup>18</sup> It is the fact that Sadist does not deserve to be made better off, not the fact that they deserve to be made worse off, that fundamentally explains why they do not deserve to be imprisoned. For even if Sadist were already as badly off as they deserved to be, such that they did not deserve to be made any worse off, they would not plausibly deserve the reward of imprisonment.

Here, then, are the two principles I have argued are supported by *Sadist* and *Hard-Worker*:

(No-Better Desert) If a subject does not deserve to be made better off, then they do not deserve any entity that would make them enormously better off.

(No-Worse Desert) If a subject does not deserve to be made worse off, then they do not deserve any entity that would make them enormously worse off.

Together, these two principles entail DWC. To see why, first consider a subject who does not deserve to be made better off, and to whom No-Better Desert thus applies. Since the subject does not deserve to be made better off, No-Better Desert entails that they do not deserve any entity that would make them enormously better off. This means that, if the subject deserves any entity besides well-being, then their desert of this entity is contingent on its effect on their well-being: if this entity were to make the subject enormously better off, then the subject would *not* deserve it.

Now consider a subject who *does* deserve to be made better off. Since this subject deserves to be made better off, of course, they do not deserve to be made *worse* off, and so No-Worse Desert applies to them. Because the subject does not deserve to be made worse off, No-Worse Desert entails that they do not deserve any entity that makes them enormously worse off. And this again means that, if the subject deserves any entity besides well-being, then their desert of this entity is contingent on its effect on their well-being: if this entity were to make the subject enormously worse off, then the subject would *not* deserve it.

If No-Better Desert and No-Worse Desert are both true, therefore, then *any* interest-bearing subject's desert of an entity other than well-being is contingent on that entity's effect on the subject's well-being. And this, of course, is just what DWC claims. If No-Better Desert and No-Worse Desert are both true, DWC follows.

## 2.7 DAS, DWC and Welfarist Desert

In Sections 2.5 and 2.6 above, I argued in favour of the following two principles:

(Desert-Appraisal Supervenience) A subject's desert supervenes on facts that are appropriate bases for holding an appraising attitude towards that subject.

(Desert-Well-Being Contingency) If an interest-bearing subject were to deserve an entity other than well-being, then the subject's desert of that entity would be contingent on the entity's effect on their well-being.

The conjunction of these principles, I am now going to argue, entails something close to this further claim about desert:

(Welfarist Desert) Well-being is the only desert object.

This entailment is as follows. If DAS is true, then a subject's desert of an entity cannot be contingent on anything that is not an appropriate basis for an appraising attitude towards that subject. But if DWC is true, then, if an interest-bearing subject were to deserve anything other than well-being, their desert of this entity *would* be contingent on something that is not an appropriate appraising-attitude basis. For an entity's effect on a subject's well-being is not an appropriate basis for any appraising attitude towards that subject. So if DAS and DWC are both true, then an interest-bearing subject cannot deserve anything other than well-being after all.

To see this entailment more clearly, let us consider an example:

*Sadist 2*: Sadist, a generally despicable individual, commits a series of horrific, premeditated murders, for which they feel no remorse. Sadist would be made worse off by being imprisoned.

Now, suppose that the following desert claim is true:

(Sadistic Desert) Sadist deserves to be imprisoned.

We have seen that, if imprisonment were instead to make Sadist enormously better off, then Sadistic Desert would be false. So if Sadistic Desert is true, then its truth is contingent on imprisonment not making Sadist enormously better off. If Sadist deserves to be imprisoned, their desert of this is contingent on the effect imprisonment has on their well-being. This is the kind of contingency implied by DWC.

If DAS is true, however, then Sadist's desert of imprisonment *cannot* be contingent on imprisonment's effect on their well-being. For DAS claims that a subject's desert can be contingent only on facts that are appropriate bases for an appraising attitude towards that subject. And the effect that imprisonment has on Sadist's well-being is *not* an appropriate basis for holding any appraising attitude towards Sadist. It would not be appropriate to admire or resent Sadist for the fact that imprisonment would make them better or worse off.

Given the truth of DWC, therefore, Sadistic Desert is incompatible with DAS. If Sadist were to deserve imprisonment, their desert of this would be contingent on imprisonment's effect on their well-being. But DAS tells us that Sadist's desert cannot be contingent on this. It thus follows from DAS that Sadist does not deserve to be imprisoned after all.

This same reasoning can be applied to *any* case in which an interest-bearing subject apparently deserves something other than well-being. DWC will say that, if the subject genuinely deserves this entity, then their desert is contingent on the entity's effect on their

well-being. But DAS will insist that the subject's desert cannot be contingent on this. From DWC and DAS, it will thus follow that the subject does not deserve this entity at all.

In effect, then, the conjunction of DAS and DWC gives us the following argument:

- (P1) A subject's desert supervenes on facts that are appropriate bases for holding an appraising attitude towards that subject. (DAS)
- (P2) If an interest-bearing subject were to deserve an entity other than well-being, then the subject's desert of that entity would be contingent on the entity's effect on their well-being. (DWC)
- (P3) The effect of an entity on a subject's well-being is not an appropriate basis for holding an appraising attitude towards that subject.

Therefore,

- (C) Well-being is the only entity that is deserved by interest-bearing entities.

Notice that the conjunction of DAS and DWC entails only a claim *close* to that of Welfarist Desert. Welfarist Desert is the claim that *no* subject, whether interest-bearing or not, deserves anything other than well-being. But since DWC is a claim merely about the desert of *interest-bearing* entities, the conjunction of DAS and DWC entails only that these interest-bearing entities do not deserve anything other than well-being. It is consistent with the conjunction of DAS and DWC that *non-interest-bearing* entities do deserve something besides well-being. For all I have argued in Sections 2.5 and 2.6, it might still be the case that paintings deserve admiration and problems deserve consideration.

In Section 2.2, though, I argued that non-interest-bearing entities are not desert subjects at all. In conjunction with this further claim, DAS and DWC do together entail Welfarist Desert. If interest-bearing entities deserve only well-being, and non-interest-bearing ones do not deserve anything at all, then well-being is the only thing that is deserved *simpliciter*.

From Sections 2.2, 2.5 and 2.6, therefore, we have the following argument for Welfarist Desert:

- (P1) A subject's desert supervenes on facts that are appropriate bases for holding an appraising attitude towards that subject. (DAS)
- (P2) If an interest-bearing subject were to deserve an entity other than well-being, then the subject's desert of that entity would be contingent on the entity's effect on their well-being. (DWC)
- (P3) The effect of an entity on a subject's well-being is not an appropriate basis for holding an appraising attitude towards that subject.



(P4) Only interest-bearing entities are desert subjects. (Interest-Bearers-Only View)

Therefore,

(C) Well-being is the only desert object. (Welfarist Desert)

## 2.8 Potential Counterexamples to DAS

In this section, I will consider two potential kinds of counterexample to the first premise of my argument: Desert-Appraisal Supervenience. I will consider a possible objection to the second premise of the argument, Desert-Well-Being Contingency, in Section 2.9 below.

The first potential counterexamples to DAS that I want to consider are apparent cases of *moral luck*. Consider, for example:

*Drink-Drivers*: Two individuals, Lucky and Unlucky, attempt to drive home while equally inebriated. While Lucky completes the journey without incident, Unlucky hits and kills a pedestrian.<sup>19</sup>

It might be thought that cases like this are counterexamples to DAS in the following way. Lucky and Unlucky are alike in all respects that are appropriate appraising-attitude bases. We ought to blame and resent them both for drink-driving, thus endangering innocent people. But Lucky and Unlucky are not alike with respect to what they deserve. Since Unlucky killed a pedestrian, while Lucky did not harm anyone, Unlucky deserves a harsher punishment.

Upon reflection, though, it becomes clear that DAS is unthreatened by cases like this. To be sure, it is not implausible to think that Unlucky deserves a harsher punishment than Lucky. But this suggestion seems underwritten by the thought that Lucky and Unlucky are *not* alike in the way they ought to be appraised. If we think that Unlucky deserves a harsher punishment than Lucky, then we will presumably also think that they are worthy of greater blame or resentment. We ought to blame and resent Unlucky for causing the death of an innocent person. Indeed, if Unlucky does deserve a harsher punishment, this seems to be precisely *because* they are worthy of greater blame or resentment. And so the thought that Unlucky deserves a harsher punishment than Lucky does not undermine the claim that the two individuals' desert supervenes on the ways we ought to appraise them.

Far from undermining DAS, cases like *Drink-Drivers* appear to support it. For it would seem odd to say that Lucky and Unlucky deserve different punishments *without* also saying that

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<sup>19</sup> Cases similar to this are discussed by Thomas Nagel (1979, pp. 28–29) and Bernard Williams (1981, p. 29) in their classic articles on moral luck. Williams thinks that there is a particular kind of regret—he calls it ‘agent-regret’—that it would be appropriate for the unlucky driver, but not the lucky driver, to feel towards the pedestrian’s death. See e.g. Walker 1991, p. 18–19 for the view that the unlucky driver is indeed more blameworthy than the lucky driver, and Thomson 1989, p. 213 for the view that the two drivers are in fact equally blameworthy.

they ought to be appraised differently. If Lucky and Unlucky are worthy of equal amounts of blame and resentment, then they deserve equal punishments. There might, of course, still be reasons to punish them unequally. By punishing Unlucky more severely, we may offer some additional degree of comfort to their victim's family. But again, this is a utilitarian reason to punish Unlucky more harshly, not a reason of desert. It remains clear that, if Lucky and Unlucky are identical in the way they ought to be appraised, then they at least *deserve* identical punishments. And so we have further evidence for the claim that desert supervenes on appropriate bases for appraising attitudes.

The second kind of potential counterexample to DAS I want to consider is offered by Fred Feldman and Bradford Skow (2019). Suppose that an abandoned child is in need of medical care and nurturance. Plausibly, Feldman and Skow say, this child is more deserving of these goods than a child who has not been abandoned, and does not need medical care or nurturance. But the fact that the abandoned child needs these goods is not an appropriate basis for holding any appraising attitude towards them. We ought not to admire or resent the child for needing this help. Here, then, we have an apparent case in which a subject's desert does not supervene on appropriate appraising-attitude bases. The two children need not differ in any appraisal-justifying respects, but, if Feldman and Skow are correct, may still differ with respect to what they deserve.

This kind of counterexample is more compelling than that presented by supposed cases of moral luck. It is true that, if the two children do not differ in any appraisal-justifying respects, then DAS is incompatible with the claim that the abandoned child deserves assistance that the second child does not. DAS is, however, compatible with the claim that assisting the abandoned child is *supported by considerations of desert* in a way that helping the second child is not. For having endorsed DAS, we can say something like the following. Being alike in all appraisal-justifying respects, the two children deserve to be equally well off, to be living equally good lives. Since the second child does not need medical care or nurturance, offering them these goods will do little to improve their well-being. Offering the abandoned child these goods, in contrast, will improve their well-being greatly. By assisting the abandoned child, we will help them to live a life of the quality they deserve. So while helping the second child does little good, from the point of view of desert, helping the abandoned child does a considerable amount of good. And so considerations of desert give us far greater reason to assist the abandoned child than they give us to help the second child.

For my own part, I find this diagnosis of Feldman and Skow's case intuitively satisfactory. Once it has been established that considerations of desert give us greater reason to help the abandoned child, I do not find myself inclined to say, in addition, that the abandoned child is any more deserving of this help per se. But even if one does have this additional intuition, the theoretical cost of vindicating this intuition seems excessive. Having accepted that the abandoned child deserves help that the second child does not, we are forced to abandon DAS. And we saw in Section 2.5 that abandoning DAS comes at a high explanatory price. Once we

have rejected DAS, we will seem to lack a compelling explanation for why facts like a person's level of popularity or eye colour are necessarily irrelevant to their desert. If desert does not supervene on appraisal-justifying facts, then there appears to be no principled reason why popular and unpopular people, or blue-eyed and brown-eyed people, cannot be otherwise descriptively identical, yet differ with respect to what they deserve.<sup>20</sup> If we want a principled way of blocking this possibility, then abandoning DAS is an excessive theoretical price to pay for accepting Feldman and Skow's diagnosis of the two-children case. We ought instead to accept DAS, and be satisfied with the concession that considerations of desert give us greater reason to help the abandoned child.

## 2.9 DWC and Entitlement

In this section, I will consider a possible objection to the second premise of my argument for Welfarist Desert: Desert-Well-Being Contingency. I will argue that this objection is undermined, first, by cases like *Sadist*, which I presented in Section 2.6, and, second, by the Desert-Appraisal Supervenience thesis I defended in Sections 2.5 and 2.8.

The objection I want to consider runs as follows. DWC is undermined by cases in which a person deserves some entity in virtue of their *entitlement* to that entity. Consider, for example, the following case:

*Artist*: Artist enters a painting competition. The rules of the competition stipulate that the entrant whose painting is awarded the highest scores by the judges will be awarded the Painting Trophy. Artist's painting, on which they worked tirelessly, is awarded the highest scores by the judges.

According to the objection we are considering, the following desert claim is true:

(Artistic Desert) Artist deserves to be awarded the Painting Trophy.

Crucially, the objector will say that Artistic Desert is true *regardless* of the effect that being awarded the Painting Trophy will have on Artist's well-being. For Artist deserves to be awarded the trophy simply in virtue of the fact that they are *entitled* to it. The rules of the competition stipulate that anyone who satisfies a particular criterion will be awarded the trophy, and Artist has satisfied this criterion. This makes Artist entitled to the trophy. And since Artist is entitled to the trophy, they would deserve it *even if it made them enormously worse off*.<sup>21</sup> *Artist*, the objector will say, is therefore a counterexample to the claim that 'non-

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<sup>20</sup> Of course, we might simply concede that this is a genuine possibility. But we would then seem to lack an explanation for why facts like one's level of popularity are relevant to desert in some cases, but clearly irrelevant in cases like *Criminals*.

<sup>21</sup> See McLeod 1999a for the view that entitlement is necessarily a basis for *pro tanto* desert.

welfarist' desert would always be contingent on the effect of the apparent desert object on the subject's well-being.

Cases similar to *Artist* may seem to constitute further counterexamples to Desert-Well-Being Contingency. Suppose that a hard-working student submits an excellent essay. In virtue of the appropriate marking guidelines, the essay's excellence entitles the student to a high mark. And in virtue of this entitlement, we may say, the student deserves such a mark regardless of its effect on their well-being. Even if receiving such a mark would make the student enormously worse off, they deserve the high mark to which they are entitled.<sup>22</sup>

I believe that this objection to DWC is unsuccessful. Notice, first, that this objection is premised on the following principle about desert and entitlement:

(Entitled Desert) Entitlement is a basis for desert, and if a subject deserves some entity in virtue of their entitlement to that entity, then the subject's desert of that entity is not contingent on the entity's effect on their well-being.

The objection we are considering succeeds only if Entitled Desert is correct. But Entitled Desert seems clearly undermined by cases like *Sadist*:

*Sadist*: Sadist, a generally despicable individual, commits a series of horrific, premeditated murders, for which they feel no remorse. Sadist would be enormously better off in prison than they would be in the outside world.

We saw in Section 2.6 that, because imprisonment would make Sadist enormously better off, the following desert claim is implausible:

(Sadistic Desert) Sadist deserves to be imprisoned.

But if Entitled Desert were true, then Sadistic Desert would likely *not* be undermined by the effect of imprisonment on Sadist's well-being. For Sadist is likely to be legally entitled to imprisonment: the laws of their country likely stipulate that convicted murderers like Sadist are to be imprisoned. And so if Entitled Desert were true, then Sadist would likely deserve to be imprisoned regardless of the effects of imprisonment on their well-being.

In this case, then, Entitled Desert is shown to be unviable. To maintain that Entitled Desert is correct, we would have to accept that, if Sadist's entitlement to imprisonment makes them deserving of imprisonment, then it does this regardless of the effect imprisonment has on Sadist's well-being. And this claim is implausible.

There is a second reason to think that the entitlement objection to Desert-Well-Being Contingency is unsuccessful. For there is reason to deny that entitlement is a basis for desert

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<sup>22</sup> Feinberg, for example, writes that 'the desert basis of a grade is the actual possession to the appropriate degree of the quality assessed' (Feinberg 1970, pp. 65–66), and does not seem to allow that this desert be contingent on the grade's effect on the subject's well-being.

at all.<sup>23</sup> In particular, the claim that entitlement is a basis for desert contradicts the second premise of my argument for Welfarist Desert:

(Desert-Appraisal Supervenience) A subject's desert supervenes on facts that are appropriate bases for holding an appraising attitude towards that subject.

If DAS is true, then entitlement cannot be a basis for desert. For a subject's entitlement to some entity is not an appropriate basis for any appraising attitude towards that subject. We cannot appropriately admire or resent someone for the fact that they are entitled to a particular entity. So if two subjects differ only with respect to whether or not they are entitled to some entity, then DAS entails that they cannot differ with respect to their desert of that entity.

The claim that entitlement is a desert basis, however, violates this principle. Suppose that a first person, A, is entitled to some object, O. Now suppose that a second person, B, is not entitled to O, but (desert aside) is like A in all other respects. Finally, suppose that A deserves O in virtue of their entitlement to O. We now face the implication that, while A and B are alike in all appraisal-justifying respects, A is deserving of O in a way that B is not. For B, lacking the entitlement to O that A has, does not have the entitlement-based desert of O that A has.<sup>24</sup>

To see this point more clearly, compare these two cases:

*Artist:* Artist enters a painting competition. The rules of the competition stipulate that the entrant whose painting is awarded the highest scores by the judges will be awarded the Painting Trophy. Artist's painting, on which they worked tirelessly, is awarded the highest scores by the judges.

*Painter:* Painter enters a painting competition. The rules of the competition stipulate that the entrant whose painting is awarded the highest scores by the judges will be awarded a cash prize. Painter's painting, on which they worked tirelessly, is awarded the highest scores by the judges.

Names aside, we may suppose, Artist and Painter differ only with respect to the prize to which they are entitled. While Artist is entitled to the Painting Trophy, Painter is entitled to a cash prize. Since their entitlements to these prizes are not appropriate bases for any appraising

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<sup>23</sup> It might be thought that *Sadist* already shows that entitlement is not a basis for desert, since *Sadist* is likely legally entitled to imprisonment, but does not deserve it. But it is not clear that *Sadist* shows this. For one could plausibly say that, while entitlement to imprisonment is a basis for deserving imprisonment, this entitlement only generates this desert on the *enabling condition* that imprisonment makes the subject worse off. On this view, *Sadist* does not deserve to be imprisoned, but not because entitlement to imprisonment is not a basis for deserving imprisonment. *Sadist* shows that entitlement is not a basis for desert only if desert bases *necessarily* generate desert.

<sup>24</sup> Of course, B (and A) may still deserve O in virtue of some other fact. But even if A and B were alike with respect to *what* they deserved, they would not be alike with respect to the *bases* of their desert. Relative to B, A would still possess an additional basis for deserving O.

attitudes towards them, DAS entails that Artist and Painter thus cannot differ with respect to what they deserve.

If entitlement were a basis for desert, however, then Artist and Painter *would* likely differ with respect to what they deserve. Presumably, Artist would deserve to be awarded the Painting Trophy, while Painter would not. Instead, Painter would deserve the stipulated cash prize. The claim that entitlement is a basis for desert in this case thus seems to contradict DAS.

Of course, our opponent might simply view cases of entitlement as counterexamples to DAS. But I argued in Section 2.8 that the theoretical price of rejecting DAS is considerable. Rejecting the thesis that entitlement is a desert basis, on the other hand, seems to carry comparatively little theoretical cost.<sup>25</sup> If my argument in Section 2.8 was successful, therefore, then rejecting DAS in order to respect this entitlement-desert thesis is an unattractive prospect. We ought instead to appeal to DAS to reject the claim that entitlement is a basis for desert. And so the entitlement objection to Desert-Well-Being Contingency remains unconvincing.

## 2.10 Conclusion

In this chapter, I have introduced the concepts of desert subjects and desert objects, and defended two radical views of the kinds of entity that are such subjects and objects. According to the *interest-bearers-only* view of desert subjects, an entity is a desert subject only if it possesses interests to be satisfied or frustrated. In Section 2.2, I argued that this view may not be as revisionary as it first appears, as, though speakers frequently employ the language of desert when discussing non-interest-bearing entities, it is unclear that they are typically making genuine desert claims when doing so. I then argued that the interest-bearers-only view is supported by the intuition that there is non-instrumental moral value in subjects' getting what they deserve, since the fate of interest-bearing entities is more plausibly non-instrumentally morally significant than the fate of non-interest-bearing entities.

In Sections 2.3–2.9, I defended the thesis of *Welfarist Desert*, the view that well-being is the only desert object. In Section 2.4, I argued that Welfarist Desert is supported by the intuition that there is non-instrumental moral value in subjects' getting what they deserve, and the intuition that well-being is the only object of such non-instrumental value. In Sections 2.5–2.7, I argued that a claim close to that of Welfarist Desert is supported, first, by the claim that a subject's desert supervenes on appropriate bases for holding an appraising attitude towards that subject, and second, by the claim that 'non-welfarist' desert would be contingent on the effect of the deserved entity on the subject's well-being. In Sections 2.8 and 2.9, I defended these two final claims against potential objections.

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<sup>25</sup> In particular, note that abandoning this entitlement-desert thesis does not commit us to denying that entitlement is reason-giving. Even if entitlement is not a basis for desert, the fact that a person is entitled to some object may still be a reason to give that object to the person.

I also hope to have shown in this chapter that there are a number of questions concerning desert of well-being that merit further discussion. We can ask, for example, whether subjects deserve only to be *well off*, or also deserve to be *badly off*, or neither well off nor badly off. And we can ask whether deserved well-being is ‘momentary’, with subjects deserving a particular level of well-being at a single moment, or whether deserved well-being is extended over a subject’s whole life. A full discussion of the first of these questions—whether subjects deserve only to be well off—is beyond the scope of this thesis. But I will return to the second of these questions—whether deserved well-being is momentary or temporally extended—in Chapter 5.

## 3. Desert Bases

### 3.1 Introduction

In Chapter 2, we saw that desert is at least a three-place relation, holding between a subject, an object deserved by that subject, and a basis for the subject's desert of that object. In that chapter, I discussed the first two of desert's argument-places—those of desert subjects and desert objects.

In this chapter, I want to discuss desert's third argument-place—that of desert *bases*. A desert basis is something *in virtue of which* a subject deserves some object; if John deserves to be happy in virtue of the fact that he is such a good person, then the fact that John is such a good person is the basis of his desert of happiness. I will argue in this chapter that we should place three constraints on the kinds of facts that can serve as the basis of a subject's desert, and defend each of these constraints against objections.

In Section 3.2, I will introduce the concept of desert bases in more detail, and distinguish desert bases from the more general concept of necessary conditions on desert. We will see in this section that the range of facts commonly claimed to be desert bases is diverse, and includes facts that positively appraise a subject, facts that negatively appraise a subject, and facts that appraise subjects neither positively nor negatively.

In Section 3.3, I will discuss the *Aboutness Principle*. The Aboutness Principle states that, if a subject deserves an object in virtue of some fact, F, then F must be a fact about that very subject. If I deserve a medal in virtue of the fact that someone is brave, this must be the fact that *I* am brave. The Aboutness Principle is relatively uncontroversial, but I will defend it from an objection potentially emerging from Derek Parfit's discussion of psychological continuity and personal identity. Parfit suggests that psychological continuity, though not sufficient for identity, 'carries with it desert for past crimes'. I will argue that this idea is most plausibly formulated in a way that makes it compatible with the Aboutness Principle.

In Section 3.4, I will discuss the *Appraising-Attitude Principle*. This principle states that, if a subject deserves an object in virtue of some fact, F, then F is an appropriate basis for holding an appraising attitude towards that subject. While the Appraising-Attitude Principle has a large amount of explanatory power, Fred Feldman and Owen McLeod object that the requirement that a fact be an *appropriate* appraising-attitude basis renders this principle circular, since this appropriateness can be explicated only in terms of desert. Against this objection, I argue that there must be a distinction between an appraising attitude being appropriate and it being deserved, since, in some cases, an attitude is appropriate but not deserved. Against the objection that *need* is a basis for desert, but not an appropriate appraising-attitude basis, I will argue that we should reject the claim that need is a desert basis in favour of the weaker claim that need generates desert-based reasons for action.



In Section 3.5, I will discuss the *Responsibility Principle*. This principle states that, if a subject deserves an object in virtue of some fact, F, then F is a fact for which the subject is responsible. While the Responsibility Principle is prima facie intuitive, a number of apparent counterexamples to it have been offered. I argue that we can defuse the threat posed by many of these counterexamples by specifying the apparent desert object more carefully, and basing the desert in question on the subject's level of moral virtue. The proposal that desert is often based on moral virtue, I will argue, is independently plausible. Against the objection that *personhood* is a basis for desert, but not something for which anyone is responsible, I argue that personhood is not a desert basis, but more plausibly generates moral rights.

In Section 3.6, I will conclude.

### 3.2 The Concept of Desert Bases

Suppose I tell you that I deserve a medal. When you ask me what *makes* me deserving of a medal—what basis there is for this desert—I reply that there is, in fact, no basis for this desert at all. I deserve a medal, and that is all there is to say on the matter.

In this case, my desert claim would, of course, be unconvincing: in failing to suggest a basis for my apparent desert, I fail to give you any reason to believe that my desert claim is true. But my claim is problematic in another, more fundamental way. In the absence of any justification, there is, it seems, something *logically inappropriate* about my desert claim. If I do indeed deserve a medal, there *cannot* fail to be a basis for my desert. People do not just deserve medals for no reason; if they deserve them at all, they deserve them, for example, in virtue of their bravery, their heroic acts or their athletic accomplishments. My suggestion that I deserve a medal in virtue of nothing at all is not merely unpersuasive; it is logically absurd. As Joel Feinberg puts it, 'desert without a basis is simply not desert' (Feinberg 1970, p. 58).

Here, then, we can see that desert is at least a three-place relation, holding not just between a subject and an object deserved by that subject, but between a subject, an object, and a *basis* for the subject's desert of that object. In every case in which a subject deserves some object, there must be something *in virtue of which* the subject deserves that object.<sup>1</sup>

The claim that some fact is the basis of a subject's desert is distinct from the claim that this fact's obtaining is a *necessary condition* for that desert. We might think that a criminal being harmed by imprisonment is a necessary condition for them deserving to be imprisoned, but it is less plausible that the criminal deserves imprisonment *in virtue of* the fact that they would

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<sup>1</sup> See e.g. Feldman 1995b, p. 63 and McLeod 1999b, pp. 61–62 for other endorsements of this claim. Serena Olsaretti remarks that desert's being a three-place relation—holding between a desert subject, desert object and desert basis—is one of the 'few basic points of substantive agreement among desert theorists' (Olsaretti 2003, p. 4).

be harmed by it. More likely, the criminal deserves imprisonment in virtue of the fact that they have committed a particular crime.<sup>2</sup>

In fact, desert-base claims and necessary-condition claims are even more independent of each other than this suggests. Just as something might be a necessary condition for a subject's desert without being the basis of that desert, something might equally be the basis of a subject's desert without being a necessary condition for that desert. For there might be more than one possible basis for deserving a particular object. Perhaps I deserve a medal in virtue of my bravery, but you deserve one in virtue of your athletic accomplishments. In this case, my bravery, while the basis of my desert, may not be a necessary condition for it: if I had lacked this bravery, but matched your athletic accomplishments, I might still have deserved a medal. Of course, my bravery may still be a necessary condition for deserving some *specific* medal, but where the claim is merely that I deserve some medal or other, it will plausibly be the basis of my desert without being necessary for it.

Because there can be more than one possible basis for deserving a particular object, a subject's desert of an object can be *overdetermined*. A subject, this is to say, may deserve some object in virtue of multiple different facts. If a medal can be deserved in virtue of both bravery and athletic accomplishments, and you are both brave and athletically accomplished, then you may deserve some medal or other in virtue of the fact that you are brave *and* the fact that you are athletically accomplished.

In many cases, the apparent basis of a subject's desert is a fact about that subject that reflects 'positively' or 'negatively' on them, and for which they deserve to be in some sense rewarded or punished. Plausibly, some people deserve to be well off in virtue of the fact that they are morally virtuous, while others deserve to be badly off in virtue of the fact that they are morally vicious. One worker may deserve a promotion in virtue of the fact that they have performed well in their job, while another may deserve to be demoted in virtue of the fact that they have performed so badly. One student may deserve a high grade in virtue of the fact that they have written an excellent essay, while another may deserve a low grade in virtue of the fact that they have written a poor essay.<sup>3</sup>

In other cases, though, the apparent basis of a subject's desert seems to be a 'neutral' fact—one which reflects neither positively nor negatively on them—and the subject's desert seems

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<sup>2</sup> Jonathan Dancy (1993, 2004) draws attention to the general phenomenon of normative background conditions, distinguishing them, for example, from reasons for action. Dancy imagines a case in which (i) he has promised to perform some action, and (ii) his promise was not made under duress. Point (i), Dancy says, is a reason for him to perform the action. Point (ii), in contrast, is not itself a reason for Dancy to perform the action, but *enables* point (i) to function as a reason for Dancy to perform the action. If Dancy's promise had been made under duress, then the fact that he had promised to perform the action would *not* be a reason for him to perform it (Dancy 2004, pp. 38–39). It may be that desert often works in a similar way: a criminal's being harmed by imprisonment is not a plausible basis for their desert of imprisonment, but may *enable* the criminal's wrongdoing to function as a basis for such desert.

<sup>3</sup> Though in Chapter 2, of course, I argued that promotions, demotions and grades are not in fact desert objects at all, since well-being is the only entity that is deserved.

to function neither as a reward nor as a punishment. Perhaps some people deserve to be neither well nor badly off in virtue of the fact that they are neither morally virtuous nor morally vicious, while a student deserves a mediocre grade in virtue of the fact that they have written a mediocre essay.

In most of the desert claims mentioned in Chapter 2, only the desert subject and desert object are specified. Even in these claims, however, the basis of the subject's desert is often implicitly suggested. If criminals deserve execution or imprisonment, they presumably do so in virtue of the crimes they have committed. A competition entrant deserves to win the prize in virtue of having won the competition; an unpleasant married couple deserve each other in virtue of their unpleasantness. Every person deserves to have their fundamental human rights protected by law simply in virtue of being a person. Wrongdoers deserve punishment for their wrongdoing, and upstanding citizens deserve to be rewarded for their upstandingness.

As in the case of desert objects, then, the range of facts commonly claimed to be desert bases is diverse. There are, though, several constraints to which desert bases are often taken to be subject. In Sections 3.3–3.5, I will outline three of these constraints, and defend them against objections.

### 3.3 The Aboutness Principle

Least controversial of the desert-base principles that I will discuss here is the *Aboutness Principle*:

(Aboutness Principle) If a subject, *S*, deserves an object, *O*, in virtue of some fact, *F*, then *F* is a fact about *S*.<sup>4</sup>

The Aboutness Principle seems highly intuitive. Clearly, I cannot deserve a medal in virtue of the fact that *you* are so brave; if bravery is to be the basis of my desert, it must be *my* bravery. Likewise, one subject cannot deserve to be imprisoned in virtue of the fact that another has committed a crime; only a subject's own crime can be the basis of them deserving punishment.

The Aboutness Principle helps us to distinguish between a fact being the basis of a subject's desert of an object, and that fact merely being a reason to give that object to the subject. The fact that my parents would be made happy by my being awarded a medal is a reason to award it to me, but this fact does not make me *deserving* of a medal. For this is a fact about my parents, not about me. Similarly, the fact that imprisoning someone would delight the other members of their community is plausibly a reason to imprison them, but is not plausibly a

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<sup>4</sup> See e.g. Feinberg 1970, pp. 58–59 for an endorsement of this principle. Fred Feldman and Bradford Skow (2019) coin the name 'Aboutness Principle'.

basis for that person deserving to be imprisoned. For this is a fact about the other members of their community, not about them.

Nevertheless, the existence of ‘Cambridge facts’,<sup>5</sup> as we might call them, means that the exclusionary force of the Aboutness Principle is extremely limited. The fact that my parents would be made happy by my being awarded a medal is a fact about them, not me, and so cannot make me deserving of a medal. But the fact that *I have parents* who would be made happy by me being awarded a medal *is* a fact about me. So far as the Aboutness Principle goes, therefore, this second, ‘Cambridge’ fact may yet make me deserving of a medal. If we are right to think that even this second fact cannot make me deserving of a medal, then we must look beyond the Aboutness Principle to explain why this is so.

While the Aboutness Principle is relatively uncontroversial, I want to consider one possible counterexample to it, emerging from Derek Parfit’s discussion of psychological continuity and personal identity. According to Parfit’s ‘Psychological Criterion’ of personal identity, personal identity is grounded by a particular relation, R, that combines several different kinds of psychological continuity and connectedness. A person, P1, is identical to a future person, P2, if and only if (i) P1 stands in R to P2, and (ii) P1 does not stand in R to any *other* future person (Parfit 1984, pp. 216, 262–263, 267).

Having outlined this account of personal identity, Parfit goes on to consider the problem of *fission* (Parfit 1984, pp. 254–255). Suppose that Gemma’s brain hemispheres are functional duplicates of each other, and are transplanted into different bodies, creating two ‘new’ persons. Both of these new persons, let us stipulate, stand in relation R to Gemma: they are psychologically continuous with her in all relevant respects. They have, for example, the same beliefs, desires, memories and intentions as Gemma had before the transplant.

What does Parfit’s Psychological Criterion say about this case? Is each of the two new persons identical to Gemma? We have stipulated that both new persons satisfy condition (i) of the criterion: both of them stand in relation R to Gemma. But since *both* persons satisfy this condition, neither of them satisfies condition (ii) of the criterion: neither person *uniquely* stands in relation R to Gemma. On Parfit’s account, therefore, neither new person is identical to Gemma, despite the fact that they are closely psychologically continuous with her.

If neither new person is identical to Gemma, how seriously should Gemma take this fact when considering whether or not to agree to the transplant? Parfit thinks that she should be unworried by it. Gemma’s psychological continuity with the two new persons is such that, for the purposes of her survival, they *might as well be her*. What matters from the point of view

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<sup>5</sup> Peter Geach (1969, p. 72) coined the term ‘Cambridge change’ to describe changes involving only facts of this kind. There is an intuitive sense in which ‘Cambridge facts’, while *technically* ‘about’ a particular entity, do not seem to be *genuinely* about that entity. See Francescotti 1999 for an examination of what could make this aboutness ‘non-genuine’.

of survival, Parfit claims, is not personal identity at all, but relation R (Parfit 1984, pp. 255, 263, 287).

A similar claim may be true, Parfit suggests, of desert. Suppose that, at the time of the transplant, Gemma has previously committed some crime, C, in virtue of which she deserves to be punished. Now consider the two new persons created by the transplant. As neither of them is identical to Gemma, neither of them is guilty of committing crime C. But Parfit thinks that, from the point of view of desert, this may not matter. Since each new person is closely psychologically continuous with Gemma, they may still deserve punishment for the crime Gemma has committed. It is a 'defensible claim', Parfit writes, 'that psychological continuity carries with it desert for past crimes' (Parfit 1984, p. 325). Perhaps it is relation R, not personal identity, that matters for desert.<sup>6</sup>

Is Parfit contradicting the Aboutness Principle here? This, I think, is unclear. On one reading, Parfit's suggestion is that the two new persons each deserve punishment in virtue of the fact that *Gemma has committed crime C*. On this view, one person's desert is not ordinarily based on a fact about another subject, but when these two persons stand in relation R to each other, this is a live possibility. And this proposal, of course, violates the Aboutness Principle.

This suggestion appears significantly counterintuitive. It seems to be one of our firmest moral convictions that, if a subject deserves punishment in virtue of any crime at all, then they do so in virtue of their *own* crimes. If the two new persons deserve to be punished in virtue of Gemma's crime, then they deserve to be punished in virtue of a crime of which they themselves are innocent. And this proposal does seem to me to be somewhat dubious.

There is, though, a second possible reading of Parfit's remarks, according to which his proposal does *not* violate the Aboutness Principle. On this reading, his proposal is that each of the two new persons deserves punishment in virtue of the fact that *they stand in relation R to someone who has committed crime C*. Each new person does not deserve to be punished in virtue of Gemma's crime per se, but in virtue of their own close psychological continuity with Gemma. Crucially, this is a fact about each new person themselves, not about Gemma. And so this second proposal respects the Aboutness Principle.

This second proposal seems somewhat more plausible than the first. A person does not deserve to be punished in virtue of the fact that someone else has committed a crime. But it is not so obviously implausible that a person may deserve punishment in virtue of *their own psychological continuity* with someone who has committed a crime. For this psychological continuity is, at least, something that the person is themselves 'guilty' of.

If we are particularly sympathetic to Parfit's emphasis on psychological continuity, then we could even say that such close psychological continuity *always* carries desert with it in this way. We could, that is, say the following. If Gemma is sufficiently psychologically continuous

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<sup>6</sup> See Parfit 1984, pp. 323–326 for his full discussion of the relationship between personal identity and desert.

with Gemma\*, then for any fact about Gemma, F, that is the basis of her desert of a particular object, Gemma\* will deserve that same object in virtue of the fact that she is psychologically continuous with someone about whom F obtains.<sup>7,8</sup> If this is correct, then from the point of view of what persons deserve, a sufficient degree of psychological continuity is as good as personal identity. Sufficiently psychologically continuous persons will deserve exactly the same objects: from the point of view of what they deserve, they might as well *be* each other.

A full discussion of this second proposal is beyond the scope of this chapter. But this proposal does at least seem to be the more plausible of the two possible readings of Parfit I have offered. We can make sense of the idea that psychological continuity is what matters for desert without saying that a person can deserve punishment in virtue of someone else's crime. And so we can vindicate the idea that psychological continuity is what matters for desert without violating the Aboutness Principle. In doing so, we offer the most plausible formulation of this idea available, while defusing the threat it poses to this principle.

### 3.4 The Appraising-Attitude Principle

In Section 2.5, I argued that there is an intimate connection between desert and the concept of an *appraising attitude*. In that section, we saw that an appraising attitude is an attitude that, when held towards a particular subject, in some way 'appraises' that subject. Positive appraising attitudes include approval, admiration and gratitude, while negative appraising attitudes include disapproval, contempt and resentment.

I argued in favour of the thesis of *Desert-Appraisal Supervenience*, the claim that a subject's desert supervenes on facts that are appropriate bases for holding an appraising attitude towards that subject. Desert-Appraisal Supervenience explains the intuitive irrelevance of certain kinds of facts to desert. A person's level of popularity, for example, cannot make any difference to what they deserve, because the fact that a person is popular or unpopular is not an appropriate basis for holding any appraising attitude towards them.

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<sup>7</sup> Since the psychological-continuity relation is symmetrical, this would entail that there are infinitely many bases for Gemma's and Gemma\*'s desert of the object in question. If Gemma\* deserves object O in virtue of the fact that *she is psychologically continuous with someone about whom fact F obtains*, then Gemma will deserve O in virtue of the fact that she is psychologically continuous with someone about whom *that* fact obtains, and this will continue *ad infinitum*. The notion of there being an infinite number of bases for desert of a single object is not obviously problematic, though.

<sup>8</sup> This would also have the interesting implication that, in cases where the original person deserves an object that can be possessed by only one subject, fission will necessarily be somewhat unjust, since it will necessarily result in at least one unsatisfied desert claim. If Gemma deserves to be the exclusive owner of a particular trophy, then on the current proposal, each new 'Gemma' created by fission will also deserve this trophy. But since fission will create multiple new Gemmas, and only one of them can be the *exclusive* owner of the trophy, the desert claim of at least one new Gemma will go unsatisfied.

My argument for Desert-Appraisal Supervenience will support the following desert-base principle:

(Appraising-Attitude Principle) If S deserves O in virtue of F, then F is an appropriate basis for holding an appraising attitude towards S.<sup>9</sup>

The Appraising-Attitude Principle is weaker than, and entailed by, Desert-Appraisal Supervenience. If 'non-appraisal-justifying' facts cannot make *any* difference to a subject's desert, then, *a fortiori*, such facts cannot be the *basis* of a subject's desert. If popularity cannot make any difference to whether or not a subject deserves to be punished, then popularity certainly cannot be the basis of a subject's desert of punishment. So if my argument for Desert-Appraisal Supervenience was successful, then we already have an argument for the Appraising-Attitude Principle.

The Appraising-Attitude Principle has exclusionary force that the Aboutness Principle does not. Consider the innocent person who, in H. J. McCloskey's famous case (McCloskey 1957, p. 468), must be framed and punished for a serious crime in order to prevent a catastrophic riot. It is a fact, we may suppose, that punishing this innocent person would maximise utility. Now, this fact is plausibly a reason to punish the innocent person (even if it is an inconclusive one). But clearly, this fact does not make it the case that the innocent person *deserves* to be punished.<sup>10</sup> If we have reason to punish the innocent, this seems to be a directly utilitarian reason, not a reason of desert.<sup>11</sup>

The Aboutness Principle does not explain why the innocent person cannot deserve to be punished in virtue of the fact that punishing them would maximise utility. For this is a fact about the innocent person. The Appraising-Attitude Principle, on the other hand, does explain why this fact cannot be a desert basis. The fact that punishing the innocent would maximise utility is not an appropriate basis for holding any appraising attitude towards them. It would not be appropriate to resent the innocent, or hold them in contempt, for the fact that punishing them would be utility-maximising. This utilitarian fact may be a relevant consideration when deciding whether we ought to punish the innocent, but it is entirely irrelevant to our appraisal of them. And so the Appraising-Attitude Principle tells us, quite rightly, that this fact cannot be a basis for them deserving to be punished.

The Appraising-Attitude Principle, then, has a large amount of explanatory power. Nevertheless, I want now to consider two objections that have been made against this

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<sup>9</sup> See Miller 1976, p. 89 for an endorsement of this principle.

<sup>10</sup> See Feldman and Skow 2019.

<sup>11</sup> It is precisely because utilitarian and desert-based reasons appear to be in conflict with each other that McCloskey's case presents a challenge to a simple utilitarian theory of punishment. If the utilitarian says that the innocent ought to be punished, they appear to be endorsing the severe punishment of a person who does not deserve to be punished at all.

In fact, we could say that our reason to punish the innocent person is ultimately a reason of desert, as by punishing that individual, we prevent many other innocent people being undeservedly victimised in the riot. But even here, our reason to punish the innocent person is not that this is what they themselves deserve.

principle by Owen McLeod and Fred Feldman. McLeod (2013) and Feldman (2016, p. 56) worry that the Appraising-Attitude Principle's requirement that a fact be an *appropriate* basis for holding an appraising attitude towards a subject renders the principle circular. To say that it is appropriate to hold a particular appraising attitude towards a subject in virtue of some fact, Feldman and McLeod argue, just is to say that the subject *deserves* to be the object of that attitude in virtue of that property. To say that it is appropriate to admire people for being morally virtuous, but not to admire them for having blue eyes, just is to say that people deserve to be admired for being virtuous, but not for having blue eyes. If the appropriateness of an appraising attitude can indeed be explained only in terms of desert, then we cannot informatively explicate desert in terms of appropriate appraising attitudes.

There is reason to think, however, that there *must* be a distinction between the claim that holding a particular appraising attitude towards a subject is appropriate, and the claim that the subject deserves to be the object of that attitude. For in at least some cases in which holding a particular appraising attitude towards a subject is appropriate, it seems false to say that the subject deserves to be the object of that attitude. Consider, for example:

*Admirable Andy*: Andy is an extremely kind and loving individual. Unfortunately, whenever anyone feels admiration towards him, Andy is made extremely worse off.<sup>12</sup>

In this case, it seems correct to say that admiration is an appropriate appraising attitude to hold towards Andy. Admiration is the fitting attitude to hold towards people that are so kind and loving. But it seems false to say that Andy *deserves* to be the object of admiration. For Andy, after all, being the object of admiration is extremely harmful. Admiration is, in effect, a kind of punishment for Andy. And clearly, Andy deserves to be rewarded for his benevolence, not punished. So while admiration is an appropriate appraising attitude to hold towards Andy, it is not what he deserves.<sup>13</sup>

Moreover, if my arguments in Sections 2.4–2.7 were successful, then being the object of an appraising attitude is *never* a genuine desert object. For in these sections, I argued in favour of Welfarist Desert, the claim that well-being is the only desert object. If this claim is correct, of course, then subjects do not ever deserve to be the object of admiration or contempt, gratitude or resentment. But even if this is so, it would still seem true to say that such attitudes are sometimes *appropriate* responses to particular subjects. Even if virtuous individuals do not deserve to be admired, it still seems appropriate to admire them for their

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<sup>12</sup> Let us imagine, for example, that Andy becomes extremely upset whenever someone feels admiration towards him, that Andy possesses several objective goods only when he is not being admired, or that Andy has a strong non-instrumental desire not to be admired.

<sup>13</sup> If we suppose that Andy does not deserve to be made any worse off, but that he is made enormously worse off by being the object of admiration, then this conclusion is entailed by the No-Worse Desert thesis I argued for in Section 2.6. No-Worse Desert states that, if a subject does not deserve to be made worse off, then they do not deserve any entity that would make them enormously worse off.

Alternative readings of this case are that Andy does deserve to be admired, but only in a *pro tanto* sense, or that, while Andy does deserve to be admired all things considered, there is an overriding reason not to admire him. These readings are not implausible, but I do find them somewhat less intuitive than my own.



virtue; even if vicious individuals do not deserve to be held in contempt, contempt still seems an appropriate response to their vice. And so we have further reason to think that the appropriateness of an appraising attitude can come apart from its status as a desert object.

If there are *any* cases in which an appraising attitude towards a subject is appropriate but undeserved, then there must be a distinction between the claim that an attitude towards a subject is appropriate and the claim that it is deserved by that subject. And if there is such a distinction, then the Appraising-Attitude Principle is not straightforwardly circular in the way Feldman and McLeod suggest. If the appropriateness of an appraising attitude is not to be explained in terms of desert, then we can informatively explicate desert in terms of appropriate appraising attitudes after all.

Even if the Appraising-Attitude Principle avoids circularity, however, we might share Feldman's concern that a fact can be a desert basis without being an appropriate basis for any appraising attitude. Feldman cites the example of *need*. People need to be educated in order to flourish as human beings, he says, and in virtue of this fact, they deserve free public education. If an abandoned child needs medical care and nurturance, meanwhile, they will plausibly deserve these goods in virtue of the fact that they are in need of them. Need, though, is not an appropriate basis for any appraising attitude. We should not admire people for needing education, or resent a child for needing to be nurtured (Feldman 2016, pp. 56–57).

In Section 2.8, I offered a strategy for defusing the threat posed by Feldman's child example to Desert-Appraisal Supervenience. If this strategy was successful, then it will, *a fortiori*, defuse the threat posed by this example to the Appraising-Attitude Principle. In the case of the Appraising-Attitude Principle, this strategy will run as follows. If we endorse this principle, then we are unable to vindicate the thought that the abandoned child deserves medical care and nurturance in virtue of the fact that they need these goods. But we *are* able to vindicate the thought that providing these goods to the child is *supported by considerations of desert* in virtue of the child's need. For since the child is currently lacking these vital goods, they are living a far worse life than they deserve to live. It is only by providing these goods to the child that we can help them to live a life of the quality it deserves. From the point of view of desert, therefore, we can do a large amount of good by providing these goods to the child. It is not that the child deserves these goods in virtue of the fact that they need them, but that they deserve to live the better life that these goods will help them to live. And if our claim is merely that the child deserves to live a better life, then we will not plausibly base this desert claim on the fact that the child needs medical care and nurturance. So it is not yet clear that we must base the child's desert on a non-appraisal-justifying fact.

We can say something similar in response to Feldman's other potential counterexample. It is not that people deserve free public education in virtue of the fact that they need education in order to flourish. Rather, providing free public education is often a way of helping people to live lives of the quality they deserve. From the point of view of desert, therefore, we will

often do a large amount of good by providing people with this good. People do not deserve free public education in virtue of the fact that they need to be educated, but, in virtue of that need, providing them with such education is likely supported by considerations of desert. And if our claim is merely that people deserve to live good lives, then we will not plausibly base this desert claim on the fact that they need education in order to flourish. So it is not yet clear that we must base their desert on a non-appraisal-justifying fact.

I find these alternative interpretations of Feldman's cases intuitively satisfactory. It seems to me intuitively plausible that, while an abandoned child does not deserve medical care and nurturance per se, they deserve the better life these goods will allow them to live, and that providing them with these goods is thus supported by considerations of desert. Likewise, it seems to me plausible that, while human beings do not deserve free public education per se, they deserve the better lives such education will enable them to live, and that considerations of desert thus support providing them with this education.

Nevertheless, the explanatory power of the Appraising-Attitude Principle means that, even if we do have the additional intuition that the subjects in question deserve these specific goods per se, rejecting the Appraising-Attitude Principle is an excessive theoretical price to pay to vindicate this intuition. Once we have rejected this principle in order to vindicate this intuition, we seem to lack an explanation for why the utility of punishing McCloskey's innocent cannot make them deserving of punishment, or for why a person's eye colour cannot make them deserving of admiration.<sup>14</sup> Rather than abandoning the Appraising-Attitude Principle, and conceding this explanatory power, we ought to insist on this principle, and be satisfied with the alternative interpretations of Feldman's cases that I have offered.

### 3.5 The Responsibility Principle

#### 3.5.1 Desert and Responsibility

The final desert-base principle I want to consider in this chapter is the *Responsibility Principle*:

(Responsibility Principle) If S deserves O in virtue of F, then S is responsible for F.

The Responsibility Principle seems prima facie intuitive. Suppose that a figure skater is attacked, leaving them unable to compete in the national championships. In virtue of the fact that the assailant attacked the skater, we may say, they deserve to be punished. We would

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<sup>14</sup> One alternative explanation of this would be that McCloskey's innocent is not *responsible* for the fact that punishing them would maximise utility, and that a person is not responsible for their eye colour. For as we will see in Section 3.5, we might think that a subject's desert can be based only on facts for which they are responsible. Unfortunately, this explanation is also ruled out by Feldman's interpretations of his two cases. The abandoned child is not responsible for the fact that they need medical care and nurturance, and human beings are not responsible for the fact that they need education in order to flourish. So if Feldman is right that these facts are desert bases, then the responsibility condition on desert bases is false, and we cannot invoke this principle to explain why utility maximisation and eye colour cannot be desert bases.

likely retract this claim, however, if we discovered that the assailant were not responsible for the attack. If they had been hypnotised at the time, or if a mental impairment had made them unable to control their actions, we would likely say that they did *not* deserve punishment in virtue of having committed the attack (Feldman 1995b, pp. 64–65).

Similarly, if a student submits an excellent essay, we might say that they deserve a high mark in virtue of the fact that they submitted an essay of such excellence. But we would retract this claim if it transpired that the student's friend had written the essay for them. For in this case, the student would not be responsible for the essay's excellence (Feldman 1995b, p. 65).

The Responsibility Principle has been affirmed by numerous philosophers. James Rachels writes:

The concept of desert serves to signify the ways of treating people that are appropriate responses to them, given that they are responsible for [their own] actions... That is the role played by desert in our moral vocabulary. (Rachels 1978, p. 157)

Similarly, Wojciech Sadurski writes that desert judgements are 'inevitably [judgements] about persons whom we hold responsible for their actions' (Sadurski 1985, p. 117). John Rawls, meanwhile, appears to argue that someone cannot deserve anything in virtue of their 'superior character' because no-one is responsible for their own character (Rawls 1971, p. 104). As Feldman puts it (1995b, p. 63), the Responsibility Principle appears to be part of the 'received wisdom' about desert.

The Responsibility Principle has important implications for questions of distributive and retributive justice. If the Responsibility Principle is true, then if Rawls is right that no-one is responsible for their own character, it will indeed follow that no-one deserves anything in virtue of their character. And so it will likely be unjust to reward people for having virtuous characters, or punish them for having vicious ones.

Having presented his 'Basic Argument' for our inability to be responsible for our own *actions*, meanwhile, Galen Strawson writes:

[The] evident consequence of the Basic Argument is that there is a fundamental sense in which no punishment or reward is ever ultimately just. It is exactly as just to punish or reward people for their actions as it is to punish or reward them for the (natural) colour of their hair or the (natural) shape of their faces. (Strawson 1994, pp. 15–16)

Strawson's argument assumes the truth of the Responsibility Principle. We cannot deserve to be rewarded or punished for our actions, Strawson argues, precisely because we are not responsible for those actions. If the Responsibility Principle is correct, perhaps it is true that we can never justly reward people for their good deeds, or punish them for their crimes.

### 3.5.2 Feldman's Counterexamples

Despite its widespread endorsement in the literature, Feldman claims that the Responsibility Principle is 'clearly false' (Feldman 1995b, p. 68). Consider again the case of the attacked figure skater. I suggested that this case supports the Responsibility Principle: the assailant deserves punishment in virtue of the attack only if they were responsible for that attack.

In fact, Feldman argues, this case serves to *undermine* the Responsibility Principle, showing that a subject can deserve something in virtue of a fact for which they are *not* responsible. In virtue of the fact that the figure skater was attacked, they deserve an apology. Clearly, though, the skater is not responsible for having been attacked. So the skater's desert is based on a fact for which they bear no responsibility (Feldman 1995b, p. 68).

Similarly, if a restaurant serves its customers spoiled food, making them ill with food poisoning, then the customers, Feldman says, will deserve a refund and some compensation. And they will deserve these things in virtue of being victims of the restaurant's carelessness. But the customers will not ordinarily be responsible for having been poisoned (Feldman 1995b, p. 68). Likewise, the parents of a child killed by a disease deserve sympathy in virtue of their misfortune, despite bearing no responsibility for that misfortune (Feldman 1995b, p. 69).

### 3.5.3 Explanation and Virtue

I believe that the Responsibility Principle can be saved from these apparent counterexamples. Let us consider, first, Feldman's figure-skater counterexample. Feldman endorses this desert claim:

(Attack) In virtue of the fact that the figure skater was attacked, they deserve an apology.

Why think that Attack is true? I do not believe that the intuition supporting Attack is independently robust. Attack is, I believe, motivated by an intuition concerning the *explanation* of the skater's desert of an apology. This intuition is as follows:

(Explanation) The skater's desert of an apology is explained by the fact that they were attacked.

The thoughts underlying Explanation are something like the following. The skater has been attacked, and deserves an apology. But if the skater had not been attacked, then, other things being equal, they would *not* deserve an apology. In this sense, the attack on the skater explains why it is that they do in fact deserve an apology.

Similarly, while this skater has been attacked, and deserves compensation, another skater has not been attacked, and does not deserve an apology. The relevant difference between these

two skaters, the difference that *explains* why the first skater deserves an apology while the second does not, is the fact that the first skater was attacked, while the second was not.

Explanation seems intuitive. A natural answer to the question ‘Why does the skater deserve an apology?’ does seem to be ‘Because they were attacked’. And Explanation, I believe, exhausts the intuitive appeal of Attack. To the extent that we are inclined to accept Attack, this is, I think, because we accept Explanation, and see Attack as a natural way of vindicating this explanatory claim. According to Attack, the attack on the skater explains the skater’s desert of an apology in the sense that it is the basis of that desert. We accept Attack not because we have an independently robust intuition that the skater’s desert of an apology is *based on* the fact that they were attacked, but because we do have the robust intuition that the skater’s desert is *explained by* the fact that they were attacked.<sup>15</sup>

Accordingly, if we can find an alternative desert claim to Attack that *also* vindicates Explanation, then this alternative desert claim will, if independently plausible, be just as intuitively satisfactory as Attack. And I believe that there is such an alternative desert claim available to us.

We have already seen one way of capturing the thought that the attack on the skater explains their desert of an apology: namely, *basin*g the skater’s desert of an apology on the fact that they were attacked. But crucially, this is not the only way that we can capture this explanatory thought. To vindicate the claim that the attack on the skater explains their desert of an apology, we can also build the attack into the *object* of the skater’s desert. The skater does not deserve an apology *simpliciter*, but deserves an apology *for the fact that they were attacked*.

By specifying the object of the skater’s desert in this way, we capture the thought that the attack on the skater explains their desert of an apology. For if the skater had *not* been attacked, then they could not intelligibly deserve an apology for the fact that they were attacked. There can be no apology *for the fact that* a person was attacked if that person was not in fact attacked.<sup>16</sup> So other things being equal, if the skater had not been attacked, then they would not deserve an apology of any kind. But since the skater has in fact been attacked, they *can* intelligibly deserve an apology for this. In this sense, the attack on the skater explains their desert of an apology.

Similarly, the more fortunate skater, who has not been attacked, cannot intelligibly deserve an apology for the fact that they were attacked. So other things being equal, this second

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<sup>15</sup> Feldman himself uses the language of explanation when discussing desert bases. When arguing that future suffering can be a desert basis, and comparing the desert of a severely ill child with that of a child with a better prognosis, he says that the first child’s future misfortune ‘explains the fact that he is the more deserving of the two’ (Feldman 1995b, p. 71).

<sup>16</sup> Of course, one can mistakenly or insincerely apologise for an attack that did not take place. But the apology being offered here is not an apology for the *fact* that a particular attack occurred, for in this case, there is no such fact to be apologised for.

skater does not deserve an apology of any kind. Since the less fortunate skater has been attacked, they can intelligibly deserve an apology for this. The difference between what these two skaters deserve is thus somewhat explained by the fact that the first skater was attacked, while the second was not.<sup>17</sup>

So by saying that the skater specifically deserves an apology *for the fact that they were attacked*, we capture the idea that their desert of an apology is *explained by* the fact that they were attacked. Asked why the skater deserves an apology, part of our answer should be 'Because they were attacked'.

Here, then, we have found a way to vindicate Explanation without *basing* the skater's desert of an apology on the fact that they were attacked. So if the skater's desert is not based on the fact that they were attacked, what *is* it based on?

The proposal I want to defend in this section is that the skater's desert is based on their *level of moral virtue*. I want, that is, to defend a desert claim like the following:

(Virtue) In virtue of the fact that the skater is sufficiently morally virtuous, they deserve an apology for the fact that they were attacked.

I have argued that an alternative desert claim to Attack will be as intuitively satisfactory as Attack if it (i) vindicates Explanation, and (ii) is independently plausible. We have just seen that Virtue satisfies condition (i) of this test. By saying that the skater deserves an apology for the fact that they were attacked, we capture the thought that this fact explains their desert of an apology.

We have yet to see whether Virtue satisfies condition (ii) of our test. Is it plausible that the skater deserves an apology in virtue of the fact that they are *sufficiently morally virtuous*? It is to this question that I will now turn. In Subsection 3.5.4 below, I will argue that it is indeed plausible to base the skater's desert on their level of moral virtue.

### 3.5.4 Moral Virtue as a Desert Basis

In the abstract, it is intuitive to say that desert is often based on moral virtue. The virtuous deserve to prosper; the vicious do not. And so the virtuous may deserve things that facilitate or constitute prosperity, like military honours, while the vicious do not.

Basing desert on moral virtue also seems intuitive in some concrete cases. Consider:

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<sup>17</sup> This difference in desert is also explained by the fact that the second skater has not suffered any other wrongdoing for which they deserve an apology. But since Explanation does not imply that the difference in desert is *exclusively* explained by the fact that only one of the skaters was attacked, this is consistent with Explanation.

*Forgiveness:* John is a kind and conscientious person, while Kate is a sadistic individual who consistently mistreats others. Both John and Kate have accidentally injured their co-worker, Laura.

It is, I think, natural to say the following about this case. John deserves to be forgiven by Laura. He is a virtuous individual, and deserves to be forgiven for an honest mistake. Kate, on the other hand, does *not* deserve to be forgiven by Laura. She is a vicious individual who regularly mistreats others. So while this particular mistake is an honest one, she does not deserve to be forgiven for it.<sup>18</sup>

If this is correct, then it appears that the basis of John's desert of forgiveness is the fact that he is *sufficiently morally virtuous*. Because Kate is not sufficiently virtuous, there is no basis for her to deserve to be forgiven.

While the reader may not share my intuition about this case, I hope that the assessment I have offered is at least plausible. It is not implausible to say that, in virtue of her insufficient virtuousness, Kate does not deserve to be forgiven. And so it is not implausible to say that the basis of John's desert of forgiveness is the fact that he *is* sufficiently virtuous.

If it is plausible that John's desert of forgiveness is based on his level of moral virtue, then it is, I believe, also plausible that the skater's desert of an apology is based on their level of virtue. There is nothing about the skater case in particular to think that this is a viable proposal in the case of John, but not in the skater case. And it is worth noting that considerations of theoretical parsimony will likely encourage us to base John's and the skater's desert on the same kind of fact. We could base John's desert on his level of virtue, and the skater's desert on the fact that they were attacked, but a more parsimonious account will say that moral virtue is the desert base in *both* cases. Considerations of theoretical parsimony are not decisive, but they do give us some reason to prefer this moral-virtue account.

My suggestion that desert is at least sometimes based on moral virtue is not new. Owen McLeod writes:

Consider... a terrifically successful but morally wicked corporate executive. Surely the wicked do not deserve to prosper. Thus, his wickedness makes him less deserving of the handsome salary he takes home. So, *moral character* should be included in the list of bases for deserving a wage. (McLeod 1996, p. 219)

If moral virtue is a basis for deserving a wage, then it is a plausible basis for deserving an apology as well.

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<sup>18</sup> As we will see, this is not to say that there is no reason at all to forgive Kate. But any reason to forgive her is a reason of beneficence, not desert.

If my claim in Chapter 2 that well-being is the only desert object was correct, then neither John nor Kate deserves to be forgiven, since forgiveness is not something that is ever deserved. The point here is that, if entities besides well-being *are* deserved, then it is in some cases intuitive that this desert is based on moral virtue.

Shelly Kagan, meanwhile, writes:

I think that virtue does in fact constitute at least a large part of the basis for desert—that is, it seems to me that if someone is more deserving, this is at least typically so because they are more virtuous. And if someone is less deserving, this is usually so because they are less virtuous. (Kagan 2012, p. 6)

If Kagan is right, then apologies are plausibly among the things that more virtuous people deserve more of.

Kristján Kristjánsson goes further, writing that ‘all desert claims can be traced back to a single basis, moral virtue... this is, indeed, the most theoretically serviceable way to understand desert’ (Kristjánsson 2003, p. 63).

Is there any reason to doubt that the skater’s desert of an apology is based on their level of virtue? The most likely objection I anticipate is this. If the skater deserves an apology in virtue of the fact that they are *sufficiently* virtuous, then some insufficiently virtuous individuals will *not* deserve apologies when they are attacked. But this implication, the objection goes, is incorrect: if one has been violently attacked, desert of an apology is automatic, not contingent on how virtuous one is.

On reflection, though, this objection is unpersuasive. The suggestion that people automatically deserve apologies when they are attacked is not clearly intuitive. Perhaps any ordinarily virtuous or vicious person does deserve an apology when they are attacked. But moral monsters, it seems natural to say, do not deserve this. Imagine an individual who sadistically dedicates their life to inflicting as much suffering upon others as possible. My own intuition is that, even if this individual has been attacked, they do not deserve an apology for this.

This is not to say that we would have no reason at all to apologise to this individual for attacking them. But if we do have any such reason, this is a reason of beneficence, not desert. If we believe that even moral monsters should be apologised to, this is, I think, because we do not see considerations of desert as exhausting those that are morally pertinent. It is here that we may agree with Feinberg: ‘Desert is always an important consideration in deciding how we are to treat persons... but it is not the only consideration and is rarely a sufficient one’ (Feinberg 1970, pp. 84–85). If we ever ought to apologise to moral monsters, this is not because they deserve it, but because the demands of desert are not exhaustive.

If moral monsters are insufficiently virtuous to deserve apologies, then the suggestion that the skater’s desert of an apology is based on their level of virtue remains viable. Perhaps it is *only* moral monsters who do not deserve apologies when they are attacked: perhaps the threshold for being sufficiently virtuous is so low that all, or almost all, actual people deserve apologies when they are attacked. But if there is *any* level of virtue that disqualifies a subject from this desert, then we can plausibly say that the skater’s desert is based on the fact that



they are sufficiently virtuous. Indeed, if we take moral virtue to be the *only* basis for deserving an apology, then we have a simple explanation for *why* moral monsters do not deserve to be apologised to. As they fail to be sufficiently virtuous, and being sufficiently virtuous is the only basis for deserving an apology, moral monsters possess no basis for deserving apologies.

Now, there is an alternative way to capture the intuition that moral monsters do not deserve apologies when they are attacked. We could say that, rather than being the only *basis* for deserving an apology when one is attacked, being sufficiently virtuous is an *enabling condition* on desert of such apologies. Perhaps a person can deserve an apology in virtue of having been attacked, but only on the further condition that this person is sufficiently virtuous. On this view, it remains the case that moral monsters do not deserve apologies when they are attacked. This is not because they fail to possess a basis for such desert, though, but because they fail to satisfy a background enabling condition on this desert.

I believe that we should prefer my suggestion—that moral virtue is a basis for deserving an apology when one is attacked—to this alternative, enabling-condition proposal. Both proposals capture the thought that moral monsters do not deserve apologies when they are attacked. But my proposal, unlike the alternative, avoids positing a desert basis that is obviously in violation of the Responsibility Principle.

My proposal also posits the existence of further enabling conditions on desert of apologies. If Virtue is correct, then *the skater's having been attacked* is an enabling condition on them deserving an apology for the fact that they were attacked. Clearly, being somewhat virtuous does not necessitate that one deserves to be apologised to for the fact that one was attacked. A person can intelligibly deserve such an apology only if they have in fact been attacked. So while the basis of the skater's desert is the fact that they are sufficiently virtuous, this fact generates desert of such an apology only on the further condition that the skater has indeed been attacked.

This implication of Virtue does not seem particularly troublesome, though. We saw in Section 3.2 that desert does plausibly sometimes require the satisfaction of background enabling conditions. Even if desert of imprisonment is based on the fact that one has committed a crime, it is plausible that criminal activity generates desert of imprisonment only on the further condition that one is actually harmed by imprisonment.

In any case, we have just seen that the seemingly most plausible alternative to my proposal—that being sufficiently virtuous is a further enabling condition on desert of apologies—also posits the existence of such enabling conditions. At the very least, then, my proposal's positing of these enabling conditions is no reason to reject it in favour of this alternative suggestion.

### 3.5.5 Choosing Between Attack and Virtue

I have argued that an alternative desert claim to Attack will be as intuitively satisfactory as Attack if it (i) vindicates Explanation, and (ii) is independently plausible. In Subsection 3.5.3, we saw that Virtue satisfies condition (i) of this test. And in Subsection 3.5.4 above, we saw that Virtue also satisfies condition (ii) of this test: it is indeed independently plausible that the skater's desert of an apology is based on the fact that they are sufficiently morally virtuous. If my arguments here have been successful, therefore, then Virtue is at least as intuitively satisfactory an interpretation of Feldman's figure-skater case as Attack.

In fact, we have reason to prefer Virtue to Attack. We saw at the beginning of this section that the Responsibility Principle is a significantly intuitive claim. That desert and responsibility are connected in the way the Responsibility Principle proposes is a powerful intuition that has been held by many philosophers. And Attack, of course, fails to respect this intuitive force. Endorsing Attack thus comes at a significant intuitive cost. Virtue, in contrast, respects the intuitive force of the Responsibility Principle. The skater *is* responsible for their own level of moral virtue.<sup>19</sup> And so we can accept Virtue without being forced to abandon a powerful intuition about desert. If Attack and Virtue are otherwise similarly plausible, then, it is Virtue that we should favour.

Ultimately, therefore, Feldman's figure-skater counterexample to the Responsibility Principle is unpersuasive. There is an alternative interpretation of this case available to us that respects the Responsibility Principle, but successfully vindicates the intuition underwriting this counterexample. This alternative interpretation is independently plausible, and respects the powerful intuitive force of the Responsibility Principle. And so this alternative interpretation should be preferred to Feldman's proposal.

We can deploy the same strategy, *mutatis mutandis*, to defuse Feldman's other counterexamples. In each case, we can build the fact Feldman identifies as the desert base into the object of the subject's desert, vindicating the intuition that the fact in question *explains* the subject's desert. Feldman says that poisoned restaurant customers deserve a refund and some compensation in virtue of having been poisoned. Instead, we can say that these customers do not deserve a refund or some compensation *simpliciter*, but deserve a refund *of the money they spent at a restaurant that poisoned them*, and compensation *for the fact that they were poisoned*. Specifying the customers' desert objects in this way explains why these customers deserve a refund and some compensation, but customers who have not

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<sup>19</sup> At least, the skater seems as responsible for their own level of virtue as they can be for anything. Thomas Nagel draws attention to the way a person's level of virtue is largely a matter of 'constitutive luck'—luck in 'the kind of person you are' (Nagel 1979, p. 28). We might say, for example, that if the skater is virtuous, this is largely a result of their 'good luck' in having had a healthy upbringing. In defending the Responsibility Principle here, I am assuming that the existence of constitutive luck is compatible with the skater's being responsible for their own level of virtue. See Strawson 1994 and seemingly Rawls 1971, p. 104 for the view that the existence of such luck is incompatible with the skater's claim to responsibility, and Richards 1986, pp. 202–203 for the opposite view.

been poisoned likely do *not* deserve these things. And where Feldman says that bereaved parents deserve sympathy in virtue of their misfortune, we can say that these parents do not deserve sympathy *simpliciter*, but deserve sympathy *for their lost child*. By specifying the parents' desert object in this way, we explain why these parents deserve sympathy, but many more fortunate parents do not deserve this.

In each case, we can then instead base the subject's desert on their level of moral virtue, respecting the Responsibility Principle. The poisoned customers deserve a refund of the money they spent at a restaurant that poisoned them, and compensation for the fact that they were poisoned, in virtue of the fact that they are sufficiently morally virtuous. Likewise, the bereaved parents deserve sympathy for their lost child in virtue of the fact that they, too, are sufficiently morally virtuous. These proposals vindicate the explanatory intuitions underwriting Feldman's counterexamples, and are independently plausible. But these new proposals, unlike Feldman's, also respect the powerful intuitive force of the Responsibility Principle. Ultimately, therefore, our proposals should be favoured.

### 3.5.6 The Personhood Counterexample

In each of the counterexamples discussed so far in this section, the suggested desert basis is some harm suffered by the subject, and the apparent desert object is some kind of compensation for that harm. Another kind of counterexample to the Responsibility Principle has been offered, though. Consider the final example desert claim mentioned in Section 3.2: every person deserves to have their fundamental human rights protected by law simply in virtue of *being a person*. Feldman (1995b, p. 69) and Geoffrey Cupit (1996, p. 162) point out that, if this kind of desert claim is correct, then we have a new kind of counterexample to the Responsibility Principle. For one is not responsible for one's own personhood.

Let us take this plausible desert claim as an example:

(Personhood) In virtue of the fact that they are a person, a person deserves a basic level of respect.

There is something about Personhood that makes it unique among Feldman's counterexamples. Personhood seems motivated by the following intuition:

(Automaticity) A person's moral entitlement to a basic level of respect is automatic: necessarily, we have moral reason to afford persons this respect.<sup>20</sup>

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<sup>20</sup> Kant's 'Humanity Formulation' of the Categorical Imperative, demanding that we treat persons as ends in themselves (*Groundwork of the Metaphysics of Morals*, 4:429), is plausibly understood as a stronger version of this claim. See e.g. Williams 1970, pp. 158–161 and Rawls 1971, pp. 337–338 for more recent applications of this automaticity principle.

Because Personhood is motivated by Automaticity, we cannot defuse it in the way we did Attack. We cannot, that is, simply offer this alternative proposal:

(Virtue 2) In virtue of the fact that a person is presently sufficiently morally virtuous, they deserve a basic level of respect.

By itself, Virtue 2 clearly fails to vindicate Automaticity. Where Automaticity tells us that a person's moral entitlement to respect is automatic, not contingent on their level of virtue, Virtue 2 suggests precisely the opposite, insisting that it is a person's level of virtue that makes them deserving of respect. And so Virtue 2 appears an unsatisfactory alternative to Personhood. By simply rejecting Personhood in favour of Virtue 2, we would be abandoning the powerful intuition that motivates this counterexample.

Nevertheless, we can defuse this personhood counterexample in another way. Personhood, we have seen, is motivated by Automaticity. It is because Virtue 2 does not vindicate Automaticity that it alone does not constitute a satisfactory alternative to Personhood. There are, however, other alternatives to Personhood that *do* vindicate Automaticity. Crucially, our alternative proposal need not be a *desert* claim at all. Not all moral reasons for action, after all, need be grounded on considerations of desert. Consider, for example:

(Right) A person has an automatic moral right to a basic level of respect: necessarily, every person has a moral right to this respect.<sup>21</sup>

Right is sufficient to vindicate Automaticity. If persons have an automatic moral right to respect, then, given the reason-giving nature of moral rights, we will have automatic moral reason to afford persons this respect.

By accepting Right, then, we can endorse Automaticity without being forced to accept Personhood. It is true, we can say, that a person's moral entitlement to respect is automatic. It is just that this entitlement is grounded on moral rights, not desert.

Right, I take it, is a significantly intuitive claim. It is at least as plausible a way of vindicating Automaticity as Personhood is. Indeed, if we think that we automatically have *most* reason to afford persons respect,<sup>22</sup> then, even if we are sympathetic to Personhood, we will likely be forced to adopt an alternative proposal like Right anyway. For as Feinberg notes (1970, pp. 84–85), individual desert claims seem, at least typically, to generate only *pro tanto* moral reasons. If, for example, I can afford one person the respect they deserve only by failing to give many others what they deserve, then desert considerations alone will likely tell me to withhold respect for the first person. So if I nevertheless ought to afford the first person respect, it appears that my obligation must be grounded on considerations other than those of desert.

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<sup>21</sup> See e.g. Dillon 2018 for consideration of this claim.

<sup>22</sup> This is the stronger version of Automaticity that Kant's Humanity Formulation can be plausibly understood as.

Endorsing Right is compatible with also accepting Personhood. It may be that persons both have a moral right to respect and deserve such respect. Once we have accepted Right, though, we have little motivation to accept Personhood as well. For in endorsing Right, we have already vindicated the intuition, Automaticity, that motivated Personhood to begin with. Having already captured the thought that persons have an automatic moral entitlement to respect, we have little motivation to say that they automatically *deserve* such respect. Our acceptance of Right thus leaves Personhood undermotivated.

If we have little or no remaining motivation to accept Personhood, then we ought to reject it. For as in the case of Attack, accepting Personhood comes at a significant intuitive cost. This cost, of course, is the abandonment of the Responsibility Principle. The proponent of Personhood must abandon the powerful intuition that desert and responsibility are connected in the way the Responsibility Principle claims. In the absence of substantial motivation for accepting Personhood, this is an excessive price to pay.

The personhood counterexample to the Responsibility Principle, therefore, is also ultimately unpersuasive. We can vindicate the intuition underwriting this counterexample without committing to a desert claim that violates the Responsibility Principle. By saying that persons have an automatic moral right to respect, we capture the thought that persons' moral entitlement to respect is automatic, without needing to say that they deserve respect in virtue of a fact for which they are not responsible.

### 3.5.7 Conclusion

While the Responsibility Principle is *prima facie* intuitive, a number of apparent counterexamples to it have been offered. Most of these counterexamples can be defused by specifying the apparent desert object more carefully, and by basing the desert in question on the subject's level of moral virtue. And against the objection that personhood is a basis for desert of respect, we can concede that we have reason to afford every person respect without grounding this reason on considerations of desert. Instead, we can say that persons have an automatic moral right to respect. The alternative proposals I have offered in this section are all independently plausible, and respect the intuitive force of the Responsibility Principle.

## 3.6 Conclusion

In this chapter, I have discussed the concepts of desert bases, and defended against objections three principles to which desert bases are commonly taken to be subject. In Section 3.3, I defended the Aboutness Principle, the thesis that a subject's desert can be based only on facts about that very subject, against a possible counterexample emerging from Derek Parfit's discussion of psychological continuity and personal identity. Parfit seems to suggest that, in cases of fission, each resulting person deserves punishment in virtue of crimes that

the 'original' person committed. I argued that, more plausibly, each resulting person deserves punishment in virtue of their own psychological continuity with someone who has committed those crimes.

In Section 3.4, I defended the Appraising-Attitude Principle, the thesis that a subject's desert can be based only on facts that are appropriate bases for holding an appraising attitude towards that subject, against objections offered by Fred Feldman and Owen McLeod. I argued that the Appraising-Attitude Principle avoids circularity, since there is a distinction between an appraising attitude being appropriate and it being deserved. Against the objection that cases of need are counterexamples to the Appraising-Attitude Principle, I argued that, instead of taking need to be a desert basis, we should say merely that need generates desert-based reasons for action.

In Section 3.5, I defended the Responsibility Principle, the thesis that a subject's desert can be based only on facts for which the subject is responsible, against counterexamples offered by Feldman and Geoffrey Cupit. I argued that we can vindicate the intuitions underwriting most of Feldman's counterexamples by building the fact Feldman takes to be the desert basis into the object of the subject's desert. We can then instead base the subjects' desert on their levels of moral virtue, a proposal I argued to be independently plausible. I then argued that Feldman and Cupit's personhood counterexample can be defused by saying that, rather than personhood automatically generating desert of respect, it generates an automatic moral right to respect.

There is another widely endorsed desert-base principle that I have not mentioned in this chapter. According to the *Non-Forward-Looking Principle*, a subject's desert of a present object can be based only on facts about the past or present. Desert of a present object, that is to say, can never be based on facts about the future. While intuitive, and affirmed by numerous philosophers, the Non-Forward-Looking Principle has been challenged by Feldman. I will return to this principle in Chapter 5, and argue that we can save it from Feldman's apparent counterexamples.

## 4. Moral Agency as a Desert Basis

### 4.1 Introduction

In Chapter 3, we saw that the range of facts commonly claimed to be desert bases—facts in virtue of which a subject deserves some object—is extremely diverse. Perhaps most familiar of desert-base candidates, though, are facts about *how morally* a person acts. Paradigmatic cases of desert seem to be ones in which a person deserves something ‘better’ in virtue of acting morally, or something ‘worse’ in virtue of acting immorally. This idea—call it *moral agency as a desert basis*—will be the focus of this chapter. In particular, I want to argue that moral agency is not a basis for desert after all.

In Section 4.2, I will introduce the idea that moral agency is a desert basis more fully, and note a number of ways in which it is a particularly modest claim.

In Section 4.3, I will discuss an argument offered by Shelly Kagan against the view that moral agency is a basis for desert. Kagan shows that, in some cases, this view leads to a vicious circle: what a person deserves is dependent on whether they are acting morally, but whether this person is acting morally is dependent on whether they are giving some second person what *they* deserve. And what this second person deserves may in turn depend on whether they are giving the first person what they deserve. This circle implies, unacceptably, that it will in some cases be metaphysically indeterminate what a person deserves, or impossible to coherently assign a person any desert status at all. To break the circle, and avoid this implication, we must instead base a person’s desert on some other fact about them, such as the quality of their motives.

In Section 4.4, I will argue that the view that moral agency is a desert basis is further undermined, and a ‘motivational’ view of desert is independently supported, by apparent cases of moral luck. If acting morally can make a person more deserving, then it will in some cases be a matter of luck how much of a certain good a person deserves. And if we are sympathetic to principles like Desert-Appraisal Supervenience, which I defended in Section 2.5, then we may well find this moral-luck implication unacceptable. By instead basing desert on the quality of a person’s motives, we can avoid this implication. Desert-Appraisal Supervenience also offers us one way of responding to a challenge we may face, giving us one reason to reject the existence of *resultant* or *circumstantial* moral luck, but nevertheless accept the existence of *constitutive* moral luck.

In Section 4.5, I will conclude.

## 4.2 Moral Agency and Desert

The idea I want to examine in this chapter is as follows. In some cases, a person is made 'more deserving', deserving of a larger amount of some good, or a smaller amount of some burden, by *acting morally*. A person is made 'less deserving', deserving of a smaller amount of some good, or a larger amount of some burden, by *acting immorally*. If you act morally, and I act immorally, then, in virtue of these facts about us, you may deserve something better than I deserve.

In at least six ways, this is a limited and modest claim to make. First, this claim does not specify what goods or burdens it is that acting morally makes one deserve more or less *of*. If my arguments in Sections 2.4–2.7 were successful, and well-being is the only desert object, then acting morally could make a person deserve only to be *better off* than someone who acts immorally. But we could quite as easily say, for instance, that those who act morally deserve more love, praise or admiration, and that those who act immorally deserve more hate, blame or contempt. Indeed, it could be that people who act morally deserve a larger amount of *all* of these goods, and that those who act immorally deserve all of these burdens. The claim I am discussing in this chapter is merely that those who act morally deserve *something* better than those who do not.

Second, this claim says nothing as to what *makes* an action morally permissible or not. It could be, for instance, that people who act so as to maximise utility are more deserving than those who do not, or that people who respect others' moral rights are more deserving than those who do not. The idea here is simply that, whatever moral reasons for action people have, those who act in accordance with the balance of those reasons are more deserving than those who do not.

Third, this claim does not assert that acting morally *necessarily* makes a person more deserving. We saw in Sections 3.2 and 3.5 that, plausibly, desert sometimes requires the satisfaction of *enabling conditions* other than the possession of the relevant desert basis. It could be, for example, that acting morally generates greater desert only on the condition that the agent has *good motives*. Here, a person who acts morally with good motives will still be more deserving, other things being equal, than someone who has good motives but does not act morally. But a person who acts morally with *bad* motives will be no more deserving than one who neither acts morally nor has good motives.

Fourth, this claim does not assert that moral agency is the *only* basis for desert. It could be that acting morally is only one among many things that makes a person deserving of a larger amount of some good. Perhaps, for instance, a person is made more deserving both by acting morally *and* by having good motives. If this is so, then a person who acts immorally but has good motives may be more deserving, all things considered, than a person who acts morally but has bad motives.



Fifth, this claim does not tell us whether actions which a person has overwhelming moral reason to perform, for example, generate 'better' desert than actions that they have far less reason, but still *most* reason, to perform. Likewise, it does not specify whether actions that a person has overwhelming moral reason not to perform generate 'worse' desert than actions that they have less, but still *most*, reason not to perform. The claim here is just that, if a person performs an action that they have sufficient moral reason to perform, and is thus morally permissible, then other things being equal, this makes the person more deserving. And if a person performs an action that they do not have sufficient moral reason to perform, and is thus morally impermissible, then other things being equal, this makes the person less deserving. So far as these two claims go, it could be that all permissible actions generate the same amount of positive desert, while all impermissible actions generate the same amount of negative desert. Or it could be that, the stronger the balance of reasons in favour of performing, or not performing, a particular action, the greater amount of positive or negative desert that action generates.

Finally, this claim is silent concerning the *temporality* of action desert bases. If a person presently deserves more of some good in virtue of acting morally, must they have acted morally in the *past*, or be acting morally in the *present*? Or could they merely be going to act morally in the *future*? The claim I am discussing here does not commit us to any particular answer to questions like these. So far as this claim goes, it could be that only actions in the present, or past or present, are bases for desert, or that actions in the future are bases for desert as well. This claim requires only that actions performed at *some* time are bases for desert.

In my argument in Section 4.3, I will, however, make one assumption about the temporality of action desert bases. I will assume that, if moral agency is a basis for desert at all, then it is at least the case that *present* moral agency is a basis for desert. It is at least the case that those who are presently acting morally are sometimes more deserving, other things being equal, than those who are presently acting immorally. I will make this assumption because it does seem to me to be a highly plausible one, and I will say little to defend it here. It is worth noting, though, that one reason for doubting that future actions are desert bases ceases to be pertinent when considering whether present actions are desert bases. We might deny that future actions are desert bases on the grounds that there *is* no fact of the matter about what a person is going to do in the future. This claim might follow, for example, from a view about the metaphysical openness of the future more generally, or from a libertarian theory of free will. But it is far less plausible that there is no fact of the matter about what a person is doing in the present.<sup>1</sup>

The claim that moral agency is a basis for desert is a familiar and intuitive one. Many apparently paradigmatic cases of desert are ones in which a person deserves a larger amount of some good in virtue of acting morally, or deserves a smaller amount of some good in virtue

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<sup>1</sup> Shelly Kagan (2006, p. 61) makes this point.

of acting immorally. Consider Joel Feinberg's example of a wife who 'sacrifices all to nurse her hopelessly invalid husband through endless torturous years until death' (Feinberg 1970, p. 72). What desert claim could be more obviously true, we might wonder, than the claim that this wife deserves to be rewarded for having acted so virtuously? And isn't it similarly obvious that, at least insofar as punishment is ever deserved, a sadistic murderer deserves to be punished for having acted so viciously?

Besides Feinberg, many other philosophers endorse the claim that moral agency is a basis for desert. Immanuel Kant famously writes that, even if a society is about to permanently dissolve, 'the last murderer in prison must first be executed, so that each has done to him what his deeds deserve' (Kant, *The Metaphysics of Morals*, 6:333). Fred Feldman says that if one person 'has been good', while another 'has been bad', then 'the [person] who has been good has greater desert' (Feldman 1995a, p. 574). James Rachels goes further, writing that '[w]hat people deserve *always* depends on what they have done in the past' (Rachels 1997, p. 176, emphasis added). Rachels goes on to say that 'moral deserts are deserts that one has... in virtue of one's more general way of dealing with other people' (Rachels 1997, p. 189).<sup>2</sup>

In Sections 4.3 and 4.4 below, however, I will argue that moral agency is not a basis for desert after all. Let us now turn to the first of the two arguments I will offer.

### 4.3 Indeterminate and Unstable Desert

#### 4.3.1 Reasonable Desert

As we saw in Section 4.2 above, the thesis that moral agency is a basis for desert says nothing as to what makes an action morally permissible or impermissible. It could be that people are made more deserving by acting so as to maximise utility, for instance, or by acting so as to respect the moral rights of others.

But of course, it could also be that part of what makes an action permissible is the extent to which that action successfully *gives other people what they deserve*. According to a view like this, the following claim is true:

(Reasonable Desert) Necessarily, the fact that a subject, S, deserves an object, O, is a moral reason to give O to S.

Reasonable Desert is a modest claim. It does not assert that considerations of desert are conclusive: the fact that S deserves O may not mean that we have *most* reason to give O to S. For there may be reasons *not* to give O to S, reasons perhaps grounded on considerations other than those of desert, and it may be that these reasons ultimately outweigh the desert-

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<sup>2</sup> See Sher 1987, pp. 69–90 and Moore 1997, pp. 191–247 for other prominent defences of the view that moral agency is a basis for desert.

based reason we have to give O to S. The claim of Reasonable Desert is merely that, if it is true that S deserves O, then this gives us at least *some* reason to give O to S.

Many philosophers endorse Reasonable Desert,<sup>3</sup> and I take it to be a highly plausible claim. But there is reason to think that, if Reasonable Desert is true, then moral agency cannot be a basis for desert.

#### 4.3.2 Indeterminate Desert

An argument offered by Shelly Kagan (2006) shows that Reasonable Desert undermines the claim that moral agency is a basis for desert. In the outline, this argument is as follows. Suppose it is true that what a person deserves is dependent on the extent to which they are acting morally. If Reasonable Desert is true, then whether this person is acting morally is somewhat dependent on the extent to which they are giving some second person what they deserve. But then, what this second person deserves in turn depends on the extent to which *they* are acting morally, which may depend on what the *first* person deserves. This vicious circle means that it will in some cases be metaphysically indeterminate what the first person deserves. To avoid this unacceptable conclusion, we must concede that moral agency is not a basis for desert at all.

To see this problem more clearly, let us first consider a simplified example case. Suppose that the demands of desert are extremely straightforward. If a person is presently acting morally, then, necessarily, they deserve to be happy; if a person is presently acting immorally, they deserve to be unhappy. And suppose further that considerations of desert are the only ones that are morally pertinent. The *only* reason to perform an action, that is, is that it gives people what they deserve. Now consider two individuals, A and B, who are presently performing actions that are making each other happy. What should we say about A's and B's desert in this case? Do A and B deserve to be happy, or unhappy?

Let us suppose, first, that A and B both deserve to be happy. Since A and B are both presently making each other happy, this means that each is presently giving the other what they deserve. Given our supposition that considerations of desert are morally exhaustive, this means that, other things being equal,<sup>4</sup> each of A and B is presently acting morally. And if each is presently acting morally, it follows that each indeed deserves to be happy. The assumption that both A and B deserve to be happy, then, is perfectly coherent: there is nothing about the demands of desert as we are imagining them, and nothing about A and B, that eliminates this

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<sup>3</sup> See e.g. Feinberg 1970, p. 60; Kleinig 1971, p. 76; Cupit 1996, p. 48; Schmidtz 2002, p. 774; McMahan 2009, p. 8; and Kagan 2012, p. 629.

<sup>4</sup> In particular, let us suppose that in this case, and in all of the cases I will discuss in this section, A's making B happy has no effect on A themselves, or on any third party. Likewise, let us suppose that B's making A happy has no effect on B themselves or any third party.

desert assignment as a genuine possibility. As Kagan puts it, this desert assignment is *stable* (Kagan 2006, p. 47).

But now let us suppose that A and B instead both deserve to be *unhappy*. Since A and B are both presently making each other happy, this means that neither is presently giving the other what they deserve. Other things being equal, then, each is presently acting *immorally*. And if each is presently acting immorally, it follows that each indeed deserves to be unhappy. The assumption that both A and B deserve to be unhappy is thus also coherent: there is nothing about the theory of desert we are imagining, or the details of this case, that eliminates the possibility of this desert assignment being correct. This desert assignment, too, is stable.<sup>5</sup>

So, if both of these desert assignments are stable, which is correct? As far as our imagined theory of desert is concerned, there is simply no determinate answer to this question. There is nothing in our theory that tells us which of these desert assignments is correct, and which is incorrect. And so as far as our theory goes, there is just no fact of the matter as to whether A and B both deserve to be happy, or both deserve to be unhappy. A's and B's desert is indeterminate.

This conclusion, though, is surely unacceptable. After all, if it is indeterminate whether A and B deserve to be happy or unhappy, then it will be indeterminate how they ought, other things being equal, to be treated—it will be indeterminate whether, other things being equal, A and B ought to be made happy or unhappy. But it seems clearly unacceptable to say that, in a given situation, it is simply indeterminate whether a person ought to be made happy or unhappy.

It should be emphasised that the indeterminacy being considered is not epistemological. The suggestion here is not the more reasonable one that, while there is a fact of the matter as to whether A and B deserve to be happy or unhappy, we cannot know what this fact is. Rather, the indeterminacy here is metaphysical: there just *is* no fact of the matter as to whether A and B deserve to be happy or unhappy. And Kagan (2006, pp. 49–50) is surely right to dismiss this suggestion as intolerable.

#### 4.3.3 Non-Desert-Based Considerations

It might be thought that this problem arises only due to one of the simplifying assumptions we made—namely, the assumption that considerations of desert are the only ones that are morally pertinent. For won't introducing another kind of moral consideration 'break the

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<sup>5</sup> The assignment of A deserving to be happy and B deserving to be unhappy, or of A deserving to be unhappy and B deserving to be happy, is *unstable*. If either A or B deserves to be happy, then the other is acting morally by making them happy, and thus deserves to be happy as well. It thus cannot be the case that either A or B deserves to be happy while the other deserves to be unhappy.

circle', giving us an independent basis to say whether A and B are acting morally or immorally, and thus giving us an independent basis to say whether they deserve to be happy or unhappy?

Unfortunately, allowing other kinds of considerations to have moral weight does not solve the indeterminacy problem. For we can imagine a case in which the non-desert-based reasons A and B have to make each other happy, and the non-desert-based reasons A and B have to make each other unhappy, *balance each other out*. Considerations of desert aside, A has just as much reason to make B happy as they have to make B unhappy. And B, too, has just as much reason to make A happy as they have to make A unhappy. Here, it is only considerations of desert that can break the tie, and determine whether A and B ought to make each other happy or unhappy. And so we are again faced with a situation in which we can determine whether A and B are acting morally only by first determining whether they deserve to be happy or unhappy. But of course, we can determine whether A and B deserve to be happy or unhappy only by first determining whether they are acting morally. Again, then, we are faced with a vicious circle, and A's and B's desert is rendered indeterminate.<sup>6</sup>

Of course, in other cases, A's and B's non-desert-based reasons to make each other happy or unhappy might be sufficiently unbalanced to break the circle, allowing us to determine whether A and B ought to be making each other happy or unhappy without first determining whether they deserve to be happy or unhappy. But the mere possibility of a case in which these non-desert-based reasons do *not* break the circle, and in which A's and B's desert remains indeterminate, is unacceptable enough to be a *reductio* of the theory of desert we are considering.

#### 4.3.4 More Complex Theories of Desert

Now, the theory of desert we have just been considering is extremely simplified. It holds that a person's desert is based *only* on whether or not they are presently acting morally, and that the person can deserve only one of two things: to be happy, or to be unhappy. So can we escape indeterminacy by retracting one or both of these simplifying assumptions, and considering a more complex theory?

In fact, retracting these simplifying assumptions will not help either. Let us first consider a theory that holds the following. As before, persons deserve only to be happy or to be unhappy. But whether a person deserves to be happy is based not only on whether they are *presently* acting morally, but also on whether they have acted morally in the past, and whether they will act morally in the future. For simplicity, suppose that a person deserves to

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<sup>6</sup> Kagan makes a point similar to this. He notes that, in cases in which both persons perfectly satisfy the non-desert-based demands of morality, their desert may remain dependent on whether they are giving each other what they deserve, and thus remain indeterminate (Kagan 2006, pp. 54–55).

be happy if they always act morally, and deserves to be unhappy if they sometimes act immorally.<sup>7</sup>

Now consider again a case in which two individuals, A and B, are presently making each other happy, and in which their non-desert-based reasons to make each other happy, and to make each other unhappy, balance each other out. If A and B have acted immorally in the past, or will act immorally in the future, then we will no longer be faced with any indeterminacy. For in this case, A and B do not always act morally, and so will, *regardless* of whether they are presently acting morally by making each other happy, deserve to be unhappy. Here, we can determine that A and B deserve to be unhappy without first knowing whether they are giving each other what they deserve.

But suppose instead that A and B have *never* acted immorally in the past, and will never act immorally in the future. Here, what A and B deserve is again dependent on whether they are *presently* acting morally. If they are acting morally, they deserve to be happy; if they are acting immorally, they deserve to be unhappy. But as before, whether A and B are presently acting morally depends on whether they are giving each other what they deserve, which in turn depends on whether they deserve to be happy or unhappy. And so we again have a case in which A's and B's desert is indeterminate.

The assignment of A and B both deserving to be happy in this case is stable. If they deserve to be happy, then they are acting morally by making each other happy. Being people who always act morally, it then follows that A and B do indeed deserve to be happy. But the assignment of A and B both deserving to be unhappy is also stable. If they deserve to be unhappy, then they are acting immorally by making each other happy. Being people who do not always act morally, it then follows that A and B do indeed deserve to be unhappy. In this case, our modified, more complex theory of desert fails to give us a determinate answer as to what A and B deserve.

As Kagan points out (2006, pp. 56–58), we cannot solve the indeterminacy problem by making our theory of desert more complex in other ways. Determinacy still arises, for example, if we retract the simplifying assumption that a person deserves to be happy only if they *always* act morally. For whatever the standard is for deserving to be happy, we can imagine a case in which, the morality of their present actions aside, A and B fall *just below* this standard, such that whether or not they ultimately meet this standard depends on whether they are presently acting morally by making each other happy. If they are presently acting morally, then A and B will just meet this standard; if they are presently acting immorally, then they will fall just short.

In such a case, A's and B's desert will again be indeterminate. If they both deserve to be happy, then they are presently acting morally by making each other happy, and so do indeed meet

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<sup>7</sup> This is the kind of theory Kagan assumes in his paper; I have been supposing that present action alone is a basis for desert only for purposes of simplicity.

the standard for deserving to be happy. But if they both deserve to be unhappy, then they are presently acting immorally by making each other happy, and so do indeed fail to meet the standard of deserving to be happy. Again, both of these desert assignments is stable, and so we have no determinate answer as to what A and B deserve (Kagan 2006, p. 56).

Nor will it help to deny that A's and B's actions are the only consideration relevant to what they deserve. Even if other kinds of considerations are relevant, we can imagine a case in which these other considerations are balanced in such a way that whether A and B ultimately meet the standard of deserving to be happy (whatever that standard is) depends on whether they are presently acting morally. Even if, for example, a person deserves to be happy only if they have perfectly moral motives as well as always acting morally, we can imagine a case in which A and B do indeed have perfectly moral motives, and do, at all times other than the present, act morally. Here, A's and B's desert will again depend on whether they are presently giving each other what they deserve, and we will again be faced with indeterminacy (Kagan 2006, p. 58).

So we cannot avoid indeterminacy simply by retracting the assumption that desert of happiness or unhappiness is based only on whether one is presently acting morally. What happens if we also retract our other simplifying assumption—that all a person can deserve is to be happy or to be unhappy? What happens if we say, for example, that a person can deserve a more fine-grained level of happiness?

Consider, for instance, a theory like the following. Depending on the extent to which a person acts morally, they will deserve to be either *minimally* happy, *moderately* happy or *extremely* happy, or, in the negative case, minimally unhappy, moderately unhappy or extremely unhappy. It might be, for example, that those who always act morally deserve to be extremely happy, while those who only rarely act morally deserve to be moderately unhappy.

Now suppose that A and B are presently making each other *extremely happy*. And suppose that, the morality of their present actions aside, A and B fall just below the standard for deserving to be extremely happy. If A and B are presently acting morally, then they will just meet this standard; if they are presently acting immorally, then they will fall just short, and will deserve to be only moderately happy. Finally, suppose that A's and B's reasons for making each other extremely happy, and reasons for making each other only *moderately* happy, are balanced so as to mean the following. If A and B deserve to be extremely happy, such that they are giving each other exactly what they deserve, then they are acting morally by making each other extremely happy. But if A and B deserve to be only moderately happy, then *this* is how happy they ought to be making each other, and they are acting immorally by instead making each other extremely happy. The question, then, is this. Once we take the morality of their present actions into account, do A and B deserve to be extremely happy, or deserve to be only moderately happy?

If A and B deserve to be extremely happy, then they are presently giving each other exactly what they deserve, and are acting morally. So it will follow that they do indeed meet the standard for deserving to be extremely happy. This desert assignment is stable.

But if A and B deserve to be only moderately happy, then this is how happy they ought to be making each other, and they are thus acting immorally by instead making each other extremely happy. So it will follow that they fail to meet the standard for deserving to be extremely happy, and will indeed deserve to be only moderately happy. This desert assignment, too, is stable.

As Kagan notes (2006, p. 57), therefore, even this more fine-grained theory of desert fails to eliminate indeterminacy. There is nothing in our theory that tells us whether, in this case, A and B both deserve to be extremely happy, or both deserve to be only moderately happy. And this problem will arise *however* fine-grained we make our theory. For however fine-grained we make the levels of happiness that a person can deserve, we can imagine a case in which, the morality of their present actions aside, A and B fall just short of meeting the standard for deserving a particular happiness level. And if A and B are presently making each other just that happy, and they are acting morally if and only if they deserve to be precisely that happy, then it will be indeterminate whether they deserve that happiness level, or deserve the level just below it (Kagan 2006, p. 57).

It will not solve the problem to say that acting morally does not make a person more deserving of happiness at all, but instead makes them more deserving of something else. For we will then be able to simply substitute the cases we have been discussing, in which it is A's and B's happiness that is at stake, with cases in which it is whatever A and B do deserve that is at stake. So long as acting morally makes A and B more deserving of *something*,<sup>8</sup> then we can construct a case in which we cannot know whether A and B deserve a certain amount of that thing without first knowing whether they are acting morally by giving each other that amount. But since we will not be able to determine whether they are acting morally by giving each other that amount without first knowing whether they deserve that amount, we will again be left with indeterminacy.

Nor will it help to say that acting morally makes a person more deserving of both happiness *and* something else. If this is the case, of course, then A and B may have reasons to make each other happy or unhappy that are derived from their desert of this other entity. But we can always imagine that, even taking these reasons into consideration, A and B have just as much reason, their desert of happiness and unhappiness aside, to make each other happier as they have to make each other less happy. Given this stipulation, the level of happiness A and B deserve will still be decisive in determining whether they ought to be making each other more or less happy. And since we will be unable to determine how happy A and B deserve to be

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<sup>8</sup> Kagan himself uses the example of persons deserving to be loved or hated.



without first knowing whether they are making each other appropriately happy, we will yet again be faced with a vicious circle, and with indeterminacy.

What, finally, about weakening the claim that moral agency is *necessarily* a basis for desert? Can we avoid indeterminacy by saying that acting morally generates positive desert only when other enabling conditions are satisfied? Unfortunately, this proposal, too, seems to me to be unpromising. Perhaps most plausibly, we could say that moral agency generates positive desert only when the agent has good motives. Even if this is right, though, we can imagine a case in which A and B do both have good motives, such that they will indeed be more deserving if and only if they are currently acting morally. Once we make our usual further stipulations, a case like this will still give rise to indeterminate desert.

In fact, there is, I believe, one enabling-condition proposal that would allow us to avoid indeterminacy. As we have seen, abandoning the assumption that considerations of desert are exhaustive does not solve the indeterminacy problem, since we can imagine cases in which these other considerations balance each other out, making considerations of desert decisive. But this suggests the following possible escape route. An action generates greater positive or negative desert, we could say, only on the condition that considerations of desert are *not* decisive with respect to whether or not that action is permissible. If this were right, then it will always be determinate what the agent deserves. If desert considerations are not decisive, then we will be able to determine whether the agent is acting morally, and thus what they deserve, without first knowing what anyone else deserves. If desert considerations *are* decisive, then we will be able to determine, in line with our new proposal, that the agent is as deserving as they would be if they were *not* acting morally.

While this enabling-condition proposal would allow us to avoid indeterminacy, however, it seems entirely ad hoc. There does not seem to be any independent reason to think that, while acting morally generates greater desert when any other kinds of moral considerations are decisive, it specifically fails to do so when considerations of *desert* are decisive. To qualify our account in this way simply to avoid indeterminacy, and without any independent justification, is not a viable solution to the problem at hand.

#### 4.3.5 The Solution

So long as we take acting morally to make a person deserving of a larger amount of some good, we are left with cases in which it is indeterminate just how much of a certain good a person deserves. Regardless of whether or not we take considerations of desert to be morally exhaustive, and no matter how complex we make our theory of desert, cases of indeterminate desert remain. We are, then, left with only one possible solution to this problem. To escape indeterminacy, we must abandon our starting assumption that moral agency is a basis for desert.

To see how retracting this assumption allows us to avoid indeterminacy, consider again our case of A and B making each other happy. Let us again make two simplifying assumptions: first, that considerations of desert are morally exhaustive, and second, that persons deserve either to be happy, or to be unhappy. But here, let us suppose that A's and B's desert is based on something other than how morally they are acting.

In this case, do A and B deserve to be happy, or unhappy? We do not yet know. But this is merely because we do not yet know what other facts about A and B serve as the bases of their desert, and exactly what kind of desert these facts generate. Once we know these things, we will have a determinate answer as to what A and B deserve. Let us follow Kagan (2006, p. 62) in supposing that desert of happiness is a matter of having good *motives*: those with good motives deserve to be happy, while those with bad motives deserve to be unhappy.<sup>9</sup> And maybe A has good motives, while B has bad motives. If this is so, then we can determine that A deserves to be happy, while B deserves to be unhappy. And crucially, we can determine this without first knowing whether A and B are presently giving each other what they deserve.

Of course, if B deserves to be unhappy, then our simplifying assumptions will entail that A is acting immorally by instead making B happy. But this does not threaten A's desert of happiness, since on the view we are now considering, A's desert has nothing to do with whether or not they are acting morally. Desert is simply a matter of having good motives, and even if A is acting immorally, they may well have good motives.<sup>10</sup> Perhaps, for example, A is motivated, by a sense of duty, to *try* to make B deservedly unhappy, but is simply failing in these efforts.

If A deserves to be happy, meanwhile, then B will be acting morally by giving A the happiness they deserve. But this does not threaten the claim that B deserves to be unhappy. For again, B's desert has nothing to do with whether or not they are acting morally. B deserves to be unhappy, not because they are acting immorally, but because they have bad motives. Maybe, for instance, B is making A happy only as part of some malevolent scheme.

Here, then, we can see how denying that moral agency is a basis for desert allows us to determine what A and B deserve. By taking A's and B's desert to be based exclusively on some other kinds of fact about them, we can determine whether A and B deserve to be happy without first knowing anything about the morality of their actions. And since we do not need

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<sup>9</sup> Making this claim will allow us to avoid indeterminacy only if we do not define good motives as those that lead a person to act morally, and bad motives as those that lead a person to act immorally. If we adopt this straightforward kind of 'instrumentalist' view, we will be unable to determine whether A's and B's motives are good without first knowing whether the actions to which those motives lead—i.e. ones that make each other happy—are permissible. But since we will be unable to know this without first knowing whether A and B deserve to be happy, which in turn depends on the goodness of their motives, we will once again be faced with indeterminacy. And nor can we escape indeterminacy by taking good motives to be ones that *generally* lead a person to act morally. For we will still be able to imagine cases in which the goodness of motives will ultimately depend on the moral status of particular actions, but in which we cannot determine the moral status of these actions without first knowing whether the motives in question are good (Kagan 2006, pp. 62–63).

<sup>10</sup> Assuming, of course, that a straightforward instrumentalist view of the goodness of a motive is incorrect.

to know anything about the morality of their actions, we do not need to know whether they are giving each other what they deserve. By basing desert on something other than the morality of their actions, we break the circle, and escape indeterminacy (Kagan 2006, pp. 62–64).<sup>11</sup>

#### 4.3.6 Unstable Desert

Having solved the problem of indeterminate desert, we now also have a solution to another kind of problem Kagan discusses for the view that moral agency is a basis for desert (Kagan 2006, pp. 47, 65–67).

Let us again consider our first, simplified theory of desert, according to which a person who is presently acting morally deserves to be happy, while a person who is presently acting immorally deserves to be unhappy. And suppose again that considerations of desert are morally exhaustive. Now consider one individual, C, who is presently performing an action that affects no third party, but makes C themselves unhappy. What should we say about C's desert in this case? Does C deserve to be happy, or unhappy?

Suppose, first, that C deserves to be happy. If C deserves to be happy, then, by instead making themselves unhappy, they are presently acting immorally. But if C is acting immorally, then, according to our simplified theory of desert, they deserve to be *unhappy*. Supposing that C deserves to be happy thus leads to a contradiction: if C deserves to be happy, then they deserve to be unhappy. This desert assignment, that is to say, is *unstable*.

So suppose that C instead deserves to be unhappy. If C deserves to be unhappy, then, by making themselves unhappy, they are presently acting morally. But if C is acting morally, then they deserve to be *happy*. Supposing that C deserves to be unhappy thus also leads to a contradiction: if C deserves to be unhappy, then they deserve to be happy. This desert assignment, too, is unstable.

Here, then, we have a case in which there is no possible stable assignment of desert. Our theory tells us that there are only two 'desert statuses' that can be assigned to a person—they deserve either to be happy or to be unhappy—but that, in this case, C cannot be coherently assigned either of these desert statuses. And clearly, this implication is unacceptable.

Even if we make our theory of desert more complex, and retract the simplifying assumption that considerations of desert are morally exhaustive, the claim that acting morally makes a person more deserving of some good will continue to lead to cases in which no stable

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<sup>11</sup> Bradford Skow (2012) has argued that Kagan's indeterminacy argument is unsuccessful, and that a 'desert-sensitive' moral theory—according to which considerations of desert are reason-giving—can accommodate the claim that moral agency is a basis for desert after all. Skow's argument is complex, and I cannot give it the attention it merits in this chapter, so I will not attempt to respond to it here.

assignment of desert is available. Perhaps C is making themselves extremely unhappy, and their reasons for doing this are balanced in such a way that this is permissible if, and only if, this is exactly what they deserve. And maybe, before we take into account whether C is presently acting morally, C falls just below the threshold for deserving to be only moderately unhappy, rather than extremely unhappy. In this case, we cannot stably assign C the status either of deserving to be moderately unhappy, or of deserving to be extremely unhappy. If C deserves to be only moderately unhappy, then they are acting immorally by instead making themselves extremely unhappy, and so deserve to be extremely unhappy. But if C deserves to be extremely unhappy, then they are acting morally by making themselves extremely unhappy, and so deserve to be only moderately unhappy. Either way, we have a contradiction, so no stable desert assignment is available.

But if we take C's desert to be based not on the morality of their actions, but instead only on their *motives*, then, so long as we define the goodness of a motive independently of the concept of moral permissibility, we will have no such problem of instability. Consider again our simplified case, in which considerations of desert are exhaustive, and persons who are acting morally deserve to be happy, but persons who are acting immorally deserve to be unhappy. And suppose that C is once again making themselves unhappy.

To know whether C deserves to be happy or unhappy, we need only know whether C has good motives. And if we have defined the goodness of a motive independently of moral permissibility, then we can determine whether C has good motives without first knowing whether C is acting morally by making themselves unhappy. C might be acting immorally by making themselves unhappy, but nevertheless have good motives: they might be motivated, by a sense of duty, to try to make themselves deservedly happy, but simply be failing in these efforts. And C could be acting morally by making themselves unhappy, but nevertheless have bad motives: they might be doing this only as part of a malevolent scheme.

If C has good motives, then, without knowing whether they are presently acting morally, we can determine that they deserve to be happy. Crucially, this desert assignment is unthreatened by the fact that C is acting immorally by instead making themselves unhappy. So we have no contradiction: this desert assignment is stable.

Likewise, if C has bad motives, then, without knowing whether they are presently acting morally, we can determine that they deserve to be unhappy. This desert assignment is unthreatened by the fact that C is acting morally by making themselves happy. So we again have no contradiction: this desert assignment, too, is stable.

Of course, we do not yet know which of these desert assignments is correct, for we do not yet know whether C has good or bad motives. But there is no metaphysical indeterminacy here: as a matter of fact, C's motives are either good or bad, and either way, there is a fact of the matter as to whether C deserves to be happy or unhappy. And since neither of these

desert assignments will lead to a contradiction, we have successfully escaped instability (Kagan 2006, p. 66).

#### 4.3.7 Conclusion

In this section, we have seen one reason to doubt the claim that moral agency is a basis for desert. Kagan shows that, if moral agency is a basis for desert, and if considerations of desert are reason-giving, then it will in some cases be either indeterminate how much of a certain good a person deserves, or impossible to coherently assign a person any desert status at all. We cannot avoid this problem merely by making our theory of desert more complex, or by taking considerations other than those of desert to be morally pertinent. To avoid the problem of indeterminate and unstable desert, we must deny that moral agency is a basis for desert at all.

Now, I have followed Kagan in suggesting that desert is instead based on the quality of a person's *motives*. On this 'motivational' view, we have no indeterminacy or instability, since we can determine the quality of a person's motives without first knowing whether they are successfully giving people what they deserve.<sup>12</sup> If this motivational proposal is to avoid seeming ad hoc, though, we must provide some independent motivation for accepting it. Fortunately, there is some such motivation that we can provide. The second reason to doubt that moral agency is a basis for desert, and an independent reason to think that desert is instead based on the quality of a person's motives, emerges from apparent cases of *moral luck*. It is to these cases that I will now turn.

#### 4.4 Moral Luck

The second reason to deny that moral agency is a basis for desert is as follows. If acting morally or immorally makes a person more or less deserving of some good, then it will sometimes seem to be a matter of *luck* how much of a certain good a person deserves. Consider, for example:

*Philanthropists:* Lucky does not care about the eradication of global poverty, but makes a large donation to an effective poverty-fighting charity in order to enhance their own reputation. Unlucky cares deeply about eradicating poverty, and attempts to make an equally large donation to the same charity, but has all their money stolen before they can do so.

If moral agency is a basis for desert, then we may have to say the following about this case. In virtue of the fact that Lucky has donated money to charity, they deserve a larger amount of some good (such as happiness, praise or admiration). Since Unlucky has not made such a

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<sup>12</sup> Again assuming that the quality of a motive is not dependent on whether it leads a person to act morally.

donation, they have not been made more deserving of this good. And so, in virtue of this difference between them, Lucky is *pro tanto* more deserving than Unlucky.

To be clear, this is not to say that Lucky is more deserving than Unlucky *all things considered*. For we need not think that moral agency is the *only* basis for desert. If having good motives is another such desert basis, then since Unlucky seems to have better motives than Lucky, they may well be ultimately more deserving. But if moral agency is *a* basis for desert, then there is at least one difference between Lucky and Unlucky that makes Lucky the *pro tanto* more deserving of the two.

Even this modest implication—that Unlucky is *pro tanto* more deserving than Lucky—might seem unacceptable. For here, Lucky's greater desert would be due not to any virtue of their own moral character, but due to two kinds of *good luck*. First, Lucky is fortunate that it is *donating money to charity*, and not some less virtuous action, that happens to enhance their own reputation. If Lucky's reputation would have instead been enhanced by them performing some reprehensible action, then they may well have done that instead. It just so happened that, in this particular case, their selfishness led them to do the right thing, not the wrong thing. Second, Lucky is fortunate that they did not have their money stolen. If Lucky had suffered the same misfortune as Unlucky, then they would not have made their donation at all. Since Lucky's donation is merely the result of these two kinds of good luck, we may well want to deny that it makes them even *pro tanto* more deserving than Unlucky.

Likewise, Unlucky's lesser desert would here be due not to any failing of their own character, but to their bad luck in having their money stolen—something that was beyond their control.<sup>13</sup> And so we may well want to deny that Unlucky's failure to donate makes them even *pro tanto* less deserving than Lucky.

Now, we can avoid the implication that Lucky is *pro tanto* more deserving than Unlucky in this case by saying that moral agency generates greater desert only on the condition that the agent has *good motives*. Since Lucky did not have good motives in this case, this proposal will imply that their donation does not generate any positive desert, and thus that they are not even *pro tanto* more deserving than Unlucky.

In other cases, though, this proposal will remain vulnerable to the problem of moral luck. Consider:

*Philanthropists 2*: Lucky and Unlucky care equally deeply about the eradication of global poverty, and attempt to make equally large donations to an effective poverty-fighting

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<sup>13</sup> It is the 'Control Principle'—according to which people are morally assessable only for factors within their control—that Thomas Nagel takes to be in conflict with the claim that moral praiseworthiness and blameworthiness can be affected by mere luck. Nagel says that '[w]here a significant aspect of what someone does depends on factors beyond his control, yet we continue to treat him in that respect as an object of moral judgment, it can be called moral luck' (Nagel 1979, p. 26).

charity. While Lucky successfully makes this donation, Unlucky has all their money stolen before they can do so.

Here, Lucky and Unlucky both seem to have good motives. And so even if moral agency generates positive desert only on the condition that the agent has good motives, Lucky's successful donation will seem to make them *pro tanto* more deserving than Unlucky. And since other things appear to be equal in this case, this will likely mean that Lucky is more deserving than Unlucky even when all things are considered.

Again, many of us will find this implication troubling. Surely, we might think, it cannot be a matter of mere luck how deserving a person is. Unlucky's failure to make a donation is not the result of any failing of their own moral character, but merely of their bad luck in having their money stolen. There is an intuitive sense in which it is not Unlucky's *fault* that they did not act morally in this case. For my own part, at least, this leads me to conclude that Unlucky's failure to donate does not make them any less deserving than Lucky.

In Section 2.5, moreover, I argued in favour of *Desert-Appraisal Supervenience*:

(Desert-Appraisal Supervenience) A subject's desert supervenes on facts that are appropriate bases for holding an appraising attitude towards that subject.

Now, in Section 2.8, I argued that apparent cases of moral luck are not plausibly counterexamples to this thesis. It would seem odd to say that Lucky is more deserving than Unlucky in *Philanthropists 2* without also saying that it would be appropriate to appraise them differently. If Lucky *is* more deserving than Unlucky, then it must be appropriate to feel greater approval, admiration or gratitude towards them. It seems to me, however, that Lucky ought *not* to be appraised any differently to Unlucky in this case. Unlucky's misfortune in having their money stolen does not make them any less worthy of admiration than Lucky. And so it seems to me that this misfortune makes Unlucky no less deserving than Lucky.

Cases like *Philanthropists* and *Philanthropists 2* provide us with independent motivation to accept a *motivational* view of desert, according to which a person's desert is based on the quality of their motives. In both of these cases, the intuition that Unlucky is no less deserving than Lucky seems underwritten by the observation that Unlucky's motives are no less virtuous than Lucky's. In *Philanthropists 2*, Unlucky is just as motivated to help eradicate global poverty as Lucky is; in *Philanthropists*, Unlucky is *more* motivated than Lucky to do this. This is what seems to make Unlucky at least as deserving as Lucky in these cases. These apparent instances of moral luck thus give us not only a second reason to reject the claim that moral agency is a basis of desert, but also an independent reason to say that desert is instead based on the quality of a person's motives.<sup>14</sup>

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<sup>14</sup> The motivational account avoids the implication that Lucky is more deserving than Unlucky only if we again avoid offering an instrumentalist account of the goodness of a motive, according to which good motives are

Intuitions about moral luck vary significantly. While many philosophers share my intuition that Unlucky's misfortune cannot make them any less deserving than Lucky,<sup>15</sup> others disagree.<sup>16</sup> And a full discussion of the problem of moral luck is certainly beyond the scope of this chapter.

Nevertheless, it is worth noting that Desert-Appraisal Supervenience offers us one way of responding to a challenge faced by those who want to deny that Unlucky is any less deserving than Lucky. Note that, if Lucky is more deserving than Unlucky in *Philanthropists* or *Philanthropists 2*, then their greater deservingness arises due to *resultant* or *circumstantial* luck. Lucky and Unlucky both attempt to donate money to charity, but Lucky's attempt results in a successful donation, whereas Unlucky's does not. And while Lucky finds themselves in circumstances which allow them to make a donation, Unlucky has their money stolen, and so does not find themselves in such circumstances. But resultant and circumstantial luck are not the only kinds of apparent moral luck. In some cases, it seems to be a matter of *constitutive* luck how deserving a person is. In such cases, how morally a person acts is due to their own character traits or dispositions, but these traits and dispositions are largely the results of factors beyond the person's control. And so it appears to be largely a matter of luck how morally the person acts.<sup>17</sup>

The challenge we may face, then, is as follows. If we reject the existence of resultant or circumstantial moral luck, must we not also reject the existence of constitutive luck? This appears an unattractively radical position to be forced to adopt: if we reject the existence of all kinds of moral luck, then we will plausibly be forced to say that *nothing* can make a person more deserving, since this greater desert will plausibly always be due to one form of luck or another.<sup>18</sup> But what reason is there to accept the existence of constitutive luck, but

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those that lead a person to act morally. For here we will have to say that, since Lucky's motives lead them to act morally, but Unlucky's do not, Lucky's motives are morally better than Unlucky's, and so Lucky is more deserving than Unlucky after all. Nor can we say that good motives are those that generally lead a person to act morally, for this might still render the goodness of Lucky's and Unlucky's motives ultimately dependent on whether these motives lead them to act morally in this particular case.

<sup>15</sup> Kant is often cited as a paradigmatic opponent of moral luck. Kant writes that '[a] good will is good not because of what it performs or effects... but simply by virtue of the volition; that is, it is good in itself' (Kant, *Groundwork of the Metaphysics of Morals*, 4:394). Kant says that even if 'disfavor of fortune' prevents the good will from achieving any good end, the good will would 'like a jewel... still shine by its own light' (Kant, *Groundwork*, 4:394). For Kant, the fact that misfortune prevents Unlucky's good will from achieving a charitable donation does not make Unlucky any less deserving than they would otherwise have been. See Richards 1986, Thomson 1989, Wolf 2001 and Zimmerman 2002 for other defences of this view.

<sup>16</sup> See e.g. Walker 1991; Browne 1992; Moore 1997, pp. 218–246; 2009, pp. 20–33; and Otsuka 2009.

<sup>17</sup> See Nagel 1979, pp. 28–34 for explanations and examples of resultant, circumstantial and constitutive moral luck. Nagel also describes a fourth kind of luck—*causal* luck, or luck in 'how one is determined by antecedent circumstances' (Nagel 1979, p. 28)—but this fourth kind is plausibly captured by the combination of circumstantial and constitutive luck, making this category redundant.

<sup>18</sup> Nagel makes this point. If we reject the existence of all kinds of moral luck, he says, then '[t]he area of genuine agency, and therefore of legitimate moral judgment, seems to shrink under this scrutiny to an extensionless point' (Nagel 1979, p. 35).



nevertheless reject that of resultant or circumstantial luck?<sup>19</sup>

Having endorsed Desert-Appraisal Supervenience, there is at least one answer to this question we can give. Resultant and circumstantial luck, I have suggested, do seem to undermine the appropriateness of differing appraising attitudes. The fact that Unlucky's failure to donate was due to resultant and circumstantial bad luck undermines the claim that we ought to admire them any less than we admire Lucky. But it seems to me less intuitive that constitutive luck undermines the appropriateness of differing appraising attitudes. A person who devotes their life to helping others may have had limited control over the traits and dispositions that cause them to do so, but it still seems appropriate to admire them more than a person who devotes their life to hurting other people. And the person who devotes their life to hurting others may have had limited control over the traits and dispositions that cause them to do that, but it still seems appropriate to disapprove of their maliciousness.

Here, then, we have found one reason to reject the existence of resultant or circumstantial luck, but nevertheless accept the existence of constitutive luck. The existence of constitutive luck, unlike that of resultant or circumstantial luck, seems compatible with Desert-Appraisal Supervenience. And so, having pointed to considerations of moral luck to argue against the view that moral agency is a basis for desert, we are not forced to say that *no* kinds of luck can make a person more deserving.

#### 4.5 Conclusion

In this chapter, I have argued against the view that moral agency is a basis for desert. In Section 4.3, I discussed an argument offered by Shelly Kagan against this view. Kagan shows that, if whether a person is acting morally depends on the extent to which they are giving people what they deserve, then the view that moral agency is a basis for desert will in some cases lead to a vicious circle. In such cases, what a person deserves will depend on whether they are acting morally, but whether they are acting morally will depend on what some second person deserves, which in turn depends on whether this second person is giving the first person what they deserve. This circle implies that it will in some cases be metaphysically indeterminate how much of a certain good a person deserves, or impossible to coherently assign a person any desert status at all. And these implications are surely unacceptable. To

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<sup>19</sup> Robert Hartman, for example, argues that 'intermediary' views—those which accept some kinds of moral luck but reject others—are 'unstable' (Hartman 2019, p. 3179), and 'unmotivated according to the ideal of fairness' (Hartman 2019, p. 3192). Hartman thinks that 'there is no fairness-relevant moral reason to allow certain kinds of moral luck to exist and to deny others' (Hartman 2019, p. 3192). Similarly, Michael Moore argues that 'if one says that character can be a desert-basis despite our lack of control over all or most of its causal antecedents', then a person's lack of control over the consequences of their actions, for instance, does not disqualify these consequences from being desert bases as well (Moore 1997, p. 245).

avoid these implications, we must instead base a person's desert on some other fact about them, such as the quality of their motives.

In Section 4.4, I argued that the view that moral agency is a desert basis is further undermined, and a motivational view of desert is independently supported, by apparent cases of moral luck. If moral agency is a basis for desert, then it will sometimes be a matter of resultant or circumstantial luck how much of a certain good a person deserves. Many will find the claim that desert can be a matter of luck counterintuitive, and this implication seems in tension with Desert-Appraisal Supervenience. By instead basing desert on the quality of a person's motives, we can vindicate the thought that desert is never a matter of certain kinds of luck. Desert-Appraisal Supervenience also offers us one reason to reject the existence of resultant or circumstantial luck, but accept that of constitutive luck. For it seems more intuitive to say that resultant and circumstantial luck undermine the appropriateness of differing appraising attitudes than to say that constitutive luck does so.

The conclusion that moral agency is not a basis for desert is surprising. Many apparently paradigmatic cases of desert are those in which a person deserves some kind of reward for acting morally, or deserves some kind of punishment for acting immorally. But if my arguments in this chapter have been successful, then these cannot be genuine cases of desert at all. If a person deserves to be rewarded or punished for anything, it cannot be their moral agency.

I have suggested in this chapter that we have reason to favour a motivational theory of desert, according to which a person's desert is based exclusively on the quality of their motives.<sup>20</sup> Such a theory avoids the problem of indeterminacy and instability, since we will always be able to determine what a person deserves without first knowing whether they are themselves satisfying the requirements of desert. And such a theory avoids much of the problem of resultant and circumstantial moral luck: so long as a person's motives are no worse than another individual's, they will be no less deserving, even if bad resultant or circumstantial luck on their part means that they do not act as morally.<sup>21</sup>

I will not discuss the motivational theory of desert any further in this thesis, and its ultimate plausibility remains to be seen. While it is natural to think that a person's desert is *somewhat* based on their motives, the suggestion that motives are the *only* basis for desert is a far more

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<sup>20</sup> The motivational theory is compatible with the 'moral virtue' view I defended in Chapter 3—according to which a person's desert is often based on their level of moral virtue—so long as a person's level of moral virtue is in turn based only on the quality of their motives. And this claim—that moral virtue is itself entirely motivational—does seem to me to be plausible.

<sup>21</sup> The motivational theory does not avoid the problem of circumstantial moral luck entirely, since we can imagine cases in which a person *would* possess bad motives if they were placed in particular circumstances, but fortunately never finds themselves in such circumstances. This may be a reason to reject the motivational theory, or a reason to think that some instances of circumstantial luck are acceptable. Even if some instances of circumstantial luck are acceptable, we will still have reason to prefer the motivational theory to the moral-agency view, since the motivational theory, unlike the moral-agency view, does successfully avoid the problem of *resultant* moral luck.

radical one. If my arguments in this chapter have been successful, though, then we at least have reason to prefer this motivational theory to the view that a person's desert can be based on the extent to which they act morally.

## 5. Desert and Time

### 5.1 Introduction

In Chapters 2–4, I discussed the concepts of desert subjects, desert objects, and desert bases. In Chapter 2, I argued that an entity is a desert subject only if it possesses interests, and that well-being is the only desert object. In Chapter 3, I defended three constraints on the kinds of facts that can serve as desert bases, and in Chapter 4, I argued against the view that moral agency is a basis for desert.

In this chapter, I want to discuss two questions concerning the *temporality* of desert objects and desert bases. First, if well-being is indeed a desert object, what is the temporal extension of deserved well-being? If people deserve to be well or badly off, do they, for example, deserve merely to experience good or bad *moments*? Or do they deserve to live good or bad *lives*? Second, if a subject's desert of a present object is based on a particular fact, F, is it possible that F is a fact about the *future*? If a person deserves to be rewarded or punished for some action, for instance, must they have already performed this action, or be performing it in the present? Or might this action be one that the person is going to perform in the future? The answer to this second question, in particular, will have important implications for questions of distributive and retributive justice.

In Section 5.2, I will discuss two extreme views of the temporal extension of deserved well-being. Where the *whole-life view* claims that subjects deserve only particular well-being levels over the course of their entire lifetimes, the *momentary view* holds that subjects deserve only particular well-being levels at particular moments. I will argue that, between these two extreme views, we should favour the momentary view. For the momentary view, unlike the whole-life view, can vindicate a particularly powerful intuition: namely, that if a person enjoys a stricter correlation between their moments of higher virtue and their moments of higher well-being, then their life necessarily goes better from the point of view of desert. I will then argue that this consideration also gives us reason to reject an intermediate view, according to which subjects deserve well-being over the course of a period of some intermediate length, and conjunctive views, according to which subjects deserve well-being levels over periods of multiple different lengths. Only the momentary view always delivers intuitively correct verdicts about the success of a life from the point of view of desert.

In Section 5.3, I will defend a fourth constraint on the kinds of facts that can serve as desert bases: the *Non-Forward-Looking Principle*. This principle states that, if a subject deserves to presently possess an object in virtue of some fact, F, then F must not be a fact about the future. While the Non-Forward-Looking Principle is significantly intuitive, two counterexamples to it have been offered by Fred Feldman. I will argue that we can defuse one of these counterexamples in a similar way to most of his counterexamples to the

Responsibility Principle. We can vindicate the explanatory intuition underwriting this counterexample by specifying the object of the subject's desert more carefully, leaving us free to base the subject's desert on their present level of moral virtue. Against Feldman's other counterexample, I will argue that the intuition motivating this counterexample is most plausibly captured by adopting a temporally extended view of deserved well-being, but that adopting such a view negates the need to base desert of a present object on a fact about the future. Having defended the Non-Forward-Looking Principle, I will then argue that we have reason to consider a stronger, *presentist* view of desert, according to which a subject's desert of a present object can be based only on facts about the present.

In Section 5.4, I will conclude.

## 5.2 The Temporal Extension of Deserved Well-Being

### 5.2.1 Introduction

In this section, I will discuss a number of different accounts of the *temporal extension* of deserved well-being. In Subsection 5.2.2, I will introduce the *whole-life view*, which holds that subjects deserve particular well-being levels over the course of their entire lifetimes, and the *momentary view*, which holds that subjects merely deserve particular well-being levels at particular moments. In Subsection 5.2.3, I will argue that, between these two extreme views, we ought to favour the momentary view. In Subsection 5.2.4, I will consider a possible reply to my argument in the previous section, and argue that this reply is unsuccessful. In Subsection 5.2.5, I will argue that we should also prefer the momentary view to an *intermediate view*, which holds that subjects deserve particular well-being levels over periods of some intermediate length, and to *conjunctive views*, which hold that subjects deserve particular well-being levels over periods of multiple different lengths. In Subsection 5.2.6, I will conclude.

### 5.2.2 The Whole-Life and Momentary Views

In Sections 2.4–2.7, I argued in favour of *Welfarist Desert*, the view that well-being is the only genuine desert object. We saw in Section 2.3, though, that Welfarist Desert is compatible with different accounts of the *temporal extension* of deserved well-being. For most of this section, I want to discuss two extreme accounts of the temporal extension of deserved well-being: the *whole-life view*, and the *momentary view*.

According to the whole-life view, a subject deserves only a particular well-being level *over the course of their lifetime*. On this view, we can talk of the overall *quality of life* a person deserves. Where one person might deserve to have a moderately or extremely good life, another might deserve to have a moderately or extremely bad life. But so long as the person's

*lifetime* well-being level is the one they deserve, it does not matter how their individual moments of higher and lower well-being are distributed within their life.<sup>1</sup> To determine whether someone has got what they deserve, we need only know how well their life has gone as a whole.<sup>2</sup>

According to the momentary view, a subject deserves only a particular level of well-being *at a particular moment*. On this view, a person might have deserved to be moderately badly off a moment ago, deserve to be moderately well off right now, and deserve to be extremely well off in a moment's time. And on this view, of course, it *does* matter how a person's individual moments of higher and lower well-being are distributed within their life: from the point of view of desert, a person cannot be compensated for being worse off than they deserve to be in one moment by being better off than they deserve to be in another. If a person deserves to be moderately well off in every individual moment of their life, it will not do to make them extremely well off in some moments, and moderately badly off in others. To know whether someone has got what they deserve, we cannot merely look to their life as a whole, but must look to each individual moment in that life.

### 5.2.3 Distribution Within Lives

Both the whole-life and momentary view are *prima facie* plausible. But there is, I believe, reason to prefer the momentary view. This reason emerges from consideration of cases like the following:

*A and B:* A spends the first half of their life being both extremely virtuous and extremely well off. They spend the second half of their life being both extremely vicious and extremely badly off.

B spends the first half of their life being extremely virtuous, but extremely *badly* off. They spend the second half of their life being extremely vicious, but extremely *well* off.

Let us suppose that the *only* difference between A's and B's lives is the distribution of moments of higher and lower well-being within them.

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<sup>1</sup> David Velleman draws attention to the distinction between momentary well-being—what he calls 'synchronic' well-being—and temporally extended well-being—what he calls 'diachronic' well-being—in an influential 2000 paper.

<sup>2</sup> The question of the temporal extension of deserved well-being has received limited attention in the literature, but see Kagan 2012, p. 12 for a tentative endorsement of the whole-life view.

Ben Bramble (2014; 2018, pp. 21–32) has argued that 'lifetime' well-being is the only kind of well-being that is 'intrinsically normatively significant'. Bramble writes that 'contributions only to *lifetime* well-being (rather than to any other sort of putative well-being)... can make [a] difference [in its own right] to the value of outcomes and be the ultimate source of reasons' (Bramble 2018, p. 21, original emphasis). In conjunction with the plausible claim that desert is always intrinsically normatively significant, Bramble's view implies that lifetime well-being is the only kind of well-being that is deserved.

Indeed, Bramble ultimately argues that there *are* no other kinds of well-being besides lifetime well-being (Bramble 2018), clearly ruling out non-whole-life views of deserved well-being.

I take the following claim to be strongly intuitive:

(A before B) From the point of view of desert, A's life goes better than B's.<sup>3</sup>

At any particular moment in A's life, after all, their level of well-being is directly proportional to their level of moral virtue.<sup>4</sup> At any given moment, A is either both extremely virtuous and extremely well off, or both extremely vicious and extremely badly off. I find it natural to say that, from the point of view of desert, A's life thus goes *as well as it could have done*, given A's level of virtue across time.

Some readers might object that, even from the standpoint of desert, A's life would have gone better if they had been well off throughout. A, these readers may say, does not deserve to be badly off even in the vicious moments of their life, and so there is no desert-based value in A's being badly off in those moments. But even if this is right, there surely is desert-based value in A's being well off in the virtuous moments of their life. For A surely does deserve to be well off in those moments. So it does seem that A's life goes at least quite well from the point of view of desert.

At any particular moment in B's life, in contrast, their level of well-being is *inversely* proportional to their level of moral virtue. At any given moment, B is either extremely virtuous but extremely badly off, or extremely vicious but extremely well off. I find it natural to say that, from the point of view of desert, B's life thus goes extremely badly.

Some readers might say that, even from the standpoint of desert, B's life goes better than it would have done if B had been badly off throughout. B, these readers may say, deserves to be well off even in the vicious moments of their life, and so there is no desert-based disvalue in B's being well off in those moments. But even if this is right, there surely is desert-based disvalue in B's being badly off in the virtuous moments of their life. For B surely does not deserve to be badly off in those moments. So it does seem that B's life goes at least quite badly from the point of view of desert.

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<sup>3</sup> In this section, I will often talk of a subject's 'life' going better or worse from the point of view of desert. This should not be confused with discussion of the kind of whole-life desert posited by the whole-life view. To say that a subject's life goes well or badly from the point of view of desert will just be to say that their life derives intrinsic value or disvalue from considerations of desert. And this value or disvalue might be grounded, for example, on the correlation between the subject's *momentary* desert and well-being levels. Even if the momentary view of deserved well-being is correct, such that there *is* no whole-life desert, we can still speak of a subject's life going well from the point of view of desert when they are as well off as they deserve to be at every particular moment. Likewise, we can still speak of a subject's life going badly from the point of view of desert when they are close to being as well off as they deserve to be at *no* particular moment.

<sup>4</sup> I will assume in this section that desert of well-being is based on one's level of moral virtue. The claim that moral virtue is a basis for desert is endorsed by philosophers such as Shelly Kagan (2012, p. 6) and Owen McLeod (1996, p. 219), and I defended this claim in Subsection 3.5.4. Even if one denies that moral virtue is a basis for deserving other kinds of objects, it does seem intuitive that virtue is a basis for deserving *well-being*. It is natural to think that virtuous individuals deserve to be well off, while vicious individuals deserve to be at least somewhat less well off.

It does seem to me, therefore, that from the point of view of desert, at least, A's life goes better than B's. Unfortunately, though, the whole-life view of deserved well-being appears unable to vindicate this intuition. Recall that the only difference between A and B is the distribution of well-being within their lives. A's and B's virtue across time is identical, and they do not differ in any other desert-affecting respect. The whole-life view will thus tell us that A and B deserve the same lifetime well-being level. On the whole-life view, A's and B's deserved lifetime well-being levels are identical.

It seems natural to say, though, that A's and B's *actual* lifetime well-being levels are also identical. For by our initial stipulation, A and B differ only with respect to the distribution of moments of higher and lower well-being within their lives; they do not differ with respect to the *aggregate totals* of those moments. It thus seems reasonable to suppose that A's and B's 'lifetime' well-being levels are also identical.

But if A's and B's deserved lifetime well-being levels are identical, and their actual lifetime well-being levels are also identical, then it follows that A's and B's actual lifetime well-being levels are *equally close* to their deserved lifetime well-being levels. It follows, that is to say, that from the point of view of desert, A's and B's lives go *equally well*. The whole-life view seems to tell us, counterintuitively, that from the standpoint of desert, A's life does not go any better than B's after all.

The momentary view, in contrast, is well placed to vindicate the intuition that A's life goes better than B's from the standpoint of desert. For on this view, A and B do not have deserved lifetime well-being levels at all, but merely have a number of deserved *momentary* well-being levels. Since A's actual momentary well-being level is always directly proportional to their momentary virtue level, moreover, it will be plausible to say that, at any particular moment, A gets what they deserve. And since B's actual momentary well-being level is always *inversely* proportional to their momentary virtue level, it will be plausible to say that, at any particular moment, B does *not* get what they deserve. Where A's is a life in which they are always as well off as they deserve to be, B's is a life in which they are *never* as well off as they deserve to be. On the momentary view, it is thus natural to say that, from the point of view of desert, A's life goes better than B's.

This is a case in which the disagreement between the whole-life and momentary views seems extremely stark. Notice that the total amount of time B spends being extremely well off (i.e. half of their life) is identical to the total amount of time they spend being extremely virtuous. And note that the total amount of time B spends being extremely badly off (i.e. half of their life) is identical to the total amount of time they spend being extremely vicious. So, taken as a whole, B's life seems to be about as prosperous as it is virtuous. And this suggests that, on



the whole-life view, B's life goes *very well* from the standpoint of desert.<sup>5</sup> But we have seen that, on the momentary view, B's life goes *very badly* from the point of view of desert.

As such, this is the kind of case that should most clearly bring out the intuitions supporting the whole-life or momentary view. And it does seem to me far more intuitive to say that B's life goes extremely badly, from the point of view of desert, than to say it goes as well as it could have done. But so long as we agree that B's life goes at least somewhat less well, from the standpoint of desert, than A's does, we have reason to favour the momentary view over the whole-life view.

In effect, then, we have the following argument against the whole-life view:

- (P1) From the point of view of desert, A's life goes better than B's.
- (P2) If the whole-life view is true, then, from the point of view of desert, A's life does not go better than B's.

Therefore,

- (C) The whole-life view is false.

The problem underlying this argument is as follows. Once we know the virtue levels across time of two persons like A and B, the whole-life view entails that, to know how well these persons' lives have gone from the point of view of desert, we need only know the distribution of well-being *across* their lives. We need only know, that is, how well each of these two persons' lives has gone for them as a whole. Crucially, then, we need not know the distribution of well-being *within* these persons' lives. We need not know whether these persons were well off in their virtuous moments, and badly off in their vicious ones, or badly off in their virtuous moments, and well off in their vicious ones. Intuitively, though, we *do* need to know the distribution of well-being within these persons' lives to know how well their lives have gone from the point of view of desert. Between the whole-life and momentary views, only the momentary view is able to vindicate this thought.

#### 5.2.4 Shape-of-a-Life Hypotheses

In this subsection, I want to consider a possible reply to the argument I have presented against the whole-life view. I will argue that this reply, which centres on the second premise of my argument, is unsuccessful.

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<sup>5</sup> At least assuming that there is a close correlation between a person's virtue and desert levels, such that a person deserves to be about as well off as they are virtuous. This is a substantive assumption, but it does seem to me to be a plausible one. In any case, if B's life is as prosperous as it is virtuous, then this life certainly seems to go at least *somewhat* well from the standpoint of whole-life desert (if, indeed, there is any such sense of desert). See Kagan 2012, pp. 251–276 for a discussion of different accounts of the correlation between virtue and desert—accounts, that is, of what Kagan calls the 'mapping function' (Kagan 2012, p. 251).

The second premise of my argument against the whole-life view was as follows:

- (P2) If the whole-life view is true, then, from the point of view of desert, A's life does not go better than B's.

There is a way for the proponent of the whole-life view to challenge this premise, and vindicate the intuition that A's life goes better than B's from the point of view of desert. I previously suggested that, since A and B experience identical total amounts of 'momentary' well-being over the course of their lives, it is reasonable to suppose that A's and B's 'lifetime' well-being levels are identical as well. It is reasonable to suppose, that is, that the quality of A's life as a whole is identical to the quality of B's life as a whole.

This supposition can, however, be challenged. Some philosophers have argued that, when evaluating the quality of a person's life, we must not only consider the total amount of momentary well-being the person experiences in that life, but must also consider the 'shape' of the person's momentary well-being levels. According to these philosophers' *shape-of-a-life hypothesis*, a person's life goes better for them, other things being equal, when their moments of lower well-being occur *before* their moments of higher well-being. An upward well-being trajectory is intrinsically better for a person than a downward one.<sup>6</sup>

If this shape-of-a-life hypothesis is correct, then A's and B's lifetime well-being levels are not identical after all. A spends the first half of their life well off, but the second half badly off: their well-being trajectory runs downwards. B, in contrast, spends the first half of their life badly off, but the second half well off: their well-being trajectory runs *upwards*. If an upward well-being trajectory is better than a downward one, then given that A and B experience equal aggregate totals of momentary well-being, it follows that B's life in fact goes better for B than A's life goes for A.

Now, even if B's life does go better for B than A's goes for A, we do not yet have reason to conclude that A's life goes better than B's from the point of view of desert. For this will follow only if the life A and B deserve is closer to the lower-quality life A experiences than the higher-quality life B experiences. And we have not yet seen any reason to think that this is the case.

Nevertheless, there is, I believe, something that can be said in support of the claim that A and B deserve this lower quality of life. If one endorses the shape-of-a-life hypothesis with respect to lifetime *well-being*, one might be sympathetic to a similar hypothesis about lifetime *virtue*. When evaluating how virtuous a life a person has lived, one might say, we must not only

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<sup>6</sup> Dale Dorsey (2015, p. 304) introduces the term 'shape-of-a-life hypothesis', but uses it in a broader sense, applying it, in addition, to views on which an upward well-being trajectory has only instrumental or 'signatory' value (that is, value as a sign of intrinsic value). See Kamm 2003, pp. 222–223, Temkin 2012, pp. 111–112 and Glasgow 2013 for endorsements of the claim that an upward well-being trajectory is intrinsically better than a downward one—what Dorsey calls the 'Intrinsic View' (Dorsey 2015, p. 314). See Feldman 2004, pp. 131–134 for the view that an upward well-being trajectory may have instrumental value, and seemingly Velleman 2000, p. 63 for the view that an upward well-being trajectory has signatory value.

consider the total amounts of momentary virtue and vice the person experiences in that life, but must also consider the ‘shape’ of the person’s momentary virtue levels. According to the *shape-of-a-virtuous-life hypothesis*, as we might call it, a person’s life is more virtuous (other things being equal) when their moments of vice occur before their moments of virtue. Just as an upward well-being trajectory is intrinsically better than a downward one, an upward *virtue* trajectory is intrinsically better than a downward one.<sup>7</sup>

The shape-of-a-virtuous-life hypothesis does seem to me to be somewhat plausible. It does seem plausible that a person who manages to ‘overcome’ their early-life vice and become a better person ultimately lives a more virtuous life than someone who squanders their early-life virtue and descends into vice.<sup>8</sup> And if the shape-of-a-virtuous-life hypothesis is correct, then we have reason to think that A and B do in fact deserve the lower quality of life A allegedly experiences after all. For both A and B spend the first half of their lives morally virtuous, but the second half morally vicious; both A and B live lives of *downward* virtue trajectories. So if there is intrinsic disvalue to having a downward virtue trajectory, then it is plausible that A and B deserve lives closer to the lower-quality one A apparently experiences than the higher-quality one B experiences.

If this is right, then it follows that, even on the whole-life view, A’s life goes better than B’s from the point of view of desert after all. By endorsing shape-of-a-life hypotheses with respect to both lifetime well-being and lifetime virtue, the proponent of the whole-life view can plausibly accept that A’s life goes better than B’s from the standpoint of desert, and reject P2 of my argument.

While this strategy allows the whole-life proponent to give the correct reading of *A and B*, it nevertheless strikes me as being intuitively unsatisfactory. Having endorsed both shape-of-a-life hypotheses, the whole-life proponent accepts the claim that A’s life goes better than B’s from the point of view of desert. But their explanation of *why* this claim is true is not the intuitively correct one. When I am presented with the case of *A and B*, my intuition is not merely that A’s life goes better than B’s from the standpoint of desert, but, moreover, that this is because of the *stricter correlation* between A’s moments of greater virtue and their moments of higher well-being. The greater value of A’s life, from the point of view of desert, is ultimately explained by the fact that A, unlike B, is well off in their moments of virtue, and badly off in their moments of vice.

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<sup>7</sup> Though note that the shape-of-a-virtuous-life hypothesis is distinct from the claim that an upward virtue trajectory makes a person’s life go better *for them* (other things being equal). The shape-of-a-virtuous-life hypothesis is a claim about the *virtuousness* of a person’s life, not about the *quality* of their life.

<sup>8</sup> There are a number of ways in which one might motivate this claim. One might say that a person who is initially vicious must exert additional effort to become virtuous, and so is worthy of additional praise, whereas a person who is initially virtuous has less excuse for becoming vicious, and so is worthy of additional blame. Or one might say that a person’s ‘true self’ is the version of themselves they end their life as, such that beginning one’s life vicious and ending it virtuous reflects better on one’s true self than beginning one’s life virtuous and ending it vicious.

Now, according to our imagined whole-life view, the greater desert-based value of A's life does have something to do with the stricter correlation between A's moments of virtue and moments of well-being. Because the 'shape' of A's momentary virtue levels matches the shape of their momentary well-being levels, the lower lifetime virtue level generated by A's downward virtue trajectory corresponds more closely to the lower lifetime well-being level generated by A's downward well-being trajectory. The shape of B's momentary virtue levels does *not* match the shape of their momentary well-being levels, so the lower lifetime virtue level generated by B's downward virtue trajectory corresponds less closely to the higher lifetime well-being level generated by B's *upward* well-being trajectory.

Notice, however, that on this view, the stricter correlation between A's moments of higher virtue and their moments of higher well-being is only *indirectly* relevant to their life going better from the point of view of desert. A's life goes better than B's not because of this stricter correlation per se, but because of the closer correspondence between their *lifetime* virtue and well-being levels. Admittedly, this closer correspondence is in turn somewhat explained by the stricter correlation between A's momentary virtue and well-being levels. But this is the only sense in which this stricter momentary correlation is relevant: the correlation between A's moments of virtue and their moments of well-being is relevant to how well their life went, from the standpoint of desert, only insofar as it helps to explain why A's lifetime virtue level is close to their lifetime well-being level. It is this closeness, not the momentary correlation itself, that ultimately explains why A's life goes better than B's from the point of view of desert.

This seems to me to be the wrong explanation of the greater value of A's life from the standpoint of desert. The stricter correlation between A's moments of higher virtue and their moments of higher well-being is not merely indirectly relevant to the greater value of their life from the point of view of desert; it is the most fundamental explanation of this greater value that can be offered. So while endorsing the two shape-of-a-life hypotheses allows the whole-life proponent to vindicate the thought that A's life goes better than B's from the standpoint of desert, it does not allow them to offer the correct explanation of *why* this is the case.

This problem is brought out by cases in which a closer correspondence between lifetime virtue and lifetime well-being does *not* coincide with a stricter correlation between momentary virtue and momentary well-being. To illustrate one such case, suppose that A and B both live for precisely ten moments. And where 'Virt.' and 'Vic.' indicate whether a person is virtuous or vicious, and 'High' and 'Low' indicate high and low well-being levels, suppose that A's and B's momentary virtue and well-being across time is as follows:

Table 5.1

Moment:	1	2	3	4	5	6	7	8	9	10
A's virtue:	Virt.	Vic.	Virt.	Vic.	Virt.	Vic.	Virt.	Vic.	Virt.	Vic.
A's well-being:	Low	High	Low	High	Low	High	Low	High	Low	High
B's virtue:	Virt.	Vic.	Virt.	Vic.	Virt.	Vic.	Virt.	Vic.	Virt.	Vic.
B's well-being:	High	High	High	High	High	High	High	High	High	High

In this case, A's lifetime well-being level seems to correspond more closely to their lifetime virtue level than B's lifetime well-being level does to their lifetime virtue level. Both A and B are virtuous for exactly half of their lives (i.e. five moments), and vicious for the other half. And A likewise enjoys a high well-being level for exactly half of their life, and a low well-being level for the other half. Now, the halves in which A is virtuous and well off do not coincide with each other, as they did in our initial case. But the aggregation of A's momentary well-being does still closely correspond to the aggregation of A's momentary virtue. So A's lifetime virtue and well-being levels do appear to closely correspond to each other as well.

B, in contrast, enjoys a high well-being level for the *entirety* of their life. The aggregation of B's momentary well-being is thus significantly higher than the aggregation of B's momentary virtue. And so B's lifetime virtue and well-being levels do *not* seem to correspond to each other that closely.

Nevertheless, in this case, it is B who enjoys a stricter correlation between their moments of higher virtue and their moments of higher well-being. In five of B's ten moments, their high well-being level is matched by a high virtue level. Admittedly, in the other five moments of B's life, their high well-being level coincides with a low virtue level. But B's momentary level of well-being is at least directly proportional to their momentary level of virtue for half of their life.

A's momentary level of well-being, on the other hand, is *never* directly proportional to their momentary level of virtue. In five of A's ten moments, A has a high virtue level, but suffers a low well-being level. And in the other five moments of their life, A has a low virtue level, but enjoys a high well-being level. Where B's well-being level is directly proportional to their virtue level for half of their life, A's well-being and virtue levels are always inversely proportional to each other.

Here, then, we have a case in which a closer correspondence between *lifetime* virtue and well-being does not coincide with a stricter correlation between *momentary* virtue and well-being. A enjoys a closer correspondence between their lifetime virtue and well-being levels,

but it is B who enjoys a stricter correlation between their momentary virtue and well-being levels.

In this case, therefore, the whole-life view delivers a verdict that contradicts the view that goodness from the standpoint of desert is explained by the correlation between momentary virtue and well-being. Since A enjoys a closer correspondence between their lifetime virtue and well-being levels, the whole-life view implies that their life goes better from the point of view of desert. If goodness from the standpoint of desert is explained by the correlation between momentary virtue and well-being, in contrast, then it is B's life that goes better from the point of view of desert. For it is B who enjoys the stricter correlation between their moments of higher virtue and their moments of higher well-being. And this second verdict does seem to me to be the right one. It seems to me that, in virtue of the stricter correlation between their momentary virtue and well-being, B's life goes better than A's from the standpoint of desert. Admittedly, my intuition about this is somewhat weaker than it is in our initial case, and I certainly do not want to suggest that the opposing verdict is indefensible. But I do find it natural to think that, since B's momentary virtue is sometimes rewarded with high momentary well-being, while A's momentary virtue is always punished with low momentary well-being, it is B's life that goes better from the point of view of desert. If this is right, then this is a case in which the whole-life view does seem to deliver the wrong result.

So while endorsing the two shape-of-a-life hypotheses allows the whole-life view to deliver the intuitively correct verdict in our initial case, it does not allow it to do so in every case. It just so happens that, in our initial case, a closer correspondence between lifetime virtue and well-being does plausibly coincide with a stricter correlation between momentary virtue and well-being. But even in this case, the whole-life view identifies the correspondence between lifetime virtue and well-being as being what fundamentally explains why A's life goes better than B's from the point of view of desert. And so, when this correspondence comes apart from the correlation between momentary virtue and well-being, the whole-life view fails to deliver the intuitively correct verdict.

### *5.2.5 Intermediate and Conjunctive Views*

So far in this section, we have seen that we have reason to prefer the momentary view, according to which a subject deserves only a particular well-being level at a particular moment, to the whole-life view, according to which a subject deserves only a particular well-being level over the course of their lifetime. Where the momentary view delivers intuitively correct verdicts in cases like those of A and B, the whole-life view fails to do so in at least some of these cases.

Of course, the distinction between the momentary and whole-life views is not exhaustive. We saw in Section 2.3 that an intermediate view, lying between the extremes of the momentary and whole-life approaches, might be true. On the intermediate view, a subject deserves only

a particular well-being level over some period of time longer than a single moment, but shorter than an entire lifetime.

I do not find this intermediate proposal an attractive one, since it is difficult to see what could make any particular intermediate length of time the one over which desert happens to be evaluated. Even leaving this arbitrariness worry aside, though, the reason I offered for doubting the whole-life view extends to this intermediate view. For any intermediate length of time, we can imagine a case in which a close correspondence between virtue and well-being over the course of this intermediate period does not coincide with a strict correlation between momentary virtue and well-being. And the intermediate view tells us that, where this intermediate period is the appropriate length, it nevertheless goes well from the point of view of desert. But this verdict remains counterintuitive. Where there is a negative correlation between momentary virtue and well-being, it remains natural to say that the intermediate period of the subject's life goes *badly* from the standpoint of desert.

The intermediate view is not the only alternative to the momentary and whole-life views. We could instead endorse a 'conjunctive' view, according to which a subject deserves, for example, both momentary *and* lifetime well-being levels. A subject deserves to be well off right now, and will deserve to be badly off in a moment's time, but also deserves to be well off over the course of their lifetime. On a complex kind of conjunctive view, it could even be that there is a desert level for *every* period of a subject's life. A subject deserves to be extremely well off right now, and will deserve to be moderately badly off in a moment's time. But they also deserve to be moderately well off over the course of these two moments, as well as deserving to be minimally well off over the course of their lifetime.

So long as a conjunctive view accepts that single moments are among the periods of time over which desert is evaluated, it will be able to say that, in at least *one* sense, a subject's life necessarily goes better from the point of view of desert when there is a stricter correlation between momentary virtue and well-being. To this extent, then, a conjunctive view like this will be preferable to both the whole-life and intermediate view.

Even a conjunctive view like this, however, seems unable to say that a subject's life necessarily goes better from the standpoint of desert *all things considered* when there is this stricter momentary correlation. If A enjoys only a slightly stricter correlation between their momentary virtue and well-being than B does, but B enjoys a far closer correspondence between their virtue and well-being over the course of their lifetime (for example), then the conjunctive view will seem forced to say that B's life ultimately goes better than A's from the point of view of desert. Admittedly, the conjunctive view implies, correctly, that A's life at least goes better than B's in a momentary sense of desert. But because the conjunctive view does not take the momentary sense of desert to be the *only* sense of desert, this does not imply that A's life goes better than B's from the standpoint of desert as a whole. And because B's life goes far better than A's in another apparent sense of desert, the conjunctive view seems to imply that it is B's life that, from the point of view of desert as a whole, goes better.

So if we still want to say that A's life goes better than B's from this point of view, we have reason to reject this conjunctive view as well.

Conjunctive views, it should be noted, can limit the number of cases in which they deliver counterintuitive verdicts by giving more weight to the momentary sense of desert than to other apparent senses of desert. When it comes to evaluating the success of a life from the point of view of desert as a whole, one might say, the correspondence between lifetime virtue and well-being matters, but does not carry as much weight as the correlation between momentary virtue and well-being. If this is right, then even in the case of A and B just outlined, the conjunctive view may imply that A's life goes better from the standpoint of desert as a whole after all. B's life goes far better in the whole-life sense of desert, but this sense of desert carries comparatively little weight, and is outweighed by the momentary sense of desert that favours A. As such, A's life still goes better than B's from the point of view of desert as a whole.

So long as other apparent senses of desert are given *some* weight, though, we will be able to imagine cases in which these other senses of desert tip the balance of desert as a whole towards the wrong subject. If A's life goes only marginally better than B's from the standpoint of momentary desert, then, so long as whole-life desert carries some weight, B's life may yet go sufficiently better from this whole-life standpoint to outweigh A's slight momentary advantage. So if a stricter correlation between momentary virtue and well-being *necessarily* makes a life go better from the point of view of desert as a whole, then it seems that we must reject conjunctive views, and refrain from giving any weight at all to an apparently non-momentary sense of desert.

As well as having reason to prefer the momentary view to the whole-life view, therefore, we seem to have reason to prefer it to both the intermediate view and any kind of conjunctive view.

### 5.2.6 Conclusion

There are a number of different ways of specifying the temporality of deserved well-being. On the two most extreme views, we could say that a subject deserves a well-being level over the course of their lifetime, or that they deserve a well-being level at a particular moment. Alternatively, we could say that a subject deserves a well-being level over the course of some intermediate length of time, or that they deserve a well-being level over the course of multiple different lengths of time.

If my arguments in this section have been successful, then we ought to favour the momentary view of deserved well-being. For only this view can vindicate the thought that a stricter correlation between momentary virtue and momentary well-being necessarily makes a life go better from the point of view of desert. Some readers may not find this thought as compelling as I myself do, and may thus find the case for the momentary view less persuasive



than I have suggested it to be. But we have seen in this section that, to the extent that we do find this thought compelling, we ought to favour the view that a subject deserves a particular level of well-being at a particular moment.

### 5.3 The Non-Forward-Looking Principle

#### 5.3.1 Introduction

In this section, I will discuss a possible temporal constraint on the kinds of facts that can serve as the basis of a subject's desert. According to the *Non-Forward-Looking Principle*, the basis of a subject's desert of a present object cannot be a fact about the *future*. In Subsection 5.3.2, I will introduce this principle more fully, and offer some initial motivation for accepting it. In Subsection 5.3.3, I will outline Fred Feldman's two kinds of putative counterexample to this principle. In Subsections 5.3.4 and 5.3.5, I will argue that these counterexamples are unsuccessful. In Subsection 5.3.6, I will argue that we have reason to consider a kind of *presentist* view of desert, according to which desert of a present object can be based only on facts about the present. In Subsection 5.3.7, I will conclude.

#### 5.3.2 Desert and the Future

In Chapter 3, I defended three principles to which desert bases are commonly taken to be subject. If a subject, *S*, deserves an object, *O*, in virtue of some fact, *F*, the *Aboutness Principle* states that *F* must be a fact about *S*. The *Appraising-Attitude Principle* holds that *F* must be an appropriate basis for holding an appraising attitude towards *S*, while the *Responsibility Principle* claims that *F* must be a fact for which *S* is responsible.

In Section 3.8, I mentioned another widely-endorsed desert-base principle. This fourth principle concerns the *temporality* of desert bases:

(Non-Forward-Looking Principle) If *S* deserves to presently possess *O* in virtue of *F*, then *F* is a fact about the past or present.

Unsurprisingly, the Non-Forward-Looking Principle tells us that desert is, in an important sense, a non-forward-looking concept: a subject's desert of a present object cannot be based on a fact about the future.

Like the first three desert-base principles, the Non-Forward-Looking Principle seems intuitive. We would likely find it odd to say that a contestant deserves to win a prize right now in virtue of the fact that they are *going* to win a competition; more likely, we will say that the contestant must have already won the competition in order to deserve the prize.

It is a natural thought, moreover, that someone cannot deserve to be punished in virtue of crimes that they will commit in the future. If a person deserves punishment in virtue of any crime at all, it must be a crime they have already committed. For some, this intuition is extremely powerful. As Fred Feldman points out, the refusal to punish people for crimes they have not yet committed can be 'almost fanatical'. Even when it is 'known for certain' that someone is going to commit a crime, it is insisted that they do not deserve to be punished until they have actually committed it.

Feldman notes that the Non-Forward-Looking Principle, like the Responsibility Principle, is part of the 'received wisdom' about desert. Joel Feinberg suggests that desert bases are always 'some characteristic or *prior* activity' (Feinberg 1970, p. 58, emphasis added), while John Kleinig states that 'desert is never simply forward-looking' (Kleinig 1971, p. 73). James Rachels claims that 'the basis of all desert is a person's past actions' (Rachels 1978, p. 154), and Wojciech Sadurski writes that 'desert considerations are always past oriented. When talking about desert, we are evaluating certain actions which have already happened' (Sadurski 1985, p. 117).

The Non-Forward-Looking Principle has important implications for questions of distributive and retributive justice. In some cases, we might wonder whether it would be just to reward or punish someone now for something that we are almost certain they are going to do, but that they have not yet done. The truth or falsity of the Non-Forward-Looking Principle will go a long way towards answering this question.

### 5.3.3 Feldman's Counterexamples

As with the Responsibility Principle, Feldman argues that the widespread support for the Non-Forward-Looking Principle in the literature is misplaced. It is natural to say, Feldman suggests, that someone who has suffered greatly in the past deserves additional benefits now. In virtue of having suffered so much bad luck, someone now deserves some good fortune. Plausibly, this reasoning is underwritten by the concept of *fairness*: if someone has suffered in the past, fairness requires that things be 'balanced out' by that person receiving extra benefit now (Feldman 1995b, p. 69).

If the demands of fairness are what make suffering a basis for desert of additional benefits, then why, Feldman asks, should it matter *when* this suffering occurs? Uncompensated future suffering is just as unfair as uncompensated past suffering. If someone deserves good fortune in virtue of *having* suffered so much bad luck, then they may also deserve good fortune in virtue of the fact that they *will* suffer so much bad luck. If past suffering is a basis for present desert, so is future suffering. The Non-Forward-Looking Principle is thus wrong to say that desert of a present object is never based on a fact about the future (Feldman 1995b, pp. 69–70).

Feldman cites organisations such as the Make-A-Wish Foundation, which provide generous benefits to children with life-threatening illnesses, as examples of this kind of desert base being acted upon. In virtue of the terrible harms the children are going to suffer in the future, they deserve special benefits now (Feldman 1995b, p. 70).

Feldman also offers another kind of counterexample to the Non-Forward-Looking Principle. Consider a soldier who has nobly volunteered to perform a suicidal mission. In virtue of the fact that the soldier is going to perform the mission in the future, they deserve to be honoured now. Here, again, the desert basis is in the future. The Non-Forward-Looking Principle is thus mistaken to insist that bases for present desert are always in the past or present (Feldman 1995b, p. 70).<sup>9</sup>

#### 5.3.4 Against Feldman's Soldier Counterexample

I believe that Feldman's soldier counterexample to the Non-Forward-Looking Principle can be defused in a similar way to most of his counterexamples to the Responsibility Principle. In Section 3.5, I argued that Feldman's counterexamples to the Responsibility Principle are largely underwritten by intuitions about the *explanation* of a subject's desert. I then argued that we can vindicate these explanatory intuitions by specifying the object of the subject's desert more carefully. In particular, we can vindicate these intuitions by building the fact Feldman identifies as the basis of the subject's desert into the object of that desert. Rather than saying that a figure skater deserves an apology in virtue of the fact that they were attacked, we can say that they deserve an apology *for* the fact that they were attacked. We can then base the subject's desert on a fact for which they are responsible, such as their level of moral virtue.

Let us see how this strategy works for Feldman's soldier counterexample to the Non-Forward-Looking Principle. Feldman, we have seen, endorses this desert claim:

(Mission) In virtue of the fact that the soldier is going to perform a suicidal mission, they deserve to be honoured.

Why think that Mission is true? The intuition supporting Mission does not seem to me to be independently robust. I believe that Mission, like most of Feldman's counterexamples to the Responsibility Principle, is motivated by an intuition concerning the explanation of the soldier's desert of honours. This intuition is as follows:

(Explanation 2) The soldier's desert of honours is explained by the fact that they are going to perform a suicidal mission.

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<sup>9</sup> Feldman considers the reply that the soldier's present *intention* to perform the mission is the basis of their desert, and dismisses it as a 'desperate manoeuvre' (Feldman 1995b, p. 71). For the sake of argument, I will simply assume here that he is correct to do so.

The thoughts underlying Explanation 2 are something like the following. The soldier is going to perform a suicidal mission, and deserves to be honoured. But if the soldier were not going to perform a suicidal mission, then, other things being equal, they would *not* deserve to be honoured. In this sense, the soldier's future performance of a suicidal mission explains why it is that they do in fact deserve to be honoured.

Similarly, while this soldier is going to perform a suicidal mission, and deserves to be honoured, another soldier is not going to perform such a mission, and does not deserve to be honoured. The relevant difference between the two soldiers, the difference that explains why the first soldier deserves to be honoured, while the second does not, is the fact that the first soldier is going to perform a suicidal mission, while the second is not.

Explanation 2 seems plausible. If the soldier deserves to be honoured, then this desert does seem to be explained by the fact that they are going to perform a suicidal mission. And Explanation 2, I believe, exhausts the intuitive appeal of Mission. To the extent that we are inclined to accept Mission, this is because we accept Explanation 2, and see Mission as a natural way of vindicating this explanatory claim. According to Mission, the soldier's future performance of the mission explains their desert of honours in the sense that it is the basis of that desert. We accept Mission not because we have an independently robust intuition that the soldier's desert of honours is *based on* the fact that they are going to perform a suicidal mission, but because we do have the robust intuition that the soldier's desert is *explained by* the fact that they are going to perform a suicidal mission.

As such, any alternative to Mission that also vindicates Explanation 2 will, if independently plausible, be as intuitively satisfactory. And one such alternative is available to us. To capture the thought that the soldier's future performance of a suicidal mission explains their desert of honours, we can build the mission into the object of the soldier's desert. The soldier does not deserve to be honoured *simpliciter*, but deserves to be honoured *for their future performance of a suicidal mission*.

By specifying the object of the soldier's desert in this way, we capture the thought that the soldier's future performance of a suicidal mission explains their desert of honours. For if the soldier were *not* going to perform a suicidal mission, then they could not intelligibly deserve to be honoured for their future performance of such a mission. There can be no honours for a person's future performance of a suicidal mission if that person is not in fact going to perform a suicidal mission.<sup>10</sup> So other things being equal, if the soldier were not going to perform a suicidal mission, then they would not deserve honours of any kind. But since the soldier is in fact going to perform a suicidal mission, they *can* intelligibly deserve to be

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<sup>10</sup> They could, of course, be honoured for a suicidal mission that it is falsely *believed* they are going to perform. But Feldman's soldier, we may suppose, deserves to be honoured for their *actual* future performance of such a mission.

honoured for this. In this sense, the soldier's future performance of a suicidal mission explains their desert of honours.

Similarly, the second soldier, who is not going to perform a suicidal mission, cannot intelligibly deserve to be honoured for their future performance of a suicidal mission. So other things being equal, this second soldier does not deserve honours of any kind. Since the first soldier is going to perform a suicidal mission, they can intelligibly deserve to be honoured for this. The difference between what these two soldiers deserve is thus somewhat explained by the fact that the first soldier is going to perform a suicidal mission, while the second is not.<sup>11</sup>

So by saying that the soldier specifically deserves to be honoured *for their future performance of a suicidal mission*, we capture the idea that their desert of honours is *explained by* the fact that they are going to perform such a mission. We are then free to base the soldier's desert on a fact that is *not* about the future. Following my suggestion in Section 3.5, we could say that the soldier's desert is based on their *present level of moral virtue*. If this is right, then we are left with the following desert claim:

(Virtue 2) In virtue of the fact that the soldier is presently sufficiently morally virtuous, they deserve to be honoured for their future performance of a suicidal mission.

I have argued that an alternative desert claim to Mission will be as intuitively satisfactory as Mission if it (i) vindicates Explanation 2 and (ii) is independently plausible. We have just seen that Virtue 2 satisfies condition (i) of this test. By saying that the soldier deserves to be honoured for their future performance of a suicidal mission, we capture the thought that this fact explains their desert of honours.

In Section 3.5, moreover, I argued that claims like Virtue 2 are indeed independently plausible. Just as it is plausible to base a figure skater's desert of an apology on their level of moral virtue, it is plausible to base a soldier's desert of honours on the fact that they too are sufficiently morally virtuous. For while it is reasonable to think that any ordinarily virtuous soldier deserves to be honoured for suicidal missions they are going to perform, moral monsters do *not* plausibly deserve such honours. If there is any reason to honour moral monsters, this is a reason of beneficence, not desert.

Virtue 2 thus satisfies condition (ii) of our test as well. Virtue 2 both vindicates the thought that the soldier's desert of honours is explained by the future performance of a suicidal mission, and is independently plausible. So if what I have argued here is correct, then Virtue 2 is at least as intuitively satisfactory a desert claim as Mission. And Virtue 2, unlike Mission, respects the intuitive force of the Non-Forward-Looking Principle. The soldier's present level

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<sup>11</sup> This difference in desert is also explained by the fact that the second soldier at no time does anything else for which they presently deserve to be honoured. But since Explanation 2 does not imply that the difference in desert is *exclusively* explained by the fact that only one of the soldiers is going to perform a suicidal mission, this is consistent with Explanation 2.

of moral virtue, unlike their future performance of a suicidal mission, is not a fact about the future. Ultimately, therefore, we have reason to prefer Virtue 2 to Mission.

Feldman's soldier counterexample to the Non-Forward-Looking Principle is thus unconvincing. We can vindicate the thought underwriting this counterexample without being forced to violate this principle. The resulting alternative proposal is independently plausible, and respects the intuitive force of the Non-Forward-Looking Principle. And so it is this alternative proposal that we should favour.

### 5.3.5 Against Feldman's Future-Suffering Counterexample

Feldman's other counterexample to the Non-Forward-Looking Principle can be defused in another way. In virtue of the fact that a person is going to suffer in the future, Feldman says, they deserve additional benefits now. Call this desert claim *Future Suffering*.

Why think that Future Suffering is true? Feldman's endorsement of Future Suffering seems motivated by an intuition concerning the *negation of unfairness*. If uncompensated, a person's future suffering would generate unfairness. This unfairness, however, is negated by additional benefits in the present: if the person receives these additional benefits, then there is *no unfairness left over*. If the person receives these benefits, then their situation is perfectly fair after all.

On reflection, though, Future Suffering does not vindicate this idea. Suppose that a person is going to suffer at some future moment, but receives additional benefits, as compensation for that future suffering, in the present. How fair is this person's situation?

The answer, on Feldman's proposal, seems to be: *not entirely*. To be sure, this person's present desert claim is satisfied: the person deserves additional benefits in the present, and receives those benefits. So far, then, their situation is fair. But on Feldman's proposal, it seems that a future desert claim of this person will go *unsatisfied*. For presumably, the person will not deserve the suffering they are going to experience in the future.<sup>12</sup> So when that future moment arrives, the person will deserve to be better off than they are. And if this is right, then the person's situation remains somewhat *unfair*.

On Feldman's proposal, then, there *is* some unfairness left over. On his view, compensating a person for future suffering satisfies one desert claim, but does not prevent a future desert claim from going unsatisfied. And so as far as his view goes, the unfairness of this person's future suffering is not truly *negated*. Even if the present desert claim generated by this future suffering is satisfied, this future suffering remains somewhat unfair.

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<sup>12</sup> After all, the person's present benefits are deserved, and it seems odd to say that a person deserves to suffer at one moment in virtue of the fact that they have deservedly prospered at a previous moment.

Fortunately, there is a proposal available to us that *does* vindicate the idea that the unfairness that would be generated by future suffering is negated by additional benefits in the present. This proposal is based on the kind of *temporally extended* view of deserved well-being discussed in Section 5.2 above. On a temporally extended view of deserved well-being, a subject does not deserve a particular level of well-being at a single moment, but deserves a particular well-being level over the course of some extended period of time. According to the whole-life view, for instance, a subject deserves a particular well-being level over the course of their entire lifetime.

To see how a temporally extended view of deserved well-being could explain how the unfairness of future suffering can be negated, consider an individual, C, who lives for precisely two moments. In both of these moments, C is moderately morally virtuous:

Table 5.2

<i>Moment:</i>	1	2
<i>C's virtue:</i>	Moderately virtuous	Moderately virtuous
<i>C's well-being:</i>	?	?

Over the course of C's two-moment life, then, C is moderately morally virtuous. A temporally extended theory will thus tell us that, over the course of this period, C deserves to be *moderately well off*.<sup>13</sup>

Suppose, however, that in the second of C's two moments, they are going to be moderately *badly off*:

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<sup>13</sup> Again, at least assuming a close correlation between virtue and desert. If there is no such correlation, then we can simply adjust C's momentary well-being levels in this case to accommodate whatever correlation in fact holds between virtue and desert.

Table 5.3

<i>Moment:</i>	1	2
<i>C's virtue:</i>	Moderately virtuous	Moderately virtuous
<i>C's well-being:</i>	?	Moderately badly off

If C were to be only moderately well off at moment 1, then according to our temporally extended theory, their suffering at moment 2 would make their situation unfair. For then, C would be moderately well off for half of their life, and moderately badly off for the other half of their life. On balance, then, C's life would be neither good nor bad for C.<sup>14</sup> But as we have seen, C deserves to live a somewhat good life.

We can prevent C's future suffering from making their situation unfair, however, by making C *extremely* well off at moment 1:

Table 5.4

<i>Moment:</i>	1	2
<i>C's virtue:</i>	Moderately virtuous	Moderately virtuous
<i>C's well-being:</i>	Extremely well off	Moderately badly off

C's lifetime well-being level may now be the one they deserve. C's moderate suffering at moment 2 has been compensated for by their extreme prosperity at moment 1, leaving them *moderately well off* over the course of their two-moment life.<sup>15</sup> And this is exactly what we

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<sup>14</sup> Assuming, that is, that the quality of C's life as a whole is determined simply by aggregating C's momentary well-being levels. If the shape-of-a-life hypothesis is correct, then C's downward well-being trajectory would make their life a somewhat bad one to experience. We would generate the result that C's life were a good one to experience only by endorsing an implausible 'reverse shape-of-a-life hypothesis', according to which there is intrinsic value to a downward well-being trajectory.

<sup>15</sup> Again, at least assuming that the quality of C's life is determined by aggregating their momentary well-being levels. But even if the shape-of-a-life hypothesis is correct, such that C's downward well-being trajectory is intrinsically bad, we can simply stipulate that C is sufficiently well off at moment 1 to make their life as a whole a moderately good one.



suggested C deserved: being moderately virtuous over the course of their lifetime, C deserves to be moderately well off over that period. By making C extremely well off in moment 1, we appear to give them the lifetime well-being level they deserve.

Here, then, we have a case in which, on a temporally extended theory of desert, the unfairness that would otherwise be generated by future suffering can be negated entirely by compensating a person in the present. For here, C has only one desert claim: to live a moderately good life. And if we compensate C for their future suffering by making them better off in the present, then this desert claim is satisfied. So far as considerations of desert go, at least, there thus seems to be no unfairness in C's situation at all.

Unlike Feldman's own proposal, then, this 'temporally extended desert' proposal captures the idea that the unfairness that would be generated by future suffering can be negated by compensating a person in the present. And it seems clear from Feldman's writing that his Future Suffering counterexample is motivated by the idea that this unfairness can be negated entirely. Compensatory desert, he writes, 'is fundamentally a matter of achieving *balance and fairness* in allocations of good and evil' (Feldman 1995a, p. 69, emphasis added). And when a person is compensated for their future suffering, he says, 'it's hard to see how he can *complain about unfairness*' (Feldman 1995a, p. 70, emphasis added). It does seem that, on Feldman's view, present compensation for future suffering can eliminate the unfairness of a person's situation completely. To capture this idea, though, we seem forced to reject Feldman's proposal in favour of one that adopts a temporally extended conception of deserved well-being.

Now, in Section 5.2, I argued that we should reject temporally extended theories of deserved well-being in favour of the view that subjects deserve particular levels of well-being at particular single moments. If this is right, then the unfairness of future suffering cannot be negated in the way I have suggested. Balancing out future suffering cannot prevent a person's temporally extended well-being level from falling below their temporally extended desert level if the person has no temporally extended desert level to begin with. And since this seems to be the most plausible way in which the unfairness of future suffering can be negated, this would give us reason to doubt that this unfairness can be negated in the way Feldman suggests at all.

Let us suppose, though, that a temporally extended view of deserved well-being is correct after all, and that the unfairness of future suffering can be negated in the way proposed. Even now, we lack motivation to accept Future Suffering. Our 'temporally extended desert' proposal vindicates the thought motivating Future Suffering—that the unfairness of future suffering can be negated by additional benefits in the present. Crucially, though, our proposal does not base desert of present additional benefits on future suffering. Indeed, we have not mentioned desert of present additional benefits at all. We have talked only of deserved *lifetime* well-being, and we have based this desert on lifetime virtue. The only desert claim we have made is that C deserves to be moderately well off over the course of their lifetime in

virtue of the fact that they are moderately virtuous over the course of their lifetime. At no point have we said that C deserves to be extremely well off at moment 1 in virtue of the fact that they will be badly off at moment 2. Admittedly, C's suffering at moment 2 explains why considerations of desert support making C extremely well off at moment 1. But as we saw in Section 2.8, the claim that giving some object to a subject is supported by considerations of desert is distinct from the claim that the subject deserves that object *per se*.

In summary, then, Feldman's problem is as follows. Feldman's proposal, Future Suffering, seems motivated by the idea that the unfairness of future suffering can be negated by additional benefits in the present. On reflection, though, Feldman's proposal does not vindicate this idea after all: even if a person is deservedly compensated for their future suffering, that suffering remains unfair. Our temporally-extended-desert proposal, on the other hand, does vindicate the idea that the unfairness of future suffering can be negated by additional benefits in the present. For on our proposal, a person may have only one relevant desert claim—to experience a particular temporally extended well-being level—and compensating them for future suffering may ensure that this desert claim is satisfied. And our proposal, unlike Feldman's, avoids basing desert of a present object on a fact about the future; it merely bases temporally extended desert on temporally extended virtue. So even if the unfairness of future suffering can be negated by additional benefits in the present, this does not give us reason to reject the Non-Forward-Looking Principle.

### 5.3.6 Presentist Desert

The Non-Forward-Looking Principle is in one respect a somewhat modest claim. Insisting only that desert of a present object cannot be based on facts about the future, this principle leaves open the possibility that desert of a present object is sometimes based on a fact about the *past*. But in both this chapter, and Chapter 4 above, we have seen at least some reason to doubt that present-object desert is ever based on facts about the past. Two of the most plausible kinds of past-desert-base candidates, after all, seem to be *past moral agency*, and *past suffering*. If a person deserves some present good in virtue of a fact about the past, then we might plausibly think that they will deserve this good either in virtue of having performed some morally virtuous action, or in virtue of having previously suffered unfairly. In Chapter 4, though, I argued that moral agency is not a basis for desert at all. And if *future* suffering is not a basis for present-object desert, as I have argued in this chapter, then it is plausible to think that past suffering is not a basis for such desert either. For the intuition that present benefits can negate the unfairness of past suffering, like the corresponding intuition in the case of future suffering, is more plausibly captured by adopting a temporally extended view of deserved well-being. And so, just as in the case of future suffering, we can capture the intuition that present additional benefits negate the unfairness of past suffering without basing desert of such benefits on that past suffering. If my arguments in Chapters 4–5 have

been successful, then neither past moral agency nor past suffering is a basis for desert of a present object.

In any case, the claim that suffering at any time is a desert basis seems to violate two of the desert-base constraints I defended in Chapter 3. This claim contradicts the Appraising-Attitude Principle: a person's suffering is not an appropriate basis for holding an appraising attitude towards them. It would not be appropriate to admire or resent someone for their suffering. And the claim that suffering is a desert basis seems to contradict the Responsibility Principle: people often bear no responsibility for their own suffering.<sup>16</sup>

If the strategy I deployed to defuse Feldman's 'soldier' counterexample was successful, meanwhile, then we have a plausible way of rejecting many other present-object, past-basis desert claims. We can respect the intuitive force of many such desert claims by specifying the desert object in question more carefully, building the relevant 'past fact' into that desert object. We will then be free to base the desert in question on a fact about the present, such as the subject's present level of moral virtue. This moral-virtue proposal, I argued in Section 3.5, will likely be independently plausible.

If my arguments in this thesis have been successful, therefore, then we have reason to consider going further than the Non-Forward-Looking Principle, and endorsing a kind of *presentist* view of desert. On this view, a subject's desert of a present object is based only on facts about the present. This, I take it, would be a somewhat surprising result, and would have important implications for questions of distributive and retributive justice. I will not directly argue for this presentist view in this thesis, and it may yet be the case that some instances of present-object, past-basis desert are ultimately inescapable.<sup>17</sup> But I hope to have shown here that this radical view of the temporality of desert is at least worth taking seriously.

### 5.3.7 Conclusion

The Non-Forward-Looking Principle is part of the 'received wisdom' about desert, and has a large amount of intuitive appeal. And while Feldman offers two putative counterexamples to this principle, neither of these counterexamples is ultimately compelling. We can vindicate the explanatory intuition underlying Feldman's soldier counterexample by specifying the object of the soldier's desert more carefully, freeing us to base the soldier's desert on a fact about the present, such as their present level of moral virtue. Vindicating the 'negation of unfairness' intuition motivating Feldman's future-suffering counterexample, meanwhile, seems to require us to adopt a temporally extended view of deserved well-being. And this

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<sup>16</sup> Strictly speaking, one could say that suffering is a basis for desert of additional benefits, but only on the condition that the subject is responsible for their suffering. But this proposal seems implausible and ad hoc; if anything, it is more plausible that suffering is a basis for additional desert only when the subject is *not* responsible for that suffering.

<sup>17</sup> Perhaps, for example, people deserve to be better or worse off in the present in virtue of having had better or worse motives in the past.

proposal merely bases temporally extended desert on temporally extended virtue; it has no need to base desert of present additional benefits on suffering that will occur in the future. The Non-Forward-Looking principle—and indeed, a stronger, presentist view of desert—remains opens to us.

#### 5.4 Conclusion

In this chapter, I have examined two issues concerning the temporality of desert. In Section 5.2, I discussed the temporality of deserved well-being. While the whole-life view claims that subjects deserve only well-being levels over the course of their entire lifetimes, the momentary view states that subjects deserve only well-being levels at particular moments. Between these two extreme views, we should favour the momentary view. For of these two views, only the momentary view is appropriately sensitive to the distribution of a subject's moments of higher and lower well-being within their life. The momentary view, unlike the whole-life view, is able to capture the intuition that a stricter correlation between momentary virtue and momentary well-being necessarily makes a life go better from the point of view of desert. This intuition also contradicts both the view that deserved well-being is extended over a period of some intermediate length, and the view that deserved well-being is extended over periods of multiple different lengths. If a stricter correlation between momentary virtue and well-being really does always make a life go better from the standpoint of desert, then a subject can deserve well-being only in the sense of deserving a particular level of well-being at a particular moment.

In Section 5.3, I discussed the temporality of desert bases. According to the Non-Forward-Looking Principle, a subject's desert of a present object cannot be based on a fact about the future. While this principle has been challenged by Fred Feldman, neither of Feldman's apparent counterexamples are ultimately compelling. We can vindicate the explanatory intuition underwriting Feldman's 'soldier' counterexample by building the fact Feldman identifies as the basis of the soldier's desert into the object of that desert. We are then able to base the soldier's desert on their present level of moral virtue, respecting the Non-Forward-Looking Principle. The intuition motivating Feldman's 'future suffering' counterexample, meanwhile, is most plausibly vindicated by adopting a temporally extended view of deserved well-being. And having adopted such a view, we can accept that present additional benefits negate the unfairness of future suffering without being forced to base desert of such benefits on that future suffering. We also saw in this section that, if my arguments in this thesis have been successful, then we have reason to consider a stronger, *presentist* view of desert. On a view of this kind, a subject's desert of a present object cannot be based on facts about the future *or* the past, and must instead be based on facts about the present.

The ultimate plausibility of this presentist view of desert remains to be seen. But if the temporality of desert is restricted in the way the Non-Forward-Looking Principle claims, then it seems at least a live possibility that it is restricted in this further way. If desert really is a 'non-forward-looking' concept, then perhaps it is non-backward-looking as well.

## 6. Act Consequentialism and Desert

### 6.1 Introduction

In the first four chapters of this thesis, I have been examining three general questions concerning the *intrinsic nature* of desert. First, what kinds of entities are desert *subjects*? Second, what kinds of entities are desert *objects*? And third, what kinds of facts can be desert *bases*?

In the final two chapters, I want to leave this analysis of desert's intrinsic nature, and move instead to a discussion of the wider *moral significance* of desert. What, precisely, is the appropriate role of desert within a theory of the good, or within a theory of the right? Indeed, why should we think that desert has any such role at all?

In this chapter, I will argue that, if we have endorsed a consequentialist theory of moral rightness, then there is reason for us to assign a role to desert in our theory of the good. By embracing the *axiological* significance of desert, consequentialists, and act consequentialists in particular, can defuse some of the problem cases that threaten their theory. Where act utilitarianism often permits actions that are intuitively unjust or unfair, desert-sensitive act consequentialists can avoid many of these troubling implications.

In Section 6.2, I will outline a way that consequentialists can embrace the intrinsic moral significance of desert. While desert is often thought to be a non-consequentialist concept, consequentialists have recently begun to follow the lead of some deontologists in accommodating desert within a theory of the good. For these consequentialists, persons' possessing what they deserve is a good-making feature of states of affairs. If this is right, then the reason to give someone what they deserve could well be a consequentialist reason, not a deontological one.

In Section 6.3, I will detail in more depth the kind of desert-sensitive axiology I want to motivate in this chapter. According to 'welfarist' desert-sensitive axiologies, the moral value of a subject's well-being is adjusted in some way according to the amount of well-being that subject deserves. I will outline in this section some possible ways that the moral value of well-being might be adjusted in cases of 'negative' desert—in cases, that is, in which the subject in question deserves to be badly off.

In Sections 6.4–6.6, I will discuss three cases that Fred Feldman takes to support the adoption of a desert-sensitive axiology. In each of these cases, a ticket for a free lunch must be used by one of two individuals, who differ both in terms of the effect the ticket will have on their well-being, and in some other seemingly important respect. And in each of these cases, act utilitarianism ignores this further difference between the two individuals. I will argue that Feldman's first case does plausibly support the adoption of a desert-sensitive axiology, but

not in the way Feldman suggests. I will then argue that, while Feldman's second case does not support the adoption of a desert-sensitive axiology, his third case does do so.

In Section 6.7, I will discuss a type of case that I think most clearly supports the adoption of a desert-sensitive axiology. In this type of case, exemplified by that of the Roman Colosseum and Amartya Sen's story of Ali the shopkeeper, a malicious individual, or group of individuals, derives a large amount of well-being from their sadistic enjoyment of suffering inflicted on another person or group. In cases where the well-being the sadists derive is greater in quantity than the suffering inflicted on the victims, act utilitarianism will plausibly imply that the sadistic practice in question is permissible. Desert-sensitive act consequentialists, in contrast, can more easily avoid this unpalatable result.

In Section 6.8, I will argue that there are at least two advantages of adopting a desert-sensitive axiology, rather than an axiology that is sensitive to the violation of moral rights, but not to considerations of desert. First, desert-sensitive axiologies seem better-placed to vindicate the intuition that well-being is the only object of non-instrumental value or disvalue. Second, while a rights-sensitive axiology may be able to save act consequentialism from problem cases like Sen's, it seems unable to defuse other kinds of cases, such as Feldman's Second Free Lunch.

In Section 6.9, I will conclude.

## 6.2 Desert and Consequentialism

Desert is often thought to be a *non-consequentialist* concept.<sup>1</sup> If considerations of desert are reason-giving, this line of thought goes, the reasons they give are deontological reasons, not consequentialist ones. If we have reason to give subjects what they deserve, this reason is grounded not on the value of outcomes in which subjects possess what they deserve, but on our *duty* to give subjects what they deserve.

This reasoning is often seen, for example, in philosophical discussions of the moral justification of punishment. In such discussions, consequentialist accounts of the justification of punishment are frequently presented as standing in opposition to retributivist accounts.<sup>2</sup> *Either* punishment is justifiable only insofar as it maximises the good, as the consequentialist claims, *or* it is justifiable as a way of giving criminals what they deserve, as the retributivist holds. Here, apparently, we must choose between consequentialism and desert; we cannot have both.

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<sup>1</sup> As I understand it here, consequentialism is the view that the moral rightness of an action is fundamentally explained only by the value of outcomes. See Sinnott-Armstrong 2019 for an overview of the debate as to how to define consequentialism.

<sup>2</sup> Hugo Adam Bedau and Erin Kelly (2019) note the frequency with which the apparent consequentialist–retributivist distinction has been made.

Historically, meanwhile, the intrinsic moral significance of desert has been more often embraced by deontological philosophers than by consequentialist ones.<sup>3</sup> Immanuel Kant writes that, even if a society is about to permanently dissolve, ‘the last murderer remaining in prison must first be executed, so that each has done to him what his deeds deserve’ (Kant, *The Metaphysics of Morals*, 6:333). Jeremy Bentham, in contrast, writes that ‘all punishment is mischief; all punishment in itself is evil... it ought only to be admitted in as far as it promises to exclude some greater evil’ (Bentham 1789, p. 166).

The apparent tension between consequentialism and desert is as follows. While consequentialism is concerned, roughly speaking, with making the world better, giving people what they deserve sometimes seems to make the world *worse*. After all, people sometimes seem to deserve bad things. Punishing a criminal is a way of giving them what they deserve, we might think, but the criminal’s suffering is still morally bad. Making a person suffer always makes the world *pro tanto* worse, whether the person deserves to suffer or not. And so, if the criminal’s desert of suffering is a reason to punish them, this is not a consequentialist reason.

There is, however, a way for consequentialists to resist this reasoning, and to embrace the non-instrumental, non-derivative moral significance of desert. We have seen that the intrinsic moral significance of desert has been embraced by deontological philosophers like Kant, and largely overlooked by consequentialists. But while not consequentialists themselves, these desert-friendly deontologists have in fact shown the way for consequentialists to join them in embracing the intrinsic significance of desert. Desert, these deontologists suggest, has *axiological* moral significance. Kant writes:

Happiness alone is, in the view of reason, far from being the complete good. Reason does not approve of it... except as united with desert... Happiness... in exact proportion with the morality of rational beings (whereby they are made worthy of happiness) constitutes alone the supreme good... (Kant, *Critique of Pure Reason*, A813–814/B841–842)

W. D. Ross, meanwhile, asks us to compare the moral goodness of two possible worlds. In these two worlds, there are identical total amounts of virtue, vice, happiness and unhappiness. In the first world, all virtuous people are happy, while all vicious people are unhappy. In the second world, in contrast, all virtuous people are *unhappy*, while all vicious people are *happy*. It is intuitively obvious, Ross says, that the first world is morally better than the second. And so it is intuitively obvious that there is non-instrumental moral value in the ‘apportionment of pleasure and pain to the virtuous and vicious respectively’ (Ross 1930, p. 138).

For these deontological philosophers, deserved suffering is, in virtue of the fact that it is deserved, a somewhat morally *good* thing. If Kant and Ross are right about this, then it remains open to consequentialists to embrace the intrinsic moral significance of desert after

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<sup>3</sup> Though see Sidgwick 1907, p. 279 for a notable consequentialist exception.



all. If deserved suffering is *pro tanto* morally good, in virtue of the fact that it is deserved, then there is a *pro tanto* consequentialist reason, in virtue of the fact that this suffering is deserved, to bring it about.

Consequentialists have recently begun to follow Kant and Ross' lead, accepting the axiological significance of desert. Fred Feldman argues that 'the intrinsic value of an episode of pleasure or pain is a function of... the amount of pleasure or pain the recipient *deserves* in that episode' (Feldman 1995a, p. 575). Shelly Kagan writes that 'other things being equal, it is a good thing... if people get the things that they deserve' (Kagan 2012, p. xiii). For these consequentialists, desert is not reduced to a concept of instrumental or derivative significance; persons' getting the pleasure or pain they deserve is itself a good-making feature of states of affairs, and so the fact that a person deserves an episode of pleasure or pain is a non-instrumental, non-derivative reason to ensure that the person experiences that episode.<sup>4</sup>

Of course, this is so far to say only that consequentialists *can* account for the intrinsic moral significance of desert. We have yet to see any reason to think that consequentialists *should* do so. My aim in this chapter is to offer some such reasons. I have this aim because I am a consequentialist who believes in the intrinsic moral significance of desert. I believe that, by combining consequentialism with desert, we form a consequentialist view that is stronger than less desert-friendly versions of consequentialism, while offering the most plausible account of desert's intrinsic moral significance. But while I do believe that consequentialist accounts of desert's significance are preferable to non-consequentialist ones, it is not my aim to argue for this here. My aim is merely to show that desert-friendly consequentialism enjoys at least some considerable advantages over consequentialist views that are less desert-friendly.

### 6.3 'Welfarist' Desert-Sensitive Axiologies

I will focus my discussion in this chapter on axiologies that adjust the moral value of *well-being* according to the amount of well-being the subject in question deserves. I will concentrate my discussion in this way because it does seem to me plausible that well-being is at least among the entities that are sometimes non-instrumentally morally good or bad, and that it is at least among the entities that are sometimes deserved. And so it seems to me to be at least an open possibility that the non-instrumental moral value of well-being is adjusted according to the subject's deserved level of well-being.

We have seen that Ross and Feldman talk, more specifically, of pleasure and pain. But there is no need to specify our discussion in this way here. By talking more generally of well-being, we will make our discussion compatible with non-hedonistic accounts of the nature of well-

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<sup>4</sup> In this sense, of course, the axiological significance of desert has a more direct relevance to moral rightness for these consequentialist philosophers than it does for deontologists.

being, according to which well-being consists in more than just pleasure and the absence of pain.

To be clear, I do not mean to suggest here that the *only* plausible kind of ‘desert-sensitive’ axiology is one that adjusts the value of well-being according to desert. While I argued in Chapter 2 that well-being is indeed the only genuine desert object, I want to leave open here the possibility that other kinds of entities are both non-instrumentally valuable and deserved. Nevertheless, I do believe that ‘welfarist’<sup>5</sup> desert-sensitive axiologies are the most plausible kinds of desert-sensitive axiologies available to us, and that they are the axiologies best-placed to save consequentialism from many of the problems I will discuss in this chapter. And so I am content to limit my present discussion to desert-sensitive axiologies of this welfarist kind.

According to the consequentialist view I will defend in this chapter, then, the moral value of a person’s well-being is a function of the amount of well-being the subject in question deserves. There are a number of different ways to specify this axiological claim. On one kind of view outlined by Feldman, *positive* well-being is intrinsically morally good, and *negative* well-being (or ‘ill-being’) is intrinsically morally bad. When a subject deserves to be well off, the moral goodness of their positive well-being is enhanced (Feldman 1995a, p. 575), and the moral badness of their negative well-being is aggravated (Feldman 1995a, p. 578). But when a subject deserves to be *badly* off, the moral goodness of their positive well-being, and the moral badness of their negative well-being, is *mitigated* (Feldman 1995a, pp. 576, 578). If a person deserves to be badly off, it is still a morally good thing for them to be well off, but this is less good than it would be if they were more deserving. Likewise, if a person deserves to be badly off, it is still a morally bad thing for them to be badly off, but this is less bad than it would be if they were more deserving.

Feldman also mentions two somewhat more radical views. On the first of these views, it remains the case that positive well-being is intrinsically morally good, and that negative well-being is intrinsically morally bad. But on this view, negative desert does not merely mitigate the moral goodness of positive well-being, but *negates* that goodness entirely. If a subject deserves to be badly off, it is not a morally good thing for them to be well off; rather, their positive well-being is morally *neutral* (Feldman 1995a, pp. 576–577). And on this view, negative desert negates the moral *badness* of negative well-being entirely. If a subject

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<sup>5</sup> I use the term ‘welfarist’ loosely here. An axiology that adjusts the value of well-being according to desert is not strictly speaking a welfarist one, since axiological welfarism claims that the moral value of states of affairs is *solely* a function of subjects’ well-being levels in those states of affairs, and not also a function of those subjects’ desert levels (Sen 1979, p. 468). This divergence highlights an important distinction between welfarism and the weaker claim that well-being is the only object of non-instrumental value or disvalue. Unlike welfarism, this weaker claim is compatible with an exclusively ‘welfarist’ desert-sensitive axiology. For such an axiology agrees that well-being is the only object of non-instrumental value or disvalue; it simply tells us that its non-instrumental value or disvalue is adjusted according to desert.

deserves to be badly off, it is not a morally bad thing for them to be badly off; rather, their negative well-being is morally neutral (Feldman 1995a, pp. 579–580).

On the second of these more radical views, positive and negative well-being are again intrinsically morally good and bad respectively. But on this view, negative desert does not just mitigate or negate the moral goodness of positive well-being, but in fact *transvaluates* that moral goodness. If a subject deserves to be badly off, it is a morally *bad* thing for them to be well off (Feldman 1995a, p. 577). Likewise, negative desert transvaluates the moral badness of negative well-being. If a subject deserves to be badly off, it is a morally *good* thing for them to be badly off (Feldman 1995a, p. 579).

Here, then, we have three different views of the effect negative desert has on the moral value of positive and negative well-being. Let us call these views the *mitigation*, *mere-negation* and *transvaluation* views:

(Mitigation View) Negative desert mitigates the moral goodness of positive well-being and the moral badness of negative well-being.

(Mere-Negation View) Negative desert merely negates the moral goodness of positive well-being and the moral badness of negative well-being.

(Transvaluation View) Negative desert transvaluates the moral goodness of positive well-being and the moral badness of negative well-being.

There is, it should be noted, an important point of agreement among these three views. All three views accept that positive well-being is intrinsically morally good, and that negative well-being is intrinsically morally bad. Of course, these views disagree as to what happens to this intrinsic goodness and badness in cases where the subject is negatively deserving. But they do at least agree that there is some intrinsic goodness or badness *to be* mitigated, merely negated, or transvaluated.

This point of agreement suggests the possibility of an even more radical view, according to which positive and negative well-being are not intrinsically morally good or bad at all. On this view, the *only* moral value positive and negative well-being have is that conferred on them by considerations of desert. If a subject deserves to be badly off, then their positive well-being is morally bad, and their negative well-being is morally good. But this is not because the initial moral value of their positive or negative well-being is transvaluated, but because the only value their positive well-being has is the badness conferred on it by their negative desert, and because the only value their negative well-being has is the goodness conferred on it by their negative desert. Call this the *exclusivity* view:

(Exclusivity View) In cases of negative desert, the only moral value of positive well-being is the moral badness conferred on it by negative desert, and the only moral value of negative well-being is the moral goodness conferred on it by negative desert.

I will not argue for any of these four particular ways of specifying a desert-sensitive axiology in this chapter. My aim here is merely to show that there is reason for consequentialists to adopt an axiology that is desert-sensitive in some way or other. Now in point of fact, the mitigation view does seem to me to be least well placed to save consequentialism from some of the problems I will discuss here, and I will note an important limitation of the mitigation view later in this chapter. But even consequentialist theories that adopt a desert-sensitive axiology in line with the mitigation view are preferable to ones that do not adopt a desert-sensitive axiology of any kind. This, in any case, is what I am going to argue in this chapter.

Many questions remain about the way in which the moral value of positive and negative well-being is most plausibly adjusted according to desert. The four views I have just outlined each offer a rather simple account of the way negative desert affects the moral value of positive and negative well-being. All four of these views assign a particular value status to positive and negative well-being in cases of negative desert, and assign this value status regardless of just *how* well or badly off a person is or deserves to be. The mitigation view, for example, says that if a person deserves to be badly off, then it is always a morally good thing for them to be well off, no matter how well off they are, and no matter how badly off they deserve to be. Likewise, the transvaluation and exclusivity views say that if a person deserves to be badly off, then it is always a morally good thing for them to be badly off, regardless of how badly off they are or deserve to be.

It is not at all clear that absolutist claims like these are particularly plausible. We might agree with the mitigation view that, if a person deserves to be only slightly badly off, then it remains a morally good thing for them to be only slightly well off. But we may nevertheless insist that it would be a morally bad thing for this person to be *extremely* well off. Similarly, we may agree with the transvaluation and exclusivity views that, if a person deserves to be slightly badly off, then it would be a morally good thing for them to in fact be only slightly badly off. But we may still insist that it would be a morally bad thing for this person to be *extremely* badly off. Even if the moral value of positive and negative well-being is indeed adjusted according to desert, the way in which this happens could well be far more complex than any of the four views I have outlined suggest.

I have also said very little in this section about the way in which *positive* desert might affect the moral value of positive and negative well-being. Feldman claims that positive desert enhances the moral goodness of positive well-being, and aggravates the moral badness of negative well-being. Is this right? And if this is right, *how* exactly does positive desert do this? If a person deserves to be well off, is it always a morally good thing for them to be well off?

Or, if this person is far less well off than they deserve to be, or far better off than they deserve to be, can it be a morally *bad* thing for them to experience that well-being level?

I will return to some of these further issues in Chapter 7 below, but they are beyond the scope of our present discussion.<sup>6</sup> The point here is merely that, according to the kind of axiology I will defend in this chapter, the moral value of a subject's well-being is adjusted, *in some way or other*, according to the amount of well-being that subject deserves.

This axiological claim is *prima facie* intuitive. As Kagan notes (2012, p. xiii), it is natural to think that the world is a morally better place, other things being equal, when people get what they deserve. And so it is natural to think that the world is a morally better place, other things being equal, when 'positively deserving' individuals enjoy the positive well-being they deserve than when 'negatively deserving' individuals enjoy positive well-being that they do *not* deserve. This is the lesson of Ross' 'two worlds' thought experiment. If in two worlds the total amounts of virtue, vice, positive well-being and negative well-being are identical, the world in which all virtuous individuals are well off and all vicious individuals are badly off is morally better than the world in which these well-being levels are reversed. Adopting a desert-sensitive axiology allows us to vindicate this intuition. Virtuous individuals, we can say, deserve to be better off than vicious ones. The positive well-being of the virtuous is morally better than the positive well-being of the vicious, and the negative well-being of the virtuous is morally worse than the negative well-being of the vicious, because the virtuous are more deserving than the vicious, and the value of well-being is adjusted according to considerations of desert.

#### 6.4 Feldman's First Free Lunch

As Feldman says, the 'basic consequentialist insight' is that each of us ought to act so as to make the world as good as we can make it (Feldman 1995a, p. 568). Now, 'indirect' forms of consequentialism diverge from this principle somewhat, allowing that we sometimes ought *not* to perform the action that maximises the good.<sup>7</sup> By allowing this possibility, indirect consequentialists avoid some of the problems suffered by their act-consequentialist counterparts.<sup>8</sup> While this is certainly an advantage of indirect consequentialism, this

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<sup>6</sup> See Kagan 2012 for an extensive discussion of these and other issues concerning the relationship between desert, well-being and moral value.

<sup>7</sup> On standard versions of their views, rule consequentialists will say that agents ought not to maximise the good in cases where the good-maximising action violates some 'good-maximising' rule, while motive consequentialists will say that agents ought not to maximise the good in cases where the good-maximising action would be produced by a 'non-good-maximising' motive. See Hooker 2000 for a prominent defence of rule consequentialism, Adams 1976 for a discussion of one form of motive consequentialism, and Kagan 2000 for a discussion of the general distinction between 'direct consequentialism' and 'indirect consequentialism'.

<sup>8</sup> Act consequentialists, unlike rule and motive consequentialists, hold that the rightness of an action is dependent solely on the outcome of that action and of available alternative actions. See e.g. Singer 1972 and

divergence from the basic consequentialist insight does seem to me to be an intuitive cost. If we are motivated to accept consequentialism at all, a large part of our motivation is likely the very intuition that we ought to make the world better rather than worse.<sup>9</sup>

If enough of the problems faced by act consequentialism prove to be otherwise unsolvable, then abandoning this fundamental consequentialist intuition may be an intuitive price worth paying. But if we can solve a significant number of these problems *without* having to pay this intuitive price, then so much the better for consequentialism. In most of the remainder of this chapter, I will argue that a significant number of these problems can indeed be solved without consequentialists being forced to abandon the basic consequentialist insight. By adopting a desert-sensitive axiology, we can avoid some of the unattractive implications commonly attributed to act consequentialism, while still vindicating the intuition that we ought always to make the world better rather than worse.

In his paper devoted to ‘adjusting utility for justice’, Feldman notes that one form of consequentialism, utilitarianism, has ‘notorious difficulties with justice’ (Feldman 1995a, p. 567). In many cases, utilitarianism seems to permit, and even require, agents to perform actions that seem intuitively unjust or unfair. This point is exemplified by a case outlined by Ross (1930, p. 35), in which one must either (a) give 1000 units of well-being to a very good man, or (b) give 1001 units of well-being to a very bad man. Ross points out that, other things being equal, utilitarianism appears to imply that one ought to give the units of good to the very bad man, since this is the act that maximises the total amount of well-being in the world. To do this, however, would seem unjust: since the very good man is very good, and the very bad is very bad, it is surely the very good man whose well-being one ought to improve.<sup>10</sup>

Feldman goes on to show that one form of act consequentialism, maximising act utilitarianism (MAU), is particularly vulnerable to the charge of injustice.<sup>11</sup> The first case he uses to illustrate this, the *First Free Lunch*, is as follows:

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Kagan 1989 for defences of act-consequentialist views (though Kagan himself prefers the term ‘direct consequentialist’ (Kagan 2000, p. 150)).

<sup>9</sup> See Kagan 1989 for a prominent defence of this fundamental consequentialist thought.

<sup>10</sup> Feldman characterises this and the other cases he discusses as illustrating John Rawls’ famous objection that utilitarianism ‘does not take seriously the distinction between persons’ (Rawls 1971, p. 27). In doing so, Feldman construes Rawls’ objection broadly: by requiring us to maximise well-being *simpliciter*, utilitarianism ignores a *morally relevant difference* between the very good man and the very bad man—namely, that the very good man is very good, while the very bad man is very bad (Feldman 1995a, p. 568). Ross’ and Feldman’s cases do not seem to illustrate Rawls’ narrower claim that utilitarianism wrongly models morality on rational prudence.

<sup>11</sup> MAU is the view that an action is morally right if and only if it maximises well-being—if and only if, that is, the outcome of that action contains at least as much well-being as the outcome of any available alternative action. See e.g. Singer 1972 for a defence of this view.

Strictly speaking, the view Feldman discusses is the more specific view that an action is morally right if and only if it maximises *actual* well-being, rather than expected well-being. But we can generate identical problem cases for actual- and expected-well-being views by simply supposing that the agent knows for certain the effects on well-being of the actions they must choose between.

Suppose I am required to give away a ticket that will entitle its bearer to a free lunch. Suppose I can give this ticket either to A or to B. Each of them would enjoy a free lunch [equally]... Suppose, furthermore, that B would be slightly disappointed if A were to get the ticket. A, on the other hand, would be somewhat more disappointed if B were to get the ticket. Suppose that A and B are in all relevant respects quite similar, except that A has already enjoyed hundreds of free lunches, whereas B has never gotten even one. Suppose, finally, that no third party would be affected by my choice of A or B. (Feldman 1995a, pp. 570–571)

While Feldman himself writes of enjoyment and disappointment, let us speak, more generally, of the effect Feldman's choice will have on A's and B's well-being. Let us grant all of Feldman's stipulations. But let us imagine, further, that A and B would both be made better off by enjoying the lunch, and that the well-being improvements they would experience are equally large. And suppose that, while A and B would both be made worse off by being passed up for the lunch, A's well-being deterioration would be somewhat larger than B's would be.

Given these stipulations, MAU implies that Feldman ought to give the lunch ticket to A. For this is the act that maximises well-being. Giving the ticket to A increases A's well-being by the same amount as that by which giving the ticket to B would increase B's well-being. And giving the ticket to A decreases B's well-being by a *smaller* amount than that by which giving the ticket to B would decrease A's well-being. So given that no third party is affected by Feldman's choice, overall well-being is maximised by giving the ticket to A. Since MAU requires agents to act so as to maximise well-being, it thus entails that Feldman ought to give the ticket to A. As Feldman points out, though, this result is counterintuitive. A has already enjoyed hundreds of free lunches, while B has never enjoyed any. Considerations of justice, or of fairness, seem to give Feldman an overriding reason to give the ticket to B (Feldman 1995a, p. 571).

Feldman thinks that maximising act consequentialists can vindicate the intuition that he ought to give the ticket to B by adopting a desert-sensitive axiology.<sup>12</sup> Deficient past receipt of a good, he says, is a basis for deserving that good (Feldman 1995a, p. 574). Since A has already derived a large amount of well-being from free lunches, whereas B has never derived any well-being from free lunches, B is now more deserving of the well-being they would derive from the free lunch than A is. Given a welfarist desert-sensitive axiology, therefore, the well-being B would derive from the lunch is more morally valuable than the well-being A would derive from the lunch. This means that, while giving the ticket to A maximises well-being, giving the ticket to B is likely to be what maximises the good. And if giving the ticket to B

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<sup>12</sup> MAC, of which MAU is a specific form, is the view that an action is morally right if and only if it maximises the good—if and only if, that is, the outcome of that action is at least as morally good as the outcome of any available alternative action. Unlike MAU, MAC is not committed to any specific theory of the moral good, allowing it to be combined with the kind of desert-sensitive axiology Feldman proposes. See e.g. Kagan 1989 for a defence of MAC.

Again, the position Feldman discusses is strictly speaking the view that one ought to maximise the actual good, rather than the expected good.

maximises the good, then this is what maximising act consequentialism (MAC) requires Feldman to do. By adjusting the value of well-being according to desert, and holding deficient past receipt to be a desert basis, maximising act consequentialists can deliver the intuitively correct verdict on this case (Feldman 1995a, pp. 581–582).

Now in point of fact, Feldman's specific reading of this case seems to me to be incorrect. For there is reason to doubt that deficient past receipt of a good is a basis for deserving that good. In particular, this claim appears to violate the following desert-base principle, which I defended in Section 3.4:

(Appraising-Attitude Principle) If S deserves O in virtue of F, then F is an appropriate basis for holding an appraising attitude towards S.

The fact that B has never enjoyed a free lunch before does not seem to be an appropriate basis for holding any appraising attitude towards B. It would not be appropriate to feel approval, admiration or gratitude towards B in virtue of the fact that they have never been given a free lunch. So if the Appraising-Attitude Principle is correct, then B's deficient past receipt of well-being derived from free lunches cannot be a basis for them deserving such well-being.

Feldman's reading of the case also seems in tension with the desert-base principle that I defended in Section 3.5:

(Responsibility Principle) If S deserves O in virtue of F, then S is responsible for F.

We do not know whether B is responsible for the fact that they have never enjoyed a free lunch before. Perhaps B has rejected the chance to have a free lunch on multiple occasions, and so bears some responsibility for their deficient past receipt of such lunches. But we can easily suppose that this is not the case, and that B has never even had the chance to enjoy a free lunch before. In a case like this, B will not likely be responsible for the fact that they have never derived any well-being from free lunches, and so, if the Responsibility Principle is correct, this fact will not be a basis for B deserving such well-being.

Fortunately, there is a way for desert-sensitive consequentialists to vindicate the thought that Feldman ought to give the ticket to B without violating either the Appraising-Attitude or Responsibility Principle. Consider again the *temporally extended* views of deserved well-being that I discussed in Chapter 5. On these views, subjects deserve particular levels of well-being over the course of some extended, non-momentary period of time. Most plausibly, a temporally extended view will tell us that a subject deserves a particular well-being level over the course of their entire lifetime.

Suppose that a temporally extended view like this is correct, such that A and B both deserve particular levels of well-being over the course of their lifetimes. Given that A and B are alike in all respects other than their past receipt of free lunches, they will presumably deserve the



same lifetime well-being levels. But since A has already derived a large amount of well-being from free lunches, whereas B has never derived any such well-being, A's life will, given Feldman's stipulation that other things are equal, have so far gone better than B's life has. And since A and B deserve to live equally good lives, this will likely mean that A's life has so far gone better, *relative to desert*, than B's has. A is likely closer to having lived a life of the quality they deserve than B is.

Now suppose that we combine our temporally extended view of deserved well-being with a desert-sensitive axiology that is *prioritarian* in nature. According to an axiology like this, well-being improvements for those who are worse off relative to desert are more morally valuable than well-being improvements, of the same size, for those who are better off relative to desert. If I am almost as well off as I deserve to be, but you are far less well off than you deserve to be, then improving your well-being by a given amount will do more good, other things being equal, than improving my well-being by that same amount (even if I am still left worse off than I deserve to be).<sup>13</sup>

If a prioritarian view like this is correct, then if A's life has indeed gone better than B's, relative to desert, then improving B's well-being by a given amount will do more good, other things being equal, than improving A's well-being by the same amount. While giving the ticket to A would maximise well-being, giving the ticket to B, and allowing them to enjoy the free lunch, is likely to be what maximises the good. And if this is right, then MAC will require Feldman to give the ticket to B after all.

So while I do not accept Feldman's specific reading of this case, he is, I think, ultimately right to say that adopting a desert-sensitive axiology allows maximising act consequentialists to deliver the intuitively correct verdict. Our alternative prioritarian proposal respects the Appraising-Attitude and Responsibility Principles, as it can base A's and B's whole-life desert on facts that are appropriate bases for holding appraising attitudes towards A and B, and for which A and B are responsible. And our prioritarian proposal vindicates the intuition underlying the thought that B ought to be given the ticket: since B has been shortchanged in the past, considerations of justice, or fairness, give Feldman an overriding reason to give B the ticket. On our proposal, these considerations are, more specifically, considerations of prioritarian desert.

Now, in Section 5.2, I argued that we should reject temporally extended views of deserved well-being in favour of the momentary view, according to which subjects deserve only particular levels of well-being at particular moments. And so it must be admitted that, if my arguments in Chapters 3 and 5 have all been correct, then adopting a desert-sensitive axiology

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<sup>13</sup> See Kagan 2012, pp. 227–228 for this suggestion. I agree with Kagan that this proposal is a plausible one.

This proposal is distinct from the standard prioritarian view that well-being improvements for those who are worse off *simpliciter*—though not necessarily worse off relative to desert—are more morally valuable than equal-sized well-being improvements for those who are better off *simpliciter*. See e.g. Parfit 2000, pp. 100–103 for this standard prioritarian proposal, and Parfit 2012 for a defence.

is unlikely to allow maximising act consequentialists to deliver the intuitively correct verdict on Feldman's First Free Lunch. If B's deficient past receipt of free lunches neither makes them more deserving, nor means that they are further from having lived a life of the quality they deserve, then it is difficult to see how considerations of desert can allow us to say that giving the ticket to B maximises the good.

Even if we are determined to vindicate the intuition that Feldman ought to give the ticket to B, this limitation of desert-sensitive axiologies need not lead us to reject MAC. Adopting an axiology that is non-welfarist in some other, non-desert-based way may allow us to say that, while giving the ticket to A would maximise well-being, giving the ticket to B is what maximises the good. And in any case, I do not mean to suggest that the reliance of our prioritarian-desert proposal on a temporally extended view of deserved well-being makes this proposal in any way implausible. Although I do believe that the momentary view of deserved well-being is ultimately preferable to temporally extended alternatives, it certainly remains a live possibility that a temporally extended view like the one included in our proposal is correct. Indeed, we have just seen one reason to think that such a view *is* correct: if deserved well-being is extended across a person's life, then, even as a maximising act consequentialist, we can capture the intuition that Feldman has an overriding desert-based reason to give the ticket to B.

In Feldman's First Free Lunch, then, it at least remains plausible that adopting a desert-sensitive axiology will allow maximising act consequentialists to deliver the intuitively correct verdict.

### 6.5 Feldman's Second Free Lunch

The second case Feldman thinks supports the adoption of a desert-sensitive axiology is the *Second Free Lunch*. This case runs as follows:

Again I am required to give out a lunch ticket. Again I have my choice of giving it to A or giving it to B. Again each would enjoy the lunch, and each would be disappointed to fail to get the lunch—A a bit more than B. Let us imagine this time that A and B are alike with respect to past receipt of tickets for free lunches. However, in this case let us imagine that A has stolen and destroyed hundreds of lunches. Hundreds of decent people have gone hungry as a result of A's malicious thievery. B on the other hand is a decent fellow who has never stolen anyone's lunch. (Feldman 1995a, p. 571)

Let us suppose that the effects of the lunch ticket on A's and B's well-being are the same as they were in the First Free Lunch. A and B would both be made better off, by the same degree, by enjoying the lunch. And while A and B would both be made worse off by being passed up for the lunch, A's well-being deterioration would be larger than B's would be. And let us suppose, finally, that no third party would be affected by Feldman's choice.

MAU now implies, again, that Feldman ought to give the ticket to A. For as in the First Free Lunch, giving the ticket to A is the act that maximises well-being. But again, this implication of MAU is counterintuitive. A has maliciously ruined hundreds of lunches, while B has never ruined any. Considerations of justice, or fairness, again seem to give Feldman an overriding reason to give the ticket to B (Feldman 1995a, p. 571).

When combined with a desert-sensitive axiology, however, MAC is able to vindicate the intuition that Feldman ought to give the ticket to B. A's past malevolence makes them less morally virtuous than B, and so A deserves to be less well off than B deserves to be. Since B deserves to be better off than A does, our desert-sensitive axiology tells us that the well-being B would derive from the lunch is more morally valuable than the well-being A would derive from it. And so, while giving the ticket to A would maximise well-being, giving the ticket to B is likely to be what maximises the good (Feldman 1995a, p. 582). If this is so, then MAC thus requires Feldman to give the ticket to B after all.

Feldman's Second Free Lunch seems to me to be more compelling than his first. Unlike basing desert on past deficient receipt of a good, basing desert on a person's level of moral virtue seems clearly to respect the Appraising-Attitude and Responsibility Principles. It would be appropriate to admire B for the fact that they are morally virtuous, and the fact that B is morally virtuous is a fact for which B is responsible. And so basing B's greater desert on their higher level of moral virtue avoids the problems that afflicted Feldman's first proposal.

Admittedly, I argued in Chapter 4 that moral agency is not a basis for desert. If my arguments there were successful, then A cannot be made less deserving by the fact that they have *acted* immorally by stealing and destroying lunches. But even if A's malevolent actions do not make them less deserving than B, we can still say that A's malevolent *motives* make them less deserving. A is made less morally virtuous, we can say, by the fact that they have previously been motivated by the malicious desire to ruin lunches. And so it remains plausible that considerations of desert favour giving the ticket to B in this case.

The Second Free Lunch is similar to Ross' 'two men' case. In that case, we must choose between making a very good man somewhat well off, and making a very bad man very slightly better off. In both Ross' example and the Second Free Lunch, MAU's demand that we maximise well-being *simpliciter* renders it insensitive to a requirement of justice—to prioritise the well-being of the virtuous over that of the vicious. But in neither case need this conclusion lead us to abandon MAC. Maximising act consequentialists can avoid the implication that we ought to choose Ross' very bad man by assigning greater moral value to the well-being of the very good man. If we want to save MAC, then both Ross' case and the Second Free Lunch give us reason to adjust the value of well-being according to desert.<sup>14</sup>

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<sup>14</sup> See Rescher 1966, p. 47 for another example of a case like the Two Men and Second Free Lunch.

## 6.6 Feldman's Third Free Lunch

Before turning to another kind of case that supports the adoption of a desert-sensitive axiology, I want to briefly discuss a final case offered by Feldman that I believe fails to provide such support. In the *Third Free Lunch* (Feldman 1995a, p. 572), a free lunch must again be enjoyed by either A or B; A and B would again derive equal amounts of well-being from the lunch, while A would experience a slightly larger well-being deterioration if they were to miss out on it. In this case, moreover, A and B are alike with respect to their past receipt of free lunches, and A has never maliciously ruined any lunches before. But in this case, B is the legal owner of the ticket. A now steals the ticket, justifying their theft on the grounds that it maximises well-being.<sup>15</sup> No third party is affected by A's decision to steal the ticket.

MAU implies that, other things being equal, A acted permissibly by stealing the ticket.<sup>16</sup> For other things being equal, and given A's larger well-being deterioration were they to miss out on the lunch, A is right to say that stealing the ticket for themselves maximises well-being. But again, this implication may seem counterintuitive. Since B legally owns the ticket, we might think, considerations of justice, or fairness, give A an overriding reason not to steal it (Feldman 1995a, p. 572).

Feldman thinks that maximising act consequentialists can avoid the implication that A's theft was permissible by adopting a desert-sensitive axiology. Having a *legitimate claim* to a good, he says, is a basis for deserving that good. Since B is the legal owner of the ticket, B has a legitimate claim to the ticket, and to the well-being they would derive from the lunch, that A does not. And so, other things being equal, B is more deserving of the well-being they would derive from the lunch than A is. If this is right, then our desert-sensitive axiology tells us that the well-being B would derive from the lunch is more morally valuable than the well-being A would derive from it, and so A stealing the ticket for themselves may not maximise the good after all (Feldman 1995a, p. 582).

Like his specific reading of the First Free Lunch, Feldman's diagnosis of the Third Free Lunch is undermined by the Appraising-Attitude Principle. The fact that B legally owns the ticket is not an appropriate basis for holding any appraising attitude towards B. It would not be appropriate to feel approval, admiration or gratitude towards B in virtue of the fact that they are the legal owner of a lunch ticket. And so, if the Appraising-Attitude Principle is right to insist that desert bases be appropriate appraising-attitude bases, then B's legal ownership of the ticket cannot make them any more deserving of the well-being they would derive from the lunch.

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<sup>15</sup> If A's theft were motivated by self-interest or malice, we could plausibly say that A were less deserving than B in virtue of the lower quality of their motives. But in cases in which the theft was motivated by the seemingly virtuous desire to maximise well-being, this strategy is unavailable to us. In any case, basing A's lower desert on the quality of their motives would collapse the Third Free Lunch into a variation of the Second Free Lunch.

<sup>16</sup> Indeed, MAU implies that, other things being equal, A was obligated to steal the ticket.

In some cases, the claim that B's legal ownership of the ticket makes them more deserving will also be undermined by the Responsibility Principle. If B has simply inherited the ticket, for example, then they will presumably not be responsible for the fact that they are now its legal owner. If this is so, then the requirement that desert bases be facts for which the subject is responsible will also rule out B's legal ownership of the ticket as a potential desert basis.

In any case, I find Feldman's reading of the Third Free Lunch *prima facie* counterintuitive. To be sure, it is natural to think that B's legal ownership of the ticket gives them a legitimate claim to it, and that this legitimate claim is a reason for A not to steal the ticket. Perhaps B's ownership of the ticket even gives them a *moral right* to that ticket. But I do not find it intuitive to say that B's legal ownership of the ticket makes them any more *deserving* of that ticket, or of the well-being they would derive from the lunch. In many cases, after all, people are legally entitled to goods that they do not seem to deserve.<sup>17</sup> In such cases, Feldman will presumably say that the person's *pro tanto* desert of the good, generated by their legal entitlement to that good, is outweighed by their desert of some opposing entity, meaning that they do not deserve the good all things considered.<sup>18</sup> In many such cases, though, I find it more natural to say that the person simply does not deserve the good in question at all. If there is reason to give the person that good, this is often most plausibly a reason of moral rights, or of mere legal entitlement, not a reason of desert.

The conclusion that B is no more deserving than A of the well-being they would derive from the lunch need not lead us to reject MAC. If B's legal ownership of the ticket gives them a moral right not to have that ticket stolen, for example, then maximising act consequentialists can vindicate the judgement that A ought not to have stolen the ticket by adopting an axiology sensitive to the violation of moral rights. If there is moral disvalue in B's right being violated, and this disvalue is sufficiently great, then A's theft of the ticket will not maximise the good after all. Nevertheless, the Third Free Lunch does not seem to be a case in which maximising act consequentialists can generate the result Feldman wants by adjusting their axiology according to desert alone.

## 6.7 The Colosseum and the Racists

The final kind of case that I want to suggest supports the adoption of a desert-sensitive axiology is one that seems particularly troubling for MAU. In cases of this kind, a malicious individual, or group of individuals, derives a large amount of well-being from their sadistic enjoyment of suffering inflicted on some other individual or group. In cases where the well-being derived from this sadistic enjoyment is greater in quantity than the suffering of the victim(s), MAU will plausibly imply that inflicting this suffering on the victim(s) maximises the

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<sup>17</sup> A person might be legally entitled to the presidency of a powerful country, for example, without being deserving of it.

<sup>18</sup> See McLeod 1999a, pp. 193–194 for an endorsement of a claim similar to this.

good, and is morally permissible.<sup>19</sup> In many cases, though, this likely implication of MAU seems implausible.

Consider, for example, the practice of forcing prisoners to fight wild animals in the Roman Colosseum. While this practice inflicted immense suffering on the prisoners and animals, it also provided great enjoyment to many thousands of spectators. If the positive well-being the spectators collectively derived from this enjoyment was greater in quantity than the negative well-being inflicted on the victims, then MAU will plausibly imply that this practice maximised the good, and was morally permissible. Intuitively, though, this practice seems morally repugnant.<sup>20</sup>

Amartya Sen presents a case that brings out this kind of intuition even more clearly. Suppose that Ali, an East African shopkeeper who has immigrated to London, is viciously attacked by a group of local racists (Sen 1982, pp. 7–8). If the positive well-being the racists collectively derive from their enjoyment of the attack is greater in quantity than the negative well-being they inflict on Ali, then MAU will plausibly imply that the attack maximised the good, and was morally permissible. But again, far from being permissible, the racists' attack on Ali seems morally repugnant.

Maximising act consequentialists can avoid these seemingly unpalatable implications by adopting a desert-sensitive axiology. It seems natural to say, after all, that those who sadistically enjoy the suffering of others do not deserve the well-being they derive from that enjoyment. In virtue of their sadism and malice, the Roman spectators and the group of racists are considerably less deserving than their victims are. If this is right, then our desert-sensitive axiology will likely assign greater moral *badness* to the suffering of the victims than it assigns moral *goodness* to the well-being derived by the spectators and racists. Even if the well-being derived by the sadists is morally good, it is less good than their victims' suffering is bad. And so the goodness of the sadists' positive well-being may not outweigh the badness of the victims' negative well-being after all. And if this is so, then the sadistic activities in question will presumably fail to maximise the good, and will be deemed by MAC to be impermissible.<sup>21</sup>

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<sup>19</sup> And, indeed, morally obligatory.

<sup>20</sup> Sen (1982, p. 7) briefly mentions this case as a problem for utilitarianism.

<sup>21</sup> G. E. Moore labels the sadistic enjoyment found in cases like these a 'mixed evil'—an evil which 'contain[s], as [an] essential [element], something positively good or beautiful' (Moore 1903, p. 208). As a form of enjoyment, sadistic enjoyment 'include[s] precisely the same emotion, which is also essential to the greatest unmixed goods, from which they are differentiated by the fact that this emotion is directed towards an inappropriate object' (Moore 1903, p. 209). Moore's proposal similarly allows us to avoid the implication that the sadists' activities maximise the good—the enjoyment the sadists derive from these activities is an evil, not a good.

Likewise, Thomas Hurka writes that '[i]f x is intrinsically evil, loving x for itself is intrinsically evil... if A's pain is evil, B's maliciously desiring A's pain as an end in itself is evil' (Hurka 2001, p. 9). Hurka goes on to say that 'loving evils' is a vice, and that '[t]he combination of vice and pleasure in the same person's life is intrinsically evil as a combination' (Hurka 2001, pp. 10–11). On Hurka's proposal, too, the sadists' activities do not maximise the good, since the enjoyment the sadists derive from them is an evil, not a good.

Now, this is a case in which the *mitigation* view, according to which negative desert merely mitigates the moral goodness of well-being, without negating or ‘transvaluating’ it, is limited in its ability to save MAC from the problem we are discussing. The mitigation view tells us that, even if the sadists are negatively deserving—even if, that is, the sadists deserve to be *badly off*<sup>22</sup>—then the positive well-being they derive from their sadistic practices is morally good. But if this positive well-being is morally good, then as long as it is *sufficient in quantity*, its goodness will ultimately outweigh the badness of the victims’ negative well-being. Given enough spectators or racists, or spectators or racists who take enough pleasure from the suffering of others, these sadistic practices *will* maximise the good, and will be deemed by MAC to be permissible.

The *mere-negation*, *transvaluation* and *exclusivity* views,<sup>23</sup> which hold that positive well-being is not morally good at all in cases of negative desert, do not have this limitation. These views tell us that, if the sadists are negatively deserving, then the positive well-being they derive from their practices is *not* morally good. And if this positive well-being is not morally good at all, then, no matter how much of it there is, it will not be sufficiently morally good to outweigh the badness of the victims’ negative well-being. No matter how many spectators or racists there are, and no matter how much they enjoy seeing their victims suffer, their sadistic practices will likely fail to maximise the good.<sup>24</sup>

The mitigation view is able to save MAC from some problem cases. In cases where the positive well-being the sadists derive is only slightly greater in quantity than the negative well-being they inflict on their victims, even mitigating the moral goodness of that positive well-being slightly will likely prevent this goodness from outweighing the moral badness of the victims’ negative well-being. But if we want to reconcile MAC with the intuition that the sadistic practice is impermissible no matter how much positive well-being the sadists derive from it, we will need to say that the sadists are negatively deserving, and that, in cases of negative desert, positive well-being is not morally good at all.

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<sup>22</sup> One alternative claim is that, while the sadists deserve to be well off, they deserve to be less well off than their victims do. This claim will likely share the limitation of the mitigation view. If the sadists deserve to be well off, then their positive well-being is likely still morally good, and so, when this positive well-being is sufficient in quantity, its moral goodness will outweigh the badness of the victims’ negative well-being. A further alternative is that the sadists deserve to be neither well off nor badly off. This claim will avoid the limitation of the mitigation view only if, apparently *contra* Feldman, positive well-being is not always morally good in cases of neutral desert. When outlining his own hedonistic desert-sensitive axiology, Feldman writes that neutral desert ‘neither enhances nor mitigates the intrinsic goodness of pleasure’ (Feldman 1995a, p. 577).

<sup>23</sup> As detailed in Section 6.3, the mere-negation and transvaluation views hold that negative desert negates or transvaluates the moral goodness of well-being, while the exclusivity view denies that well-being is intrinsically morally good at all.

<sup>24</sup> A non-absolutist view, according to which only small amounts of well-being are morally good in cases of negative desert, shares the limitation of the mitigation view. For in a case like the Colosseum, in which a very large number of sadists each derive only a small amount of well-being from their victims’ suffering, the apparent moral goodness of their well-being will eventually be enough to outweigh the badness of the victims’ suffering.

As well as helping MAC to avoid unpalatable implications about the permissibility of sadistic practices, adopting a desert-sensitive axiology has a more direct benefit with respect to the kinds of cases we have been discussing in this section. Consider again the case of Ali and the racists. Some opponents of MAC may say that, since the racists' attack maximised well-being, this attack maximised the good. It is just that, on their view, the racists ought not to maximise the good in this case. The racists make the world better by attacking Ali, but this is simply a case in which the racists ought not to make the world better.

While this strategy avoids the implication that the racists acted permissibly, it still strikes me as being intuitively unsatisfactory. For it seems to me that the racists' attack on Ali does *not* make the world better. The world is not made better by a group of racists sadistically enjoying the suffering of an innocent shopkeeper. The implication that the racists' attack maximises the good seems to me about as unpalatable as the implication that the racists' attack is permissible.

Adjusting one's axiology according to desert is not the only way of avoiding the conclusion that the racists' attack maximises the good. Sen himself favours an axiology sensitive to the violation of moral rights (Sen 1982, p. 3): the racists' attack makes the world worse, because it is a morally bad thing for Ali's rights to be violated. But while adopting a desert-sensitive axiology is not the only way of denying that the racists make the world better, it is one way of doing so. The racists fail to maximise the good because they do not deserve the positive well-being they derive from their attack, and because that positive well-being is thus less morally good than Ali's negative well-being is morally bad. Here, then, we are faced with another theoretical benefit of adjusting the moral value of well-being according to desert. We have already seen that, by making this adjustment, we can avoid attributing to MAC an unpalatable implication about rightness. But making this adjustment also allows us to avoid an independently unattractive claim about goodness. The racists do not act permissibly by attacking an innocent shopkeeper, and nor do they make the world better by doing so.

## 6.8 Rights-Sensitive Axiologies

I have argued in this chapter that, in a number of cases, act consequentialists can avoid counterintuitive implications about what agents ought to do by adopting an axiology sensitive to considerations of desert. By adjusting the moral value of well-being according to desert, act consequentialists can avoid permitting actions that are intuitively unjust or unfair, and that other kinds of act consequentialists, such as maximising act utilitarians, do seem to permit.

In some of these cases, act consequentialists can also avoid these problematic results by adopting an axiology that is not desert-sensitive, but is instead non-welfarist in some other way. Most obviously, perhaps, they could defuse some of these problem cases by adopting



an axiology sensitive to the violation of moral rights. As we have seen, this is the solution Sen prefers. The group of racists do not maximise the good by attacking an innocent shopkeeper, he says, because it is a morally bad thing for the shopkeeper's rights to be violated in this way.

There are, I think, at least two advantages of adopting a 'welfarist' desert-sensitive axiology rather than an axiology sensitive to the violation of moral rights, but not to considerations of desert. The first advantage is that welfarist desert-sensitive axiologies seem better-placed to vindicate a particular intuition about non-instrumental moral value—namely, that the only object of non-instrumental moral value or disvalue is *well-being*. As I noted in Section 2.4, I myself do find this thought compelling. I find it natural to think that, insofar as anything other than well-being is morally good or bad, its value or disvalue is merely instrumental, derived from the entity's effect on well-being.

Welfarist desert-sensitive axiologies are well placed to vindicate this thought. Since these axiologies are committed only to adjusting the non-instrumental moral value of well-being according to desert, well-being is the only entity that they are committed to saying is ever non-instrumentally morally good or bad.

Rights-sensitive axiologies seem less well placed to vindicate this thought. For the most natural way to make one's axiology sensitive to the violation of moral rights, it seems, is to say that it is a non-instrumentally bad thing when a person's moral rights are violated. And this claim, of course, assigns non-instrumental moral badness to something other than well-being.

Now, rights-sensitive axiologies are not unable to vindicate the thought that well-being alone is non-instrumentally morally good or bad. For we could endorse a *welfarist* rights-sensitive axiology, according to which the non-instrumental value of well-being is adjusted according to how that well-being was derived. On this proposal, well-being derived from the violation of a person's moral rights is less morally valuable than well-being derived in a rights-respecting way. Since the racists derive their positive well-being from violating Ali's moral rights, this positive well-being is less morally good than Ali's negative well-being is morally bad. This proposal allows us to avoid the implication that the racists' attack on Ali maximised the good, but is able to vindicate the thought that well-being is the only object of non-instrumental moral value or disvalue. For like our desert-sensitive axiology, this kind of rights-sensitive axiology is committed only to a particular way of adjusting the non-instrumental moral value of well-being.

A full discussion of welfarist rights-sensitive axiologies is beyond the scope of this chapter; for my own part, I am unsure as to their plausibility. In any case, it is the kind of rights-sensitive axiology endorsed by Sen—the basis of what Robert Nozick calls a 'utilitarianism of rights' (Nozick 1974, p. 28)—that has found favour in the philosophical literature. And the intuition that well-being is the only object of non-instrumental moral value or disvalue does, at least,

give us reason to favour welfarist desert-sensitive axiologies over this standard form of rights-sensitive axiology.

The second advantage of welfarist desert-sensitive axiologies, as opposed to axiologies that are rights-sensitive but not desert-sensitive, is that welfarist desert-sensitive axiologies, unlike these rights-sensitive ones, are able to deal with cases like Ross' Two Men and Feldman's Second Free Lunch. If we must decide whether to make an extremely virtuous person very well off, or an extremely vicious person slightly better off still, it is natural to think that we ought to choose the virtuous person. But choosing the vicious person may not violate any moral rights held by the virtuous person. In cases where this does not violate any rights, act consequentialists seem able to generate the correct result only by adjusting the value of well-being according to desert, not by accommodating the non-instrumental badness of rights-violations, or even by adjusting the value of well-being according to such violations.

This second consideration, unlike the first, does not count against the claim that we ought to adjust our axiology according to both desert *and* the violation of moral rights. After all, there may well be problem cases for act consequentialism that are more plausibly defused by rights-sensitive axiologies than by exclusively desert-sensitive ones. By adjusting our axiology according to both desert and the violation of rights, we may be able to defuse more problem cases than we would be able to if we were to adjust our axiology according to desert alone. But cases like Two Men and Second Free Lunch certainly give us reason to adjust our axiology *at least* according to desert, and not *only* according to the violation of moral rights.

## 6.9 Conclusion

In this chapter, I have argued that, if we have endorsed a consequentialist theory of moral rightness, then there is reason for us to adopt an axiology that is sensitive to considerations of desert. By adjusting the moral value of well-being according to desert, consequentialists, and act consequentialists in particular, can defuse some of the problem cases that threaten their theory. Where act utilitarianism often permits actions that are intuitively unjust or unfair, desert-sensitive act consequentialists can avoid many of these troubling implications.

In Sections 6.4, 6.5 and 6.7, I outlined four cases that at least plausibly illustrate this point. In Feldman's First and Second Free Lunches, and in the cases of the Colosseum and the racists, desert-sensitive consequentialists can respect the powerful intuition that we ought always to make the world better rather than worse, but plausibly avoid counterintuitive and sometimes unpalatable results about what agents ought to do.

Desert-sensitive axiologies do not seem able to save act consequentialism from every kind of problem case. Judith Jarvis Thomson's healthy specimen<sup>25</sup> does not deserve to be killed, but

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<sup>25</sup> See Thomson 1976, p. 206.

the five patients their organs can save do not deserve to be left to die either. H. J. McCloskey's innocent bystander<sup>26</sup> does not deserve to be executed, but the many people who would otherwise be murdered in riots do not deserve to be killed either. It does not seem that considerations of desert give Thomson's surgeon or McCloskey's sheriff an overriding reason not to kill the healthy specimen or innocent bystander.<sup>27</sup>

Cases like these might force us to adjust our axiology in some further way, such as by conceding that rights-violations are non-instrumentally bad after all.<sup>28</sup> Or perhaps these further problem cases should simply lead us to abandon act consequentialism. But if we do not want to maintain an act-consequentialist view of moral rightness, then adjusting our axiology according to desert will, in at least some cases, defuse the objection that our view permits intuitively unjust or unfair actions. The strongest version of act consequentialism is one that recognises the intrinsic moral significance of desert.

So far as my arguments in this chapter go, of course, we cannot know whether we ultimately ought to accept this account of desert's intrinsic moral significance without knowing whether we ought to endorse act consequentialism. But to the extent that we do have reason to be act consequentialists—to say that we ought always to make the world better rather than worse—we have reason to say that the moral value of well-being is indeed adjusted according to considerations of desert.

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<sup>26</sup> See McCloskey 1957, p. 468.

<sup>27</sup> Some of the cases I have discussed in this chapter can also be adapted to make them resistant to desert-based solutions. If the Roman spectators falsely believed that the suffering they were witnessing were simulated, for example, then it would seem less plausible to say that these spectators were negatively deserving, and that the well-being they derived from their enjoyment of this suffering was morally bad.

<sup>28</sup> A rights-sensitive axiology will help defuse Thomson's case if the healthy specimen has a moral right not to be killed, but the dying patients do not each have a moral right to be saved. It is less clear that a rights-sensitive axiology will help solve McCloskey's case, since it is natural to think that, if the bystander has a moral right not to be executed, the would-be riot victims have a moral right not to be murdered as well.

## 7. The Axiology of Desert

### 7.1 Introduction

In Chapter 6, I argued that, if we have endorsed a consequentialist theory of moral rightness, then there is reason for us to assign a role to desert in our theory of the good. In particular, I argued that there is reason for us to adopt a ‘welfarist’ desert-sensitive axiology, according to which the moral value of well-being is adjusted according to how well off the subject in question deserves to be.

In this chapter, I want to explore this axiological thought further. If the value of well-being is adjusted according to desert, *how* exactly is it adjusted? If it is a good thing, other things being equal, for a person to be as well off as they deserve to be, just how good is this? Is it always equally good, or does this depend on just how well off the person deserves to be? And what happens to the goodness of a situation, other things being equal, as a person who deserves to be well off becomes progressively worse off than they deserve to be? Or in which a person who deserves to be badly off becomes progressively better off than they deserve to be?

To explore these questions, I will use a number of Shelly Kagan’s ‘desert graphs’ from his book *The Geometry of Desert*, which Kagan dedicates to a discussion of these and many other questions about the axiology of desert. In Section 7.2, I will introduce these desert graphs.

In Section 7.3, I will discuss the issue of *skylines*. Skylines indicate how good it is, from the point of view of desert, for individuals of differing desert levels to be precisely as well off as they deserve to be. While constant skylines imply that this is always an equally good thing, no matter how well off the individual deserves to be, non-constant skylines imply that this is not always an equally good thing. I will argue that, if the standpoint of desert is the only one from which states of affairs derive intrinsic value, then we ought to reject constant skylines in favour of a non-constant skyline. For it seems better, all things considered, for a person to be deservedly extremely well off than for them to be deservedly only slightly well off.

In Section 7.4, I will discuss the issue of *constraints*. Constraints place restrictions on the value of particular *suboptimal* desert situations: situations in which a person is better or worse off than they deserve to be. I will argue that we should endorse at least four kinds of constraints. Each of these particular constraints concerns either situations in which a person deserves to be well off, but is worse off than they deserve to be, or situations in which a person deserves to be badly off, but is better off than they deserve to be. I will then argue that these four constraints jointly imply that we ought to reject both constant skylines and one kind of non-constant skyline.

In Section 7.5, I will conclude.

## 7.2 Kagan's Desert Graphs

Kagan begins *The Geometry of Desert* by noting the intuitive force of two thoughts about desert. First, some people are more deserving than others. And second, it is a morally good thing, other things being equal, for people to get what they deserve (Kagan 2012, p. xiii).

Kagan dedicates his book to an exploration of these two thoughts. In particular, Kagan asks the following general axiological question about desert. How does the moral value of a state of affairs, from the point of view of desert, vary as a function of (i) the level of well-being a person in that state of affairs deserves to experience, and (ii) the level of well-being that person in fact experiences?

Before we turn to the details of Kagan's discussion, four clarifications are worth making. First, Kagan makes it clear that he is investigating the moral value of states of affairs only *from the point of view of desert*, not the value of states of affairs *all things considered* (Kagan 2012, pp. 17–18). We need not think that the moral value of a state of affairs is *exclusively* based on the extent to which subjects are getting what they deserve. Suppose, for example, that a state of affairs contains exactly two people, just as deserving as each other, who both deserve to be very well off. And suppose that these two people are in fact both precisely as well off as they deserve to be. If we believe in the intrinsic axiological significance of desert, then we will likely say that this state of affairs derives intrinsic goodness from the fact that the people in it are getting what they deserve. But this need not be the only good-making feature of this state of affairs. Plausibly, for instance, it is also an intrinsically good thing that there is more positive well-being in this state of affairs than negative well-being. And perhaps there is intrinsic goodness in the *equality* found in this state of affairs: perhaps it is a morally good thing for the two people in this state of affairs to be equally well off, independently of facts about what they deserve.

We might say, then, that this state of affairs derives intrinsic moral goodness from at least three kinds of consideration. This state of affairs is made good by considerations of desert, by considerations of well-being *simpliciter*, and by considerations of equality. In his discussion, though, Kagan is not interested in these two latter kinds of consideration. The important point for his discussion, and for our discussion in this chapter, is that considerations of desert are at least *among* the considerations from which states of affairs derive intrinsic goodness. When we ask how good a state of affairs is 'from the point of view of desert', we are simply asking *how much* intrinsic goodness that state of affairs derives from considerations of desert.<sup>1</sup>

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<sup>1</sup> Strictly speaking, Kagan characterises his discussion as concerning goodness from the point of view of *non-comparative* desert. For Kagan, the axiology of desert has both 'non-comparative' and 'comparative' elements. To determine how good a person's situation is from the point of view of *non-comparative* desert, one '[does] not need to consider what other people deserve, or how well off they may be; information about the given individual alone is sufficient' (Kagan 2012, p. 349). To determine how good a state of affairs is from the point of view of *comparative* desert, in contrast, one must make comparisons between different people's situations from

Second, and as Kagan himself acknowledges (2012, p. 8), little appears to turn on his assumption that well-being is among the entities that ‘more deserving’ individuals deserve more of. I agree with Kagan that this assumption is a plausible one, and I will adopt it in this chapter as well. And this assumption certainly does not commit us to the claim, for which I argued in Chapter 2, that well-being is the *only* entity more deserving individuals deserve more of. But if the reader prefers to think of individuals deserving more or less of something other than well-being, then most of Kagan’s discussion, and our discussion in this chapter, can simply be translated into talk of this alternative entity.

Third, Kagan takes his discussion to be neutral concerning the *temporality* of deserved well-being (Kagan 2012, p. 12). In Chapter 5, for example, I discussed the *whole-life* and *momentary* views of deserved well-being, according to which a subject deserves, respectively, a particular level of well-being over the course of their lifetime, or a particular level of well-being at a particular moment. Kagan considers both of these possibilities, and does not commit to either (Kagan 2012, pp. 10–12). He writes only about persons being, and deserving to be, more or less well off, refraining from specifying whether the well-being in question is momentary or temporally extended. I, too, will make my discussion in this chapter neutral between different accounts of the temporality of deserved well-being.

Finally, Kagan adopts as a simplifying assumption the claim that a person’s desert of well-being is based on their level of *virtue or vice* (Kagan 2012, pp. 6–7). More deserving individuals deserve to be better off on the basis that they are more virtuous or less vicious; less deserving individuals deserve to be worse off on the basis that they are more vicious or less virtuous. Again, I agree with Kagan that this assumption is a plausible one—I argued that virtue is indeed a basis for desert in Chapter 3—and I will adopt it in this chapter as well. And this assumption certainly does not commit us to the claim that virtue and vice are the *only* bases for desert of well-being. But if the reader prefers to think of such desert as being (at least partly) based on something other than virtue and vice, then both Kagan’s and my discussions can again be translated into talk of this alternative desert basis. Here, the claim that a person is more virtuous than another will simply stand for the claim that this person has attained a higher level of whatever it is that does in fact make them more deserving.

With these four points established, let us now turn to the details of Kagan’s discussion. To answer the general axiological question he is investigating, Kagan employs a *graphical* method. His ‘desert graphs’ are used to illustrate different views about the way intrinsic value, from the point of view of desert, varies as a function of a person’s well-being level. In Kagan’s

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the standpoint of non-comparative desert: from the point of view of comparative desert, ‘it... matters how I am doing *compared* to you, in light of how (noncomparatively) deserving we are’ (Kagan 2012, p. 349). Kagan restricts the discussion I am focusing on in this chapter to considerations of non-comparative desert. See Kagan 2012, pp. 23–346 for this discussion of non-comparative desert, Kagan 2012, pp. 349–588 for his discussion of comparative desert, and Kagan 2012, pp. 591–626 for his discussion of ‘desert taken as a whole’.

standard graphs, the x-axis represents *well-being*, and the y-axis represents *goodness from the point of view of desert*. Consider, for example, this desert graph (Kagan 2012, p. 48):

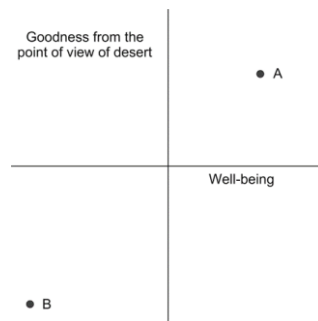


Figure 7.1

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On this graph, point A indicates that a somewhat positive well-being level corresponds to a certain amount of goodness from the point of view of desert. Point B indicates that a somewhat negative well-being level corresponds to a certain amount of *badness* from the point of view of desert.

Desert graphs like this can be used to plot 'individual desert lines', showing 'how good or bad it is from the point of view of desert for a given individual to be at a given level of well-being' (Kagan 2012, p. 48). Consider, for instance, the desert line below (Kagan 2012, p. 52):

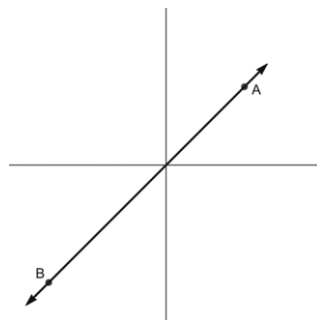


Figure 7.2

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As it passes through point A, this desert line indicates that it is somewhat good, from the point of view of desert, for the individual in question to experience a somewhat positive well-being level. As it passes through point B, meanwhile, this desert line indicates that it is somewhat *bad*, from the point of view of desert, for this individual to experience a somewhat negative well-being level. And as it passes through the origin point of the graph, this desert line indicates that it is *neither good nor bad*, from the point of view of desert, for this individual to experience a neutral well-being level.

This desert line also indicates a more general correlation between the individual's well-being level and goodness from the point of view of desert. In particular, goodness from the point of view of desert is *directly proportional* to the individual's well-being level. The higher the person's level of well-being, the better the situation is from the point of view of desert.

While this desert line is straight, Kagan argues that the characteristic shape of individual desert lines is that of a *mountain* (Kagan 2012, pp. 72–75). This suggestion reflects the following two thoughts. First, for any (finitely virtuous or vicious) individual, there is a finite level of well-being that individual deserves: no finitely virtuous person deserves to be infinitely well off. And second, the situation is optimal from the point of view of desert when an individual experiences precisely the well-being level they deserve. If a person is either better or worse off than they deserve to be, then the situation is suboptimal from the point of view of desert.

The desert line displayed in Figure 7.2 indicates that, from the standpoint of desert, the situation gets better and better *forever* as the individual's well-being level increases. But if the two thoughts just outlined are correct, and the individual in question is finitely virtuous or vicious, then this cannot be right. As the individual becomes progressively better off, they will eventually become better off than they deserve to be. And as they become better off than they deserve to be, the situation gets *worse* from the standpoint of desert.

The following desert line, which takes the shape of a mountain, reflects this thought (Kagan 2012, p. 83):

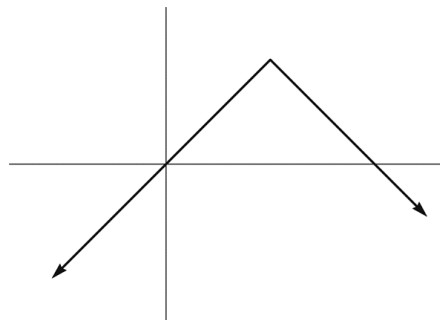


Figure 7.3

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The 'peak' of this mountainous desert line indicates the well-being level the individual in question deserves, and is thus optimal, from the point of view of desert, for the individual to experience. The 'eastern slope' of the mountain indicates that, as the individual becomes progressively better off than they deserve to be, the situation becomes progressively worse from the standpoint of desert. Likewise, the 'western slope' of the mountain indicates that, as the individual becomes progressively *worse* off than they deserve to be, the situation becomes progressively worse from the standpoint of desert.



Notice that, while the desert line displayed in Figure 7.3 takes the shape of a mountain, both *slopes* of this mountain are themselves straight. This is a significant feature of this desert line. We have just seen that the slopes of this desert line indicate that, as the individual in question becomes progressively better or worse off than they deserve to be, the situation becomes progressively worse from the standpoint of desert. The straightness of these slopes indicates that, as this happens, the *rate* at which the situation worsens remains constant. As the individual becomes progressively better off than they deserve to be, each incremental increase in well-being corresponds to the same decrease in goodness from the point of view of desert. And as the individual becomes progressively worse off than they deserve to be, each incremental decrease in well-being corresponds to the same decrease in goodness from the standpoint of desert.

As Kagan notes, some readers may want to reject these implications. These readers will say that, as an individual becomes progressively better or worse off than they deserve to be, the rate at which the situation worsens from the point of view of desert does *not* remain constant. Perhaps, for example, the situation worsens exponentially as this happens.

If the rate at which the situation worsens does not remain constant, then the slopes of the desert line should not be straight after all, but should instead be *curved* (Kagan 2012, p. 227):

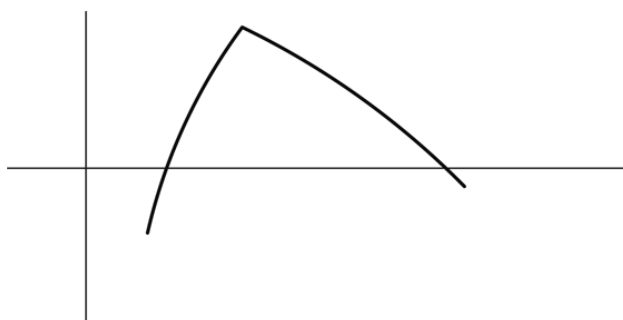


Figure 7.4

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This suggestion—that the slopes of desert lines should be curved, not straight—is entirely plausible, but a discussion of this proposal is beyond the scope of this chapter. I will simply assume here that the slopes of desert lines are all straight, indicating that as a person becomes progressively better or worse off than they deserve to be, the situation worsens linearly from the point of view of desert. This assumption will have no bearing on our discussion in Section 7.3, but I will indicate when it becomes relevant in Section 7.4.

In this chapter, I will use Kagan's desert graphs to explore two of the particular axiological issues he discusses in his book. In Section 7.3 below, I will discuss the issue of *skylines*, which indicate how good it is, from the point of view of desert, for individuals of differing desert levels to be precisely as well off as they deserve to be. In Section 7.4, I will discuss the issue

of *constraints*, which place restrictions on the value of situations in which individuals are better or worse off than they deserve to be.

## 7.3 Skylines

### 7.3.1 Introduction

The central thought we are exploring in this chapter is that it is a morally good thing, other things being equal, for people to experience the well-being levels they deserve. This, though, invites the question: just *how* good is it, from the point of view of desert, for people to be as well off as they deserve to be? Is this always *equally* good, or does the answer depend on how well off the person deserves to be? These are the questions I want to address in this section.

In graphical terms, the question we are discussing here is as follows. Where are the ‘peaks’ of individual desert lines located along the y-axis? Are they all located equally far along the y-axis, or do their y-co-ordinates vary according to how far along the x-axis they are? Kagan puts this question in terms of the desert *skyline*, the line ‘formed by the peaks of all the individual desert lines’. What form does this skyline take? Does it run parallel to the x-axis, with each of its points having the same y-co-ordinate? Or does its distance from the x-axis vary?

### 7.3.2 Constant Skylines

According to the first two views I want to discuss, it always does the same amount of good, from the point of view of desert, for a person to experience the well-being level they deserve. On this view, the peaks of all individual desert lines are located equally far along the y-axis. As such, the ‘skyline’ formed by these peaks runs parallel to the x-axis. This skyline is, as Kagan puts it, *constant* (Kagan 2012, p. 144).

Here is one example of a constant skyline (Kagan 2012, p. 129):

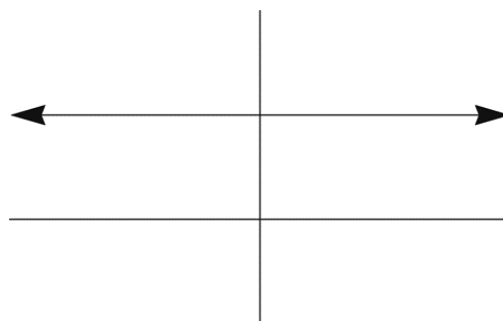


Figure 7.5

This skyline corresponds to a set of peaks, and set of individual desert lines, something like the following<sup>2</sup> (Kagan 2012, pp. 128–129):

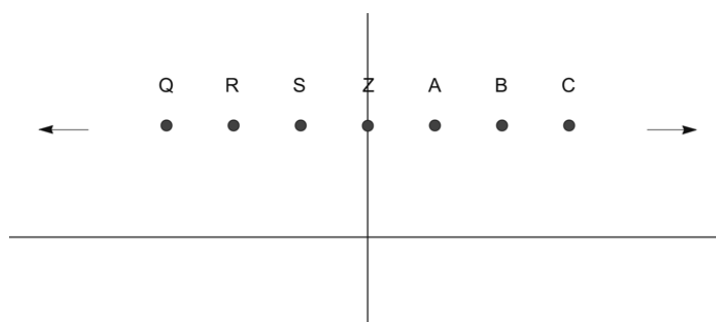


Figure 7.6

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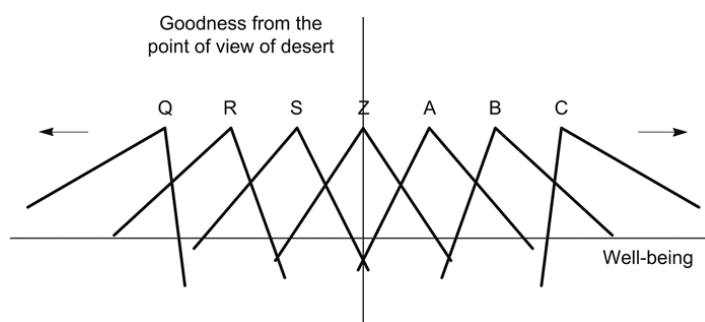


Figure 7.7

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<sup>2</sup> The leftmost three desert lines displayed in Figure 7.7 peak to the left of the y-axis, indicating that they belong to individuals who deserve to be somewhat *badly* off. While some readers—Kagan labels them *retributivists*—will accept the possibility of desert lines like this, others—Kagan calls them *moderates*—will deny that such desert lines are possible, maintaining that individuals never deserve to be badly off. Some moderates may even deny that desert line Z—peaking on the y-axis, and so belonging to an individual who deserves to be neither well off nor badly off—is possible. On their view, individuals deserve only to be well off, so desert lines must always peak to the right of the y-axis. In any case, all moderates will deny that the skyline extends to the left of the y-axis, as it does in Figure 7.5, but can still endorse a truncated version of that skyline (i.e. its right half). The debate between retributivists and moderates is important, but I will not attempt to adjudicate it here. Some of the views I discuss will assume that some desert lines peak to the left of the y-axis, and so will be available only to retributivists, but I will indicate when this is the case. See e.g. Parfit 2011, pp. 263–272 for a defence of the moderate view that ‘we cannot deserve to suffer’, and Zaibert 2017 for a retributivist reply.

Notice that, as the peaks of the desert lines displayed in Figure 7.7 move further to the right, the eastern slopes of these desert lines become gentler. This indicates that, the better off a person deserves to be, the smaller the drop-off in value when that person is made better off, by a given amount, than they deserve to be. And notice, further, that as their peaks move to the right, the western slopes of these desert lines become steeper. This indicates that, the better off a person deserves to be, the *greater* the drop-off in value when that person is made *worse* off, by a given amount, than they deserve to be. I agree with Kagan (2012, p. 106) that this phenomenon—which he labels ‘bell motion’—is at least somewhat intuitive. See Kagan 2012, pp. 98–107 for his initial discussion of bell motion; Lippert-Rasmussen 2016, pp. 643–648 for replies to Kagan’s arguments for its existence; and Hurka 2016, p. 602 and Lippert-Rasmussen 2016, pp. 648–652 for arguments against its existence.

As well as being constant, this skyline has another distinctive feature. The points of this skyline are all located *above* the x-axis, such that the peaks of the corresponding desert lines all have *positive* y-co-ordinates. A skyline like this, running parallel to and above the x-axis, is what Kagan labels a *standard* skyline (Kagan 2012, p. 130). A standard skyline indicates that it is always a *good* thing from the point of view of desert (and, indeed, an equally good thing) for a person to experience the well-being level they deserve.

This claim, that it is always a good thing from the point of view of desert for a person to experience the well-being level they deserve, might seem trivial. How could it not be a good thing, from the standpoint of desert itself, for a person to get what they deserve? As Kagan points out, though, an alternative view is possible. Consider the telic egalitarian who, rather than assigning moral goodness to equality, holds the value of equality to be the absence of the *badness* of inequality. In a similar way, one might say that a person getting what they deserve is not morally good, but that its value is the absence of the badness of the person *not* getting what they deserve. On this view, there is no goodness from the point of view of desert, but merely the absence of badness from the point of view of desert.

If this view is right, then the peaks of all individual desert lines will have the same y-co-ordinate, but this shared y-co-ordinate will be  $0$ . As such, the skyline formed by these peaks will coincide with the x-axis. This skyline, which Kagan labels the *sea-level skyline* (Kagan 2012, p. 145), corresponds to a set of desert lines something like the following<sup>3</sup> (Kagan 2012, p. 147):

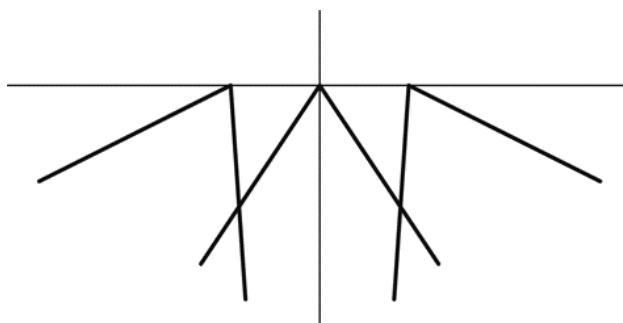


Figure 7.8

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Which of these two kinds of constant skylines should we prefer? The standard skyline, indicating that it is always a good thing, from the point of view of desert, for a person to experience the well-being level they deserve? Or the sea-level skyline, indicating that this is neither good nor bad from the standpoint of desert?

<sup>3</sup> Moderates will reject the possibility of the leftmost desert line displayed in Figure 7.8. On their view, the sea-level skyline can coincide only with the *right* half of the x-axis.

The comparative plausibility of these two views is, I think, largely dependent on one's more general axiological commitments. Whichever skyline we adopt, after all, we will presumably want to say that it is intrinsically morally good *all things considered* for a virtuous person to be deservedly well off. And if we take considerations of desert to be the *only* ones from which a state of affairs derives intrinsic value,<sup>4</sup> then vindicating the intuition that this person's positive well-being is good all things considered will require us to say that this well-being is good from the standpoint of desert. This claim, of course, would rule out the sea-level skyline.

If we do not take considerations of desert to be the only ones from which a state of affairs derives intrinsic value, however, then things are less clear. For we may now be able to vindicate the intuition that the virtuous person's well-being is good all things considered without saying that it is a good thing from the standpoint of desert. If we take positive well-being to be intrinsically morally good, for example, then we can explain the goodness of the person's well-being without saying that this well-being derives any goodness from the fact that it is deserved. Instead, we can say that this well-being is neither good nor bad from the point of view of desert, but *is* good from the point of view of well-being *simpliciter*. And so we can plausibly say that this person's well-being is good all things considered, while nevertheless endorsing the sea-level skyline. Once we have adopted a pluralistic view of the good, the sea-level skyline becomes a viable alternative to standard variants.

For my own part, I am sympathetic to the claim that considerations of desert *are* the only ones from which a state of affairs derives intrinsic value, and so I find standard skylines significantly more plausible than the sea-level skyline. As it happens, though, my sympathy for this claim leads me to reject *both* of these skyline types. If the standpoint of desert is the only one that is axiologically significant, then we ought to reject constant skylines altogether, and endorse a skyline of a very different kind. According to skylines of the kind I will discuss next, individuals' being as well off as they deserve to be does not always do the same amount of good from the point of view of desert after all.

### 7.3.3 Non-Constant Skylines

I have just claimed that, if the standpoint of desert is the only one that carries axiological significance, then we ought to reject constant skylines. The reason for this is as follows. All things considered, it is an intrinsically good thing for a virtuous person to be deservedly well off. Crucially, though, it does not always seem to be an *equally* good thing, all things considered, for virtuous people to be deservedly well off. It seems to me that, the better off

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<sup>4</sup> Note that this is a claim about the value of *outcomes*, not about the value of *lives* (for the people living them). Even if the value of outcomes is grounded solely on considerations of desert, we need not think that the value of a person's life for them (i.e. their level of well-being) is grounded on such considerations. We need not think, for example, that a person's life goes better for them, other things being equal, when they get what they deserve. Larry Temkin draws attention to the importance of this distinction, suggesting that a purely hedonistic theory of the value of lives is more plausible than a purely hedonistic theory of the value of outcomes (Temkin 2000, pp. 141–142).

a person deserves to be, the intrinsically better it is, all things considered, for that person to be that well off. It is better for an extremely virtuous person to be deservedly extremely well off than for an only slightly virtuous person to be deservedly only slightly well off.

Is this intuition compatible with constant skylines? This again depends on our more general axiological commitments. If the standpoint of desert is not the only one that is axiologically significant, then we can vindicate this intuition while nevertheless endorsing a constant skyline. If we take positive well-being to be intrinsically good, for instance, then we can explain why it is all-things-considered better for the extremely virtuous person to be extremely well off without saying that this is better from the standpoint of desert. Instead, we can say that this is no better from the point of view of desert, but that it *is* better from the point of view of well-being *simpliciter*. And so, even while endorsing a constant skyline, we can plausibly maintain that the extremely virtuous person's situation is better all things considered. Combined with a pluralistic view of the good, constant skylines remain viable.

If the standpoint of desert *is* the only one that is axiologically significant, however, then vindicating the intuition that the extremely virtuous person's situation is better all things considered requires us to say that their situation is better from the point of view of desert. For if the standpoint of desert is the only one that matters, then it is the only standpoint that can *make* this person's situation better than the slightly virtuous person's situation. Once we have said that considerations of desert are axiologically exhaustive, therefore, constant skylines no longer appear viable. If it is indeed better for the extremely virtuous person to be extremely well off, but the standpoint of desert is the only one that can make this situation better, then it cannot always be an equally good thing for people to get what they deserve after all.

What, then, will our alternative, non-constant skyline look like? As a non-constant skyline, it will not run parallel to the x-axis. The peaks of individual desert lines will not all share the same y-co-ordinate. But how exactly will these peaks' y-co-ordinates vary?

The most natural suggestion seems to be that, in the upper-right quadrant of our desert graph, the y-co-ordinate of a peak is *directly proportional to its x-co-ordinate*. This would reflect the thought that, the better off a positively deserving person deserves to be (and so the higher the x-co-ordinate of their peak), the better it is from the standpoint of desert for that person to be that well off (and so the higher the y-co-ordinate of their peak).<sup>5</sup>

If this is right, then in the upper-right quadrant of our desert graph, our alternative skyline will look like this (Kagan 2012, p. 150):

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<sup>5</sup> We could also vindicate this thought by allowing the skyline to *curve*, but still rise continuously. We could, for example, curve the skyline upwards, such that goodness from the standpoint of desert rises exponentially as deserved well-being increases. This proposal—that the skyline is curved in some way—is entirely plausible, but I cannot discuss it in any detail in this chapter. We will see in Section 7.4, however, that curving the skyline upwards does bring with it one significant theoretical advantage.

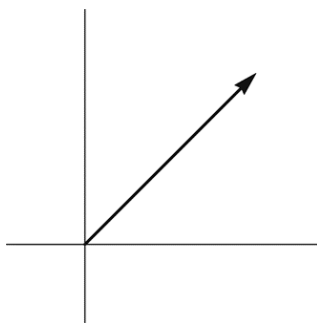


Figure 7.9

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We have not yet said anything as to how this skyline will extend, if it does at all, to the *left* of the y-axis. If the skyline does extend to the left of the y-axis, this will indicate that it is sometimes optimal, from the standpoint of desert, for a person to be *badly off*. And as Kagan notes, some readers will want to reject this possibility. But suppose that the skyline does extend to the left of the y-axis. How exactly will it do this?

Certainly, the skyline will not extend into the *lower-left* quadrant of the desert graph. The skyline extending into that quadrant would indicate that, when a person deserves a negative well-being level, it is in some cases a *bad* thing, from the standpoint of desert, for the person to deservedly experience that negative well-being level. And this implication is difficult to make sense of. It might be a bad thing all things considered for a person to be deservedly badly off, but this is not plausibly a bad thing from the point of view of desert itself.

This does not yet mean, though, that the skyline must extend into the *upper-left* quadrant. Instead, the skyline might extend *along the left of the x-axis*, forming, as it were, a *western-sea-level* skyline. On this view, it is neither good nor bad, from the point of view of desert, for a person to be deservedly badly off. A person's being deservedly badly off is not intrinsically good from the standpoint of desert, but is merely the absence of the badness of the person's being undeservedly better or worse off.

The western-sea-level skyline would seem particularly attractive if we have taken the standpoint of desert to be axiologically exhaustive. For if this standpoint is axiologically exhaustive, then the claim that it is an intrinsically good thing from the point of view of desert for a person to be deservedly badly off implies that this is also an intrinsically good thing all things considered. And this is an implication that we may well want to resist. By endorsing the western-sea-level skyline, we can instead say that, all things considered, it is neither intrinsically good nor intrinsically bad for a person to be deservedly badly off.

Nevertheless, the claim that it is an all-things-considered intrinsically good thing for a person to be deservedly badly off is not indefensible. There are at least two points that we can make in defence of this claim. First, we need not think that *all* vicious people deserve to be badly off. It might instead be that only extremely vicious people, only moral monsters, deserve to

be badly off. And while we might want to avoid saying that it is an all-things-considered good thing for an ordinarily vicious person to be badly off, we may find it more plausible to say that it is an all-things-considered good thing for a moral monster to be badly off.

Second, even if it is an all-things-considered good thing for a person to be deservedly badly off, this does not necessarily imply that we *ought* ever to make someone deservedly badly off. For our consequentialist reason to make a person deservedly badly off might be outweighed by non-consequentialist reasons we have not to make the person badly off. Perhaps even those who deserve to be badly off have a moral right to be treated with respect, and this moral right gives us a reason not to intentionally make these people badly off. Or perhaps we have a duty to act mercifully towards those who deserve to be badly off, and our reason to be merciful outweighs the reason we have to give vicious people what they deserve. And so, even having conceded that it is an all-things-considered good thing for a person to be deservedly badly off, we need not also concede that we ever have most reason to make such a person badly off.

Even if the standpoint of desert is the only one that is axiologically significant, therefore, the claim that it is a good thing from the standpoint of desert for a person to be deservedly badly off remains defensible. It remains a defensible claim that our alternative, non-constant skyline extends into the upper-left quadrant of our desert graph.

The simplest way to extend the skyline into the upper-left quadrant seems to be as follows (Kagan 2012, p. 153):

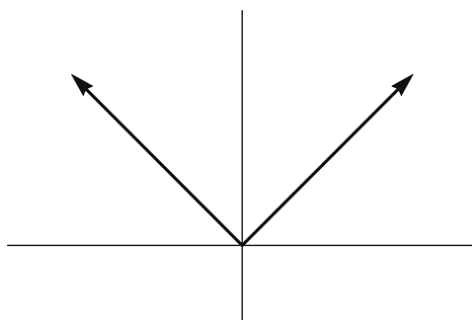


Figure 7.10

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This 'V shaped skyline' (Kagan 2012, p. 154) tells us that, the more *negative* well-being a person deserves, the better it is, from the standpoint of desert, for this person to experience that amount of negative well-being. And significantly, this skyline implies that goodness from the point of view of desert increases at the *same rate* in the case of both positive and negative well-being. Goodness from the standpoint of desert increases as individuals become deservedly worse off just as quickly as it increases as individuals become deservedly better off.



I agree with Kagan (2012, p. 153) that the V-shaped skyline offers the most promising way of extending the skyline displayed in Figure 7.9. Certainly, considerations of theoretical symmetry give us at least some reason to endorse this way of extending the skyline. Nevertheless, there is at least one reason to doubt the V-shaped skyline. This skyline implies that, from the point of view of desert, we can make things better by turning moderately virtuous and moderately well-off individuals into extremely vicious and extremely *badly*-off ones. For according to this skyline, it is better, from the standpoint of desert, for a person to be deservedly extremely badly off than it is for them to be deservedly moderately well off. And so we can apparently make the world better, from the standpoint of desert, by turning decent and well-off people into miserable moral monsters. And as Victor Tadros (2017, pp. 400–401) argues, this kind of implication seems troubling.<sup>6</sup>

This implication seems especially problematic if we make the supposition, which I used to motivate the skyline displayed in Figure 7.9 to begin with, that the standpoint of desert is axiologically exhaustive. For if this supposition is correct, then if we make the world better from the standpoint of desert by turning decent and well-off people into miserable moral monsters, we will also make the world better *all things considered* by doing this. And many will surely find this implication unpalatable.

Perhaps this is simply a *reductio* of the claim that the standpoint of desert is axiologically exhaustive. Maybe we should accept the implication that one makes the world better from the standpoint of *desert* by turning decent and well-off people into miserable moral monsters, but say that the intrinsic badness of negative well-being means that this does not make the world better all things considered. But if we do want to avoid saying that this makes things better from the standpoint of desert, then we must reject the V-shaped skyline.

We have already seen one possible alternative to the V-shaped skyline. According to the western-sea-level skyline, the left-hand side of the skyline does not progressively increase in height as it extends leftwards, as the left-hand side of the V-shaped skyline does, but instead coincides with the left of the x-axis. This skyline indicates that, from the point of view of desert, it is neither good nor bad for a person to be deservedly badly off. And so this skyline blocks the implication that we make the world better, from the standpoint of desert, by turning individuals who are deservedly well off into ones who are deservedly extremely badly off. For according to this skyline, there is simply no good to be found in people being deservedly badly off at all.

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<sup>6</sup> Tadros himself endorses a skyline that is ‘sloped upwards from west to east’ (Tadros 2017, p. 401), reflecting the thought that, the higher the well-being level a person deservedly experiences, the better their situation is from the standpoint of desert. As Kagan notes (2017, pp. 415–416), this proposal is somewhat ambiguous. It could be, for example, that Tadros endorses a truncated version of the V-shaped skyline (i.e. the right half of the V-shaped skyline), or that he endorses a skyline that passes into the upper-left quadrant, and is *curved* upwards from west to east.

This is not the only plausible alternative to the V-shaped skyline, though. We could say that the left-hand side of the skyline *does* progressively increase in height as it extends leftwards, but that it increases in height more *slowly* than the right-hand side of the skyline does. On this view, the skyline extends into the upper-left quadrant, but its slope is more gradual in this quadrant than it is in the upper-right quadrant. This skyline would indicate that, while it does some good for a person to be deservedly badly off, this is less good, from the standpoint of desert, than it is for a person to deservedly experience the corresponding level of *positive* well-being. According to this skyline, it is better for moral saints to be deservedly extremely well off than for moral monsters to be deservedly extremely badly off.<sup>7</sup> Call this the *gentler-western-slope* skyline.

The attractiveness of the gentler-western-slope skyline is, I think, unclear. On the one hand, we might view this skyline as a promising compromise between the V-shaped and western-sea-level skylines. For it does seem to me to be a somewhat good thing, from the point of view of desert, at least, for moral monsters to be deservedly badly off. And our new skyline, unlike the western-sea-level one, vindicates this intuition. But it also seems natural to think that, while it is good from the standpoint of desert for moral monsters to be deservedly badly off, this is *less* good than it is for moral saints to be deservedly well off. Our new skyline, unlike the V-shaped one, vindicates this intuition as well.

On the other hand, we might view this skyline as offering the worst of both worlds, committing us to unattractive theoretical asymmetry without allowing us to avoid the troubling implication that made us doubt the V-shaped skyline. For even this new skyline implies that we can make the world better, from the standpoint of desert, by turning moderately virtuous and moderately well-off individuals into extremely vicious and extremely badly-off ones. To be sure, this skyline entails that, if we were to turn moderately virtuous and well-off individuals into ones who are *correspondingly* vicious and badly off, we would make things *worse* from the point of view of desert. But so long as we make these people *sufficiently* vicious and badly off, we will still make things better from the standpoint of desert. The left-hand side of the skyline increases in height more slowly than the right-hand side, but its height does continuously increase. This means that, if we move sufficiently far leftwards along the x-axis, the skyline will have climbed higher than the peaks of desert lines belonging to moderately virtuous individuals. And so, according to this skyline, sufficiently high levels of deserved negative well-being are still better from the standpoint of desert than sufficiently low levels of deserved positive well-being. Perhaps asymmetry is an excessive price to pay for a skyline that does not avoid this implication.

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<sup>7</sup> Assuming, that is, that moral saints are as virtuous as moral monsters are vicious.

### 7.3.4 Conclusion

According to *constant* skylines, it is always equally good, from the point of view of desert, for individuals to be as well or badly off as they deserve to be. While standard skylines tell us that this is always a good thing from the standpoint of desert, the sea-level skyline implies that this is neither good nor bad; people getting what they deserve is merely the absence of the badness of them *not* getting what they deserve.

If the standpoint of desert is axiologically exhaustive, then there is reason to reject both of these kinds of constant skylines. For it seems all-things-considered better for a person to be deservedly extremely well off than deservedly only slightly well off. And if considerations of desert are axiologically exhaustive, then vindicating this intuition requires us to say that this is better from the standpoint of desert. To generate this result, we will need to endorse a *non-constant* skyline.

If we do want to endorse a non-constant skyline, though, it is far from clear what form this skyline should take. The V-shaped skyline tells us that it becomes progressively better, from the point of view of desert, for individuals to deservedly experience progressively more positive and negative well-being. And crucially, the V-shaped skyline tells us that this gets better just as quickly in the case of negative well-being as in the case of positive well-being. The western-sea-level skyline, in contrast, indicates that it is a good thing from the standpoint of desert for individuals to be deservedly *well* off, but not for them to be deservedly *badly* off; a person's being deservedly badly off is merely the absence of the badness of them being undeservedly better or worse off. The gentler-western-slope skyline indicates that, while it does become progressively better for individuals to deservedly experience progressively more positive or negative well-being, this gets better more slowly in the case of negative well-being than in the case of positive well-being. From the standpoint of desert, it is better for a person to be deservedly well off than for them to deservedly experience the corresponding amount of negative well-being.

All three of these non-constant skylines have strengths and weaknesses. The V-shaped skyline is symmetrical, and vindicates the intuition that it is a good thing, from the point of view of desert, for an extremely vicious person to be deservedly badly off. But this skyline also implies that we make the world better, from the standpoint of desert, by turning individuals who are moderately virtuous and moderately well off into ones who are extremely vicious and extremely badly off. The western-sea-level skyline avoids this implication, but is asymmetrical, and implies that it is not even a good thing from the standpoint of desert itself for an extremely vicious person to be deservedly badly off. The gentler-western-slope skyline implies that this *is* a good thing from the standpoint of desert, but is asymmetrical, and also implies that we can make the world better, from the standpoint of desert, by turning decent and well-off people into miserable moral monsters.

I have suggested that the V-shaped skyline is the most promising form of non-constant skyline, but I do not want to say anything more in defence of this claim in this section. If we do not take the standpoint of desert to be axiologically exhaustive, then we may well be inclined to reject non-constant skylines altogether, and return to either a standard or sea-level skyline. Nevertheless, there is, I believe, a further reason to prefer the V-shaped and gentler-western-slope skylines to standard, sea-level and western-sea-level ones. This reason emerges from consideration of a number of *constraints* that we may want to impose on individual desert lines. It to these constraints that I will turn in Section 7.4 below.

## 7.4 Constraints

### 7.4.1 Introduction

In this section, I will argue that we should place four *constraints* on the value of particular suboptimal desert situations. Each of these constraints concerns either situations in which a person deserves to be well off, but is worse off than they deserve to be, or situations in which a person deserves to be badly off, but is better off than they deserve to be. In graphical terms, these constraints concern the ‘inner’ slopes of desert lines—the western slope of a line that peaks to the right of the y-axis, and the eastern slope of a line that peaks to the left of the y-axis. Each constraint prohibits the inner slopes of desert lines with peaks in one quadrant of their graph from extending into some other particular quadrant. After outlining these four constraints, I will argue that they jointly imply that we should reject standard, sea-level skylines in favour of a V-shaped, gentler-western-slope, or other similar skyline.

### 7.4.2 The Right-Left Constraint

The first constraint I want to consider prohibits desert lines like the following (Kagan 2012, p. 294):

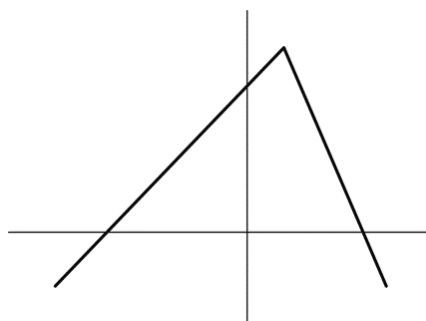


Figure 7.11

The peak of this desert line is located in the upper-right quadrant of the graph, indicating that it belongs to an individual who deserves to be somewhat well off. Notice, though, that the western slope of this line extends into the upper-*left* quadrant. This indicates that it is a good thing, from the point of view of desert, for this individual to be somewhat *badly* off. To be sure, the desert line does eventually extend into the *lower*-left quadrant, meaning that if the individual becomes excessively badly off, the situation becomes bad from the standpoint of desert. But so long as the amount of negative well-being the person experiences is sufficiently low, the situation remains good from the point of view of desert. This individual deserves to be well off, and yet it can apparently be a good thing, from the standpoint of desert itself, for them to be badly off.

This implication seems to me to be unacceptable. If a person does not deserve to be badly off, then it is not a good thing, from the point of view of desert itself, for that person to be badly off. And if this is right, then desert lines like the one displayed in Figure 7.11 must be rejected. That is, we must reject desert lines that peak in the upper-*right* quadrant of the graph, or on the y-axis, but nevertheless extend into the upper-*left* quadrant. Anticipating this line of thought, Kagan labels the prohibition against desert lines of this kind the *right-left constraint* (Kagan 2012, p. 296).

Is there any reason to doubt the right-left constraint? Most obviously, an opponent of this constraint might say the following. What matters, from the point of view of desert, is simply *how close* a person is to being as well off as they deserve to be. If a person is close to getting what they deserve, then their situation is, from the standpoint of desert, a good one. An individual's situation becomes bad from the standpoint of desert only when they are far from getting what they deserve. And if a person deserves to be only *slightly* well off, and is in fact only *slightly* badly off, then they *are* quite close to getting what they deserve: their actual well-being level is not much lower than their deserved well-being level. So given that it is only 'distance from desert' that matters, this person's situation is, from the standpoint of desert, quite a good one. And so we cannot prohibit desert lines with upper-right-quadrant peaks from extending into the upper-left quadrant. *Contra* the right-left constraint, it *can* be a good thing, from the point of view of desert, for a person who deserves to be well off to in fact be badly off. For this person may still be close to getting what they deserve.

The principle that distance from desert is all that matters from the point of view of desert does, I think, have some prima facie intuitive appeal. But the implication of this principle that we have just considered, that it can be a good thing from the standpoint of desert for a person who deserves to be well off to in fact be badly off, seems to me to be a *reductio* of this principle. Distance from desert cannot be all that matters, even from the point of view of desert itself, precisely because this implication is so implausible. Rather than reject the right-left constraint on the basis of the distance-from-desert principle, we ought to reject this principle on the basis that it violates the right-left constraint.

Now, one could reject the right-left constraint by saying that, while distance from desert is not *all* that matters, a person's being close to getting what they deserve is always *pro tanto* good from the standpoint of desert. Perhaps it is always a *pro tanto* bad thing, from the standpoint of desert, for a person who deserves to be well off to in fact be badly off, but this *pro tanto* badness can be outweighed by the *pro tanto* goodness of this person's being close to getting what they deserve. On this intermediate view, a person's deserving to be only slightly well off, and being only slightly badly off, is thus a good thing from the standpoint of desert all things considered.

In one respect, this intermediate view—holding that a person's being close to getting what they deserve is always *pro tanto* good—seems more plausible than the absolutist view we have just considered, according to which distance from desert is all that matters. For unlike the absolutist view, the intermediate view vindicates the intuition—which does seem to me to be a powerful one—that there is a special kind of badness attached to a person's being in the wrong well-being *classification*: deserving (for example) to be well off, but being badly off. If a person deserves to be well off, but is in fact badly off, their situation is at least *pro tanto* bad from the standpoint of desert. But this person's situation is bad not simply because they are somewhat far from getting what they deserve. After all, if a second person deserves to be very well off, but is in fact only slightly well off, then they, too, are somewhat far from getting what they deserve. Yet the first person's situation seems bad in a way the second person's does not. The intermediate view—holding there to be *pro tanto* badness in a person's being in the wrong well-being classification, independently of their distance from what they deserve—captures this thought.

In another respect, though, the intermediate view seems to me to represent the worst of both worlds. As I have noted, the view that goodness from the standpoint of desert is simply a matter of distance from desert does seem to me to be somewhat *prima facie* intuitive. The right-left constraint, meanwhile, strikes me as being even more intuitive. Of course, these intuitions contradict each other: we cannot accept both. But the intermediate view fails to vindicate *either* of these intuitions. It denies that distance from desert is all that matters, assigning it only *pro tanto* significance. But it also violates the right-left constraint, suggesting that it *can* be a good thing, from the standpoint from desert, for a person who deserves to be well off to in fact be badly off.

On balance, then, it is not clear to me that the intermediate view is any more attractive than the absolutist one I have just rejected. And in any case, the implication we have been considering—that it can be an all-things-considered good thing, from the standpoint of desert, for a person who deserves to be well off to in fact be badly off—is as much of a *reductio* of the intermediate view as it is a *reductio* of the absolutist view. To rule out this implication, we should say that, in some cases, it is not even a *pro tanto* good thing, from the standpoint of desert, for a person to be close to getting what they deserve. If a person deserves to be slightly well off, but is slightly badly off, then they are close to getting what

they deserve, but from the point of view of desert, there is *nothing* good about their situation.<sup>8</sup>

### 7.4.3 The Left-Right Constraint

The second constraint I want to consider prohibits desert lines like the following (Kagan 2012, p. 298):

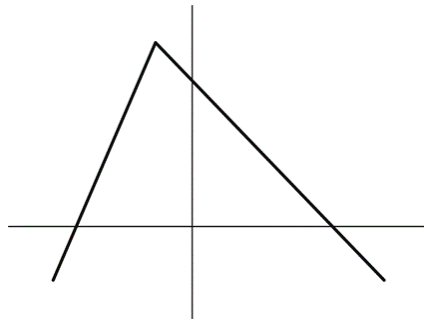


Figure 7.12

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The peak of this desert line is located in the upper-left quadrant of the graph, indicating that it belongs to an individual who deserves to be somewhat badly off.<sup>9</sup> The eastern slope of this desert line, however, extends into the upper-*right* quadrant. This indicates that it is a good thing, from the point of view of desert, for this individual to be somewhat *well* off. To be sure, this desert line does eventually extend into the *lower-right* quadrant, meaning that if the individual becomes excessively well off, the situation becomes bad from the standpoint of desert. But so long as the amount of positive well-being the person experiences is sufficiently low, the situation remains good from the point of view of desert. This individual deserves to be badly off, and yet it can apparently be a good thing, from the standpoint of desert itself, for them to be well off.

I find this implication counterintuitive. If a person does not deserve to be well off, then it does not seem to me that it can be a good thing, from the point of view of desert itself, for this person to be well off. Of course, if positive well-being is intrinsically morally good, then it might be an intrinsically good thing *all things considered* for this person to be well off. But this does not seem to be a good thing from the standpoint of *desert*.

<sup>8</sup> Of course, it is better that this person is only slightly badly off than it would be if they were even worse off, and thus even further from getting what they deserve. But this is merely to say that it is *less bad* that this person is only slightly badly off, not that this is in any way a *good* situation from the standpoint of desert.

<sup>9</sup> Moderates, of course, will immediately reject this possibility.

If my intuition here is correct, then desert lines like the one displayed in Figure 7.12 must be rejected. That is, we must reject desert lines that peak in the upper-*left* quadrant of the graph, or on the y-axis, but nevertheless extend into the upper-*right* quadrant. Kagan labels the prohibition against desert lines of this second kind the *left-right constraint* (Kagan 2012, p. 299).

I agree with Kagan (2012, p. 299) that the left-right constraint is less intuitively compelling than the right-left constraint. If a person deserves to be only slightly badly off, and is in fact only slightly well off, then it does not seem quite so implausible to say that their situation is somewhat good from the point of view of desert. But this claim does still strike me as unattractive. If we had not already rejected the two ‘distance from desert’ views we considered in Subsection 7.4.2 above, then we could invoke one of these views to explain why this person’s situation is good from the standpoint of desert. We could say that, since this person deserves only a small amount of negative well-being, and is in fact experiencing only a small amount of positive well-being, they are quite close to getting what they deserve, and that this makes their situation all-things-considered or *pro tanto* good from the standpoint of desert. But as we have already rejected these views, this explanation is not available to us. If a person’s being close to getting what they deserve is not always even *pro tanto* good from the standpoint of desert, then a person’s deserving to be badly off, and yet being well off, does not seem to be a good thing from the point of view of desert itself.

#### 7.4.4 The Right-Up-Down Constraint

The third constraint I want to consider prohibits desert lines like the rightmost two on this graph (Kagan 2012, p. 111):

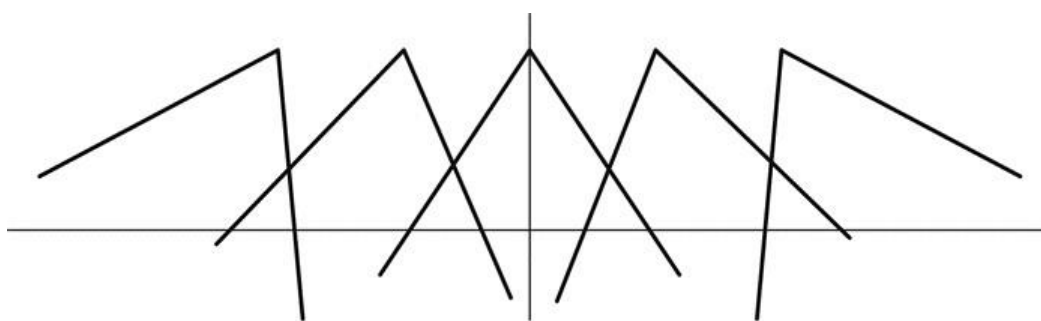


Figure 7.13

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The peaks of these desert lines are located in the upper-right quadrant, indicating that they belong to individuals who deserve to be somewhat well off. The western slopes of these desert lines, however, extend into the *lower-right* quadrant. This indicates that it can be a *bad*



thing, from the standpoint of desert, for these individuals to be less well off than they deserve to be, but well off nonetheless. So long as these individuals are only slightly less well off than they deserve to be, the situation remains good from the point of view of desert. But when they become sufficiently less well off than they deserve to be, even if they are still somewhat well off, the situation becomes bad from the standpoint of desert.

Again, this implication seems to me to be counterintuitive. The situation is clearly suboptimal from the standpoint of desert when a person is less well off than they deserve to be, but so long as individuals who deserve to be well off, are still somewhat well off, this does not seem to me to be a *bad* thing from the point of view of desert. If this were a bad thing, then from the standpoint of desert, the situation would have been better, other things being equal, if these individuals had not existed at all.<sup>10</sup> For then there could have been no badness generated by these individuals' failure to get what they deserve. But this implication seems false. If a person deserves to be well off, and is less well off than they deserve to be, then the situation is suboptimal from the standpoint of desert. But so long as this person is still somewhat well off—so long as their life is still *worth living*—then their life is worth living from the point of view of desert as well. Other things being equal, a state of affairs in which that person exists is better, from the standpoint of desert, than one in which they do not exist.

If this is right, then we must reject desert lines like the rightmost two displayed in Figure 7.13. If a desert line peaks to the right of the y-axis, then its western slope cannot extend into the lower-right quadrant. Call this the *right-up-down constraint*.

#### 7.4.5 The Left-Up-Down Constraint

Our fourth constraint prohibits desert lines like the leftmost two displayed in Figure 7.13. The peaks of these desert lines are located in the upper-left quadrant, indicating that they belong to individuals who deserve to be somewhat badly off.<sup>11</sup> The eastern slopes of these desert lines, though, extend into the *lower-left* quadrant. This indicates that it can be a bad thing, from the standpoint of desert, for these individuals to be less badly off than they deserve to be, but badly off nonetheless. So long as these individuals are only slightly less badly off than they deserve to be, the situation remains good from the point of view of desert. But when they become sufficiently less badly off than they deserve to be, even if they are still somewhat badly off, the situation becomes bad from the standpoint of desert.

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<sup>10</sup> Admittedly, this is a controversial claim. In light of Derek Parfit's 'Non-Identity Problem' (Parfit 1984, pp. 351–379), some philosophers remain wary of making this kind of inter-world comparison—in which worlds containing *different people* are compared to each other—or of drawing conclusions from such comparisons. Kagan, for example, says that 'one must hesitate before concluding too much' from comparisons of this kind (Kagan 2017, p. 413). For my own part, though, I do not find myself compelled by scepticism about this kind of comparison. It does seem to me to be true that, if a person's situation is bad from the point of view of desert, then from that point of view, the world would be better, other things being equal, if that person did not exist.

<sup>11</sup> Moderates will again immediately reject this possibility.

This implication also strikes me as being counterintuitive. The situation is clearly suboptimal from the standpoint of desert when a person is less badly off than they deserve to be, but so long as individuals who deserve to be badly off are still somewhat badly off, this does not seem to me to be a *bad* thing from the point of view of desert. The situation would not have been better from the standpoint of desert, other things being equal, if these individuals had not existed at all. From the point of view of desert, some deserved negative well-being is better than none at all.

If this is right, then we must reject desert lines like the leftmost two displayed in Figure 7.13. If a desert line peaks to the left of the y-axis, then its eastern slope cannot extend into the lower-left quadrant. Call this the *left-up-down constraint*. This constraint, of course, is the inverse of the right-up-down constraint.

The most obvious reason to doubt these two up-down constraints is that they are in conflict with the ‘distance from desert’ views we considered in our discussion of the right-left and left-right constraints. On these views, a person’s being close to getting what they deserve is always at least *pro tanto* good from the standpoint of desert, and a person’s being far from getting what they deserve is always at least *pro tanto* bad from the standpoint of desert. Like the right-left and left-right constraints, the two up-down constraints seem to contradict these views. For if a person deserves to be enormously well off but is in fact only slightly well off, or if they deserve to be enormously badly off but are in fact only slightly badly off, then they are very far from getting what they deserve. And so these distance-from-desert views seem to imply, *contra* the up-down constraints, that these situations are bad from the point of view of desert after all.<sup>12</sup>

As we have seen, though, we ought to reject these distance-from-desert views. These views imply, implausibly, that it can be a good thing, from the standpoint of desert itself, for a person who deserves to be well off to in fact be badly off. If this implication is indeed a *reductio* of the distance-from-desert views, then we cannot invoke either of these views to challenge the two up-down constraints.

#### 7.4.6 Constraints and Skylines

In Section 7.3, we explored the concept of desert *skylines*—the lines formed by the peaks of all individual desert lines. I now want to argue that the four constraints we have considered in this section jointly support the adoption of a V-shaped, gentler-western-slope or other similar skyline, rather than a standard, sea-level or western-sea-level one.

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<sup>12</sup> The intermediate view has this implication if the *pro tanto* badness of the person’s being far from getting what they deserve is sufficient to outweigh the *pro tanto* goodness of their being in their deserved well-being classification.

Given the assumption that the slopes of desert lines are straight, the left-right and right-left constraints prohibit the inner slopes of desert lines from intercepting the *y*-axis *above the x-axis*, as the inner slopes of the desert lines displayed in Figures 7.11 and 7.12 do. The left-up-down and right-up-down constraints, meanwhile, prohibit straight inner slopes of desert lines from intercepting the *y*-axis *below the x-axis*, as they would, if extended, in the case of the four outer desert lines displayed in Figure 7.13.

We can already see that, if the inner slopes of desert lines are straight, then the sea-level and western-sea-level skylines will violate at least one of these up-down constraints. According to the western-sea-level skyline, every peak to the left of the *y*-axis is located *on the x-axis*, while the sea-level skyline says that this is true of *every* peak. And if the *peak* of a desert line is located on the *x*-axis, then its inner slope can *only* intercept the *y*-axis below the *x*-axis.

Somewhat less obviously, the conjunction of our four constraints also gives us reason to reject *standard* skylines. We have just seen that, if all four of these constraints are correct, then straight inner slopes of desert lines cannot intercept the *y*-axis either above or below the *x*-axis. And so, if all four of these constraints are correct, then straight inner slopes must intercept the *y*-axis *on the x-axis*. They must, that is, intercept the *y*-axis at the *origin*, as they do in Figure 7.3, and in Figure 7.14 below (Kagan 2012, p. 74).

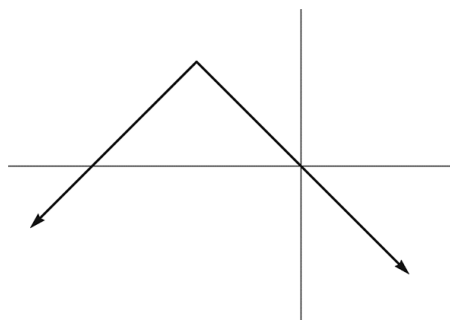


Figure 7.14

Kagan, S. *The Geometry of Desert*. Copyright 2012 Oxford University Press. Reproduced with permission of the Licensor through PLSclear.

In order to satisfy this ‘origin requirement’, and given the assumption that the inner slopes of desert lines are straight, constant-skyline desert graphs must adopt a form like this (Kagan 2012, p. 118):

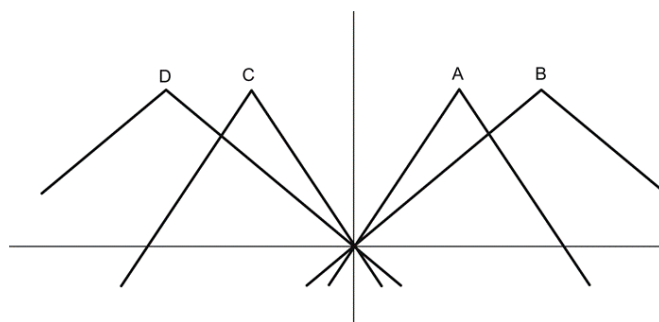


Figure 7.15

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This set of desert lines, however, is unacceptable. Consider desert lines A and B. With a peak further to the right, B belongs to a more virtuous individual than A does. Notice, though, that the western slope of A is *steeper* than the western slope of B. This has an implausible implication. Suppose that the individuals to whom A and B belong (call them Andy and Bella) are both neither well off nor badly off. These individuals are, as it were, 'at the origin', with situations that are neither good nor bad from the standpoint of desert. Now suppose that we can increase the well-being level of either Andy or Bella by some fixed amount. Whichever individual we choose to help will still be somewhat 'below their peak'—less well off than they deserve to be—but will be closer to getting what they deserve than they are currently. From the point of view of desert, which of these individuals would it do more good to help?

Desert lines A and B indicate that it would do more good to help *Andy*. Since A's western slope is steeper than B's, a given increase along the x-axis corresponds to a greater climb up A's western slope than up B's western slope.<sup>13</sup> This indicates that increasing Andy's well-being level by a given amount does more good, from the standpoint of desert, than increasing Bella's well-being level by that same amount.<sup>14</sup>

This implication seems highly counterintuitive. With a peak less far to the right, Andy is the less virtuous of the two individuals. And so the implication we are faced with is as follows. When confronted with two equally well-off individuals, both of whom are less well off than they deserve to be, it does more good from the standpoint of desert, other things being equal, to improve the well-being level of the *less* virtuous person. This claim is implausible, though. Surely, if anything, it would do more good to help the more virtuous person.<sup>15</sup>

Desert lines C and D present us with a similar problem. With a peak further to the left, D belongs to a more vicious individual than C does. But the eastern slope of C is steeper than

<sup>13</sup> At least assuming that Andy and Bella are both still left below their peak.

<sup>14</sup> Again assuming that Andy and Bella are both still left below their peak.

<sup>15</sup> This claim—that it would do more good to help the more virtuous person—is one of thoughts underlying 'bell motion'. Given bell motion, desert lines have steeper western slopes when they belong to *more* deserving individuals, so helping the more virtuous person will move them further up their (steeper) western slope than helping the less virtuous person moves them up their (gentler) western slope.

the eastern slope of D. This, too, has an implausible implication. Suppose that the individuals to whom C and D belong (call them Chloe and David) are both 'at the origin'—neither well off nor badly off, and with situations that are neither good nor bad from the standpoint of desert. Now suppose that we can *decrease* the well-being level of either Chloe or David by some fixed amount. Whichever individual we choose to make worse off will still be somewhat 'beyond their peak'—less badly off than they deserve to be—but will be closer to getting what they deserve than they are currently. From the point of view of desert, which of these two individuals would it do more good to make worse off?

Desert lines C and D indicate that it would do more good to make *Chloe* worse off. Since C's eastern slope is steeper than D's, a given decrease along the x-axis corresponds to a greater climb up C's eastern slope than up D's eastern slope.<sup>16</sup> This indicates that decreasing Chloe's well-being level by a given amount does more good, from the standpoint of desert, than decreasing David's well-being level by that same amount.<sup>17</sup>

Again, this implication seems highly counterintuitive. With a peak less far to the left, Chloe is the less vicious of the two individuals. And so the implication we are faced with is as follows. When confronted with two equally well-off individuals, both of whom are better off than they deserve to be, it does more good from the standpoint of desert, other things being equal, to decrease the well-being level of the *less* vicious person. But this claim seems implausible. Surely, if anything, it would do more good to decrease the well-being level of the more vicious person.<sup>18</sup>

So while straight-line, constant-skyline desert graphs are in principle able to satisfy the origin requirement, this comes at a cost. If straight inner slopes of desert lines are to pass through the origin, constant skylines commit us to implausible claims about the comparative *steepness* of those slopes.<sup>19</sup>

The *V-shaped* and *gentler-western-slope* skylines do not suffer from this problem. Even if the inner slopes of desert lines are straight, graphs that adopt one of these skylines can satisfy the origin requirement without committing to implausible claims about the comparative steepness of those slopes. For on graphs that adopt one of these skylines, the inner slopes of all desert lines can simply *coincide* with the lowest part of the relevant half of the skyline. Suppose, for example, that we adopt the V-shaped skyline, as displayed in Figure 7.10. If a desert line peaks in the upper-right quadrant, then, on our new proposal, its western slope

<sup>16</sup> At least assuming that Chloe and David are both still left beyond their peak.

<sup>17</sup> Again assuming that Chloe and David are both still left beyond their peak.

<sup>18</sup> This is another implication of bell motion. Given bell motion, desert lines have steeper eastern slopes when they belong to *less* deserving individuals, so making the more vicious person worse off will move them further up their (steeper) eastern slope than making the less vicious person worse off moves them up their (gentler) eastern slope.

<sup>19</sup> Kagan agrees that the graph displayed in Figure 7.15 is unacceptable (Kagan 2012, pp. 118–119). But rather than rejecting standard skylines on this basis, Kagan suggests that this is a reason to reject the right-left and left-right constraints (Kagan 2012, p. 312). Having refrained from endorsing any of the constraints I have argued for in this section, Kagan is not committed to the origin requirement.

will coincide with the lowest part of the right half of the skyline. If a desert line peaks in the upper-left quadrant, meanwhile, its eastern slope will coincide with the lowest part of the left half of the skyline.

If this proposal is correct, then since the lowest part of the V-shaped skyline itself passes through the origin, the inner slopes of desert lines will all pass through the origin as well. But crucially, the inner slopes of desert lines will also all be *equally steep*. For note that, on this proposal, the inner slope of *every* desert line coincides with the lowest part of one half of the skyline, no matter how high its peak.

Equally steep inner slopes allow us to avoid the implausible implications that we attributed to constant skylines. Suppose again that two individuals both deserve to be well off—suppose, that is, that their desert lines both peak in the upper-right quadrant. And suppose again that both individuals are currently ‘at the origin’—neither well off nor badly off, and with situations that are neither good nor bad from the standpoint of desert. Suppose, finally, that we can increase the well-being level of one of these individuals by some fixed amount. Whichever individual we choose to help will be somewhat below their peak—less well off than they deserve to be—but will be closer to getting what they deserve than they are currently. From the point of view of desert, which individual would it do more good to help now?

If the western slopes of these two individuals’ desert lines are equally steep, then no matter how virtuous these individuals are—no matter how high their peaks are—it will do the *same* amount of good to increase either of their well-being levels by this fixed amount. For equally steep western slopes mean that a given increase along the x-axis corresponds to the same climb up each slope.<sup>20</sup>

The same result emerges when we consider our second kind of case. Suppose that we can decrease by some fixed amount the well-being level of only one of two individuals, both of whom deserve to be badly off (have peaks in the upper-left quadrant), but are currently ‘at the origin’. Whichever individual we make worse off will still be less badly off than they deserve to be, but will be closer to getting what they deserve than they are currently. If the eastern slopes of these two individuals’ desert lines are equally steep, then a given decrease along the x-axis corresponds to the same climb up each slope. And so no matter how vicious these individuals are—no matter how high their peaks are—it will do the *same* amount of

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<sup>20</sup> This proposal does not vindicate the intuition—underlying bell motion—that it does *more* good from the standpoint of desert to help the more virtuous individual. As Kagan notes (2012, p. 120), though, a skyline very similar to the V-shaped skyline is able to vindicate this intuition while still satisfying the origin requirement and accepting that the inner slopes of desert lines are straight. If the slopes of the V-shaped skyline are *curved upwards*, then if each inner slope passes through the origin, desert lines with higher peaks will have steeper inner slopes than ones with lower peaks. This would also vindicate the thought that, in our second kind of case, it does more good from the standpoint of desert to decrease the well-being level of the more vicious individual. Again, this proposal—that the slopes of the skyline are curved upwards—is entirely plausible, but I cannot discuss it any further here.

good from the standpoint of desert to decrease either of these individuals' well-being levels by this fixed amount.

Equally steep western slopes avoid the implication that it does more good from the standpoint of desert, other things being equal, to make the less virtuous person better off. And equally steep eastern slopes avoid the implication that it does more good from the standpoint of desert, other things being equal, to make the less vicious person worse off. For desert graphs that adopt the V-shaped skyline, therefore, satisfying the origin requirement is far less troublesome than it proved to be for straight-line, constant-skyline graphs.<sup>21</sup>

The gentler-western-slope skyline differs from the V-shaped skyline only in that its western slope is gentler than its eastern slope. A graph that adopts this skyline can satisfy the origin requirement in the same way as the V-shaped skyline. The inner slope of each desert line can coincide with the lowest part of the relevant half of the skyline, be that the steeper eastern half or gentler western half. Because this skyline itself passes through the origin, each inner slope will then pass through the origin as well. And since every inner slope will coincide with the lowest part of one half of the skyline, no matter how high its peak, the inner slopes of lines peaking in the upper-right quadrant will all be equally steep, and the inner slopes of lines peaking in the upper-left quadrant will all be equally steep.

Now, because the western half of this skyline is gentler than the eastern half, this proposal will imply that the inner slopes of lines peaking in the upper-left quadrant are themselves gentler than the inner slopes of lines peaking in the upper-right quadrant. But this implication is not problematic—it simply tells us that moving someone closer to what they deserve by *increasing* their well-being level by a given amount does more good, from the standpoint of desert, than moving someone closer to what they deserve by *decreasing* their well-being level

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<sup>21</sup> Moderates cannot satisfy the origin requirement by adopting the V-shaped skyline per se, since the V-shaped skyline implies that some desert lines have 'negative peaks'—peak to the left of the y-axis. But moderates can adopt the *right half* of the V-shaped skyline, as displayed in Figure 7.9. Moderates can then satisfy the origin requirement by ensuring that the western slopes of desert lines coincide with the lowest part of that half of the V-shaped skyline.

Incidentally, this truncated desert graph—one that adopts the right half of the V-shaped skyline, and has all western slopes coinciding with the lowest part of the skyline—carries one significant theoretical advantage. This kind of desert graph avoids the implication, rejected as implausible by Tadros (2017, pp. 402–403), that if a person is less well off than they deserve to be, then we can improve their situation from the standpoint of desert merely by making them less virtuous. If the western slope of a desert line coincides with the lowest part of the skyline *no matter how high the line's peak*, then merely shifting a person's peak downwards cannot improve their situation from the standpoint of desert. Even if the person is now at their (lower) peak, this peak is merely where the corresponding point on their western slope—the point corresponding to the well-being level they are now still experiencing—used to be. In other words, a given well-being level will correspond to the same amount of goodness from the standpoint of desert whether it corresponds to a point on the western slope of a virtuous person, or to the peak of a vicious person.

The retributivist version of this graph does not carry this advantage, since if the vicious person has a negative peak, this peak will have a higher y-co-ordinate than the corresponding point on a virtuous person's western slope (given that this slope passes through the origin). On this version of the graph, therefore, turning a virtuous and badly-off person into a vicious and badly-off one *is* likely to improve their situation from the standpoint of desert.

by that same amount. And this claim seems entirely plausible. The problem with constant skylines was not that upper-right-quadrant inner slopes were steeper than upper-left-quadrant inner slopes, but that some upper-right-quadrant inner slopes were objectionably steeper than *other upper-right-quadrant inner slopes*, and that some upper-left-quadrant inner slopes were objectionably steeper than *other upper-left-quadrant inner slopes*. And the gentler-western-slope skyline does not have this implication. The inner slopes of lines peaking in the upper-right-quadrant all coincide with the lowest part of the eastern half of the skyline, and so are all as steep as each other. And because the inner slopes of lines peaking in the upper-left-quadrant all coincide with the lowest part of the western half of the skyline, they, too, are all as steep as each other. Satisfying the origin requirement is no more troublesome for the gentler-western-slope skyline than it was for the V-shaped skyline.

If the inner slopes of desert lines are always straight, then the V-shaped and gentler-western-slope skylines, but *not* sea-level, western-sea-level or standard skylines, can satisfy the origin requirement without thereby committing to implausible claims about the comparative steepness of these inner slopes. And we have seen that the four constraints we have considered in this section jointly entail that straight inner slopes *must* satisfy this origin requirement. Together, then, these four constraints imply that, if the inner slopes of desert lines are straight, then we ought to reject sea-level, western-sea-level and standard skylines, and instead accept a V-shaped, gentler-western-slope, or other similar skyline.<sup>22</sup>

#### 7.4.7 Conclusion

In this section, I have argued that we should place four constraints on the extension of desert lines. Each of these constraints prohibits the inner slope of a desert line that peaks in one quadrant from extending into some other particular quadrant. In so doing, each of these constraints places some kind of restriction on the value of a particular suboptimal desert situation: one in which a person deserves to be well off, but is worse off than they deserve to be, or one in which a person deserves to be badly off, but is better off than they deserve to be.

The *right-left* constraint prohibits a desert line that peaks in the upper-right quadrant from extending into the upper-left quadrant. This constraint indicates that it can never be a good thing, from the point of view of desert, for a person who deserves to be well off to in fact be badly off.

The *left-right* constraint prohibits a desert line that peaks in the upper-left quadrant from extending into the upper-right quadrant. This constraint indicates that it can never be a good

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<sup>22</sup> Such as a roughly V-shaped skyline that curves upwards, or, if we are moderates, the right half of the V-shaped skyline.



thing, from the point of view of desert, for a person who deserves to be badly off to in fact be well off.

The *right-up-down* constraint prohibits the western slope of a desert line that peaks to the right of the y-axis from extending into the lower-right quadrant. This constraint tells us that it can never be a bad thing, from the standpoint of desert, for a person who deserves to be well off to be less well off than they deserve to be, but well off nonetheless.

The *left-up-down* constraint prohibits the eastern slope of a desert line that peaks to the left of the y-axis from extending into the lower-left quadrant. According to this constraint, it can never be a bad thing, from the standpoint of desert, for a person who deserves to be badly off to be less badly off than they deserve to be, but badly off nonetheless.

These four constraints jointly imply that, if the inner slopes of desert lines are straight, then we ought to reject both kinds of constant skyline—standard and sea-level variants—as well as one kind of non-constant skyline, the western-sea-level skyline. We ought instead to endorse one of the other kinds of non-constant skyline we have encountered, such as the V-shaped or gentler-western-slope skyline. For if the inner slopes of desert lines are straight, then only these other non-constant skylines are able to respect these four constraints without committing us to implausible claims about the comparative steepness of these inner slopes.

## 7.5 Conclusion

In this chapter, I have explored two aspects of the axiological thought that, in Chapter 6, I argued consequentialists have reason to endorse—namely, that it is a good thing, other things being equal, for people to be as well off as they deserve to be. To do so, I have used several of Shelly Kagan's 'desert graphs', which can be used to plot 'individual desert lines', showing how good or bad it is from the standpoint of desert for a given individual to experience different levels of well-being.

In Section 7.3, I discussed the issue of skylines. Skylines indicate how good it is, from the point of view of desert, for individuals of differing desert levels to be precisely as well off as they deserve to be. I argued that, if the standpoint of desert is axiologically exhaustive, then we ought to prefer *non-constant* skylines, according to which it is not always equally good for people to be as well off as they deserve to be, to *constant* skylines, according to which this is always equally good. For all things considered, it seems better for a person to be deservedly extremely well off than deservedly only slightly well off.

In Section 7.4, I argued that we should endorse four constraints on the value of situations in which a person is better or worse off than they deserve to be. More specifically, each of these constraints concerns either situations in which a person deserves to be well off, but is worse off than they deserve to be, or in which a person deserves to be badly off, but is better off

than they deserve to be. I then argued that these four constraints jointly imply that, if the ‘inner slopes’ of individual desert lines are straight, then we ought to reject both constant skylines and one kind of non-constant skyline, and instead endorse some other kind of non-constant skyline. For if the inner slopes of desert lines are straight, then only some other kind of non-constant skyline can plausibly satisfy the ‘origin requirement’ created by these four constraints.

There are many more important questions about the axiology of desert that I have not attempted to answer in this chapter. I have assumed here that the inner slopes of individual desert lines are always straight, but how plausible is this assumption? Does the situation worsen linearly as a person becomes progressively better or worse off than they deserve to be, or does it, for example, worsen exponentially? Likewise, if we can improve by a fixed amount the well-being level of only one of two people, each of whom is currently worse off than they deserve to be, does it always do more good from the standpoint of desert to help the ‘more deserving’ person? Or if we would be moving either person equally closer to getting what they deserve, does it do equal amounts of good to help these people? And should we endorse any other kinds of desert-line constraint? Should we, for example, endorse a constraint concerning situations in which a person deserves to be well off, and is *better* off than they deserve to be? Can this ever be a *bad* thing from the point of view of desert?

Whatever the answers to the questions, I hope to have shown in this chapter that the seemingly simple thought I tried to motivate in Chapter 6—that it is a good thing, other things being equal, for people to be as well off as they deserve to be—is in many ways a surprisingly complex and philosophically rich one.

## 8. Conclusion

For a concept so often placed at the centre of moral and political theories, and so often invoked in ordinary discourse, desert has long remained something of a philosophical mystery. Many important questions surrounding the concept of desert—questions so fundamental as to concern the kinds of entities that actually deserve anything, or the kinds of things they deserve—have received less attention in the literature than they merit. In this thesis, I have tried to answer some of these questions, and, in so doing, go some way towards demystifying desert.

I have defended a number of claims about desert in this thesis. In Chapter 2, I argued that an entity is a desert subject—a subject that deserves—only if it possesses interests to be satisfied or frustrated. I then argued that the only desert object—the only entity that is deserved—is well-being.

In Chapter 3, I defended three constraints on the kinds of facts that can serve as the basis of a subject's desert. I argued that the basis of a subject's desert must be a fact about that subject, that it must be an appropriate basis for holding some kind of appraising attitude towards that subject, and that it must be a fact for which the subject is responsible.

In Chapter 4, I argued against an especially common view about the kinds of facts that make people 'more' or 'less' deserving. In particular, I argued that people are not made any more or less deserving by acting morally or immorally. I then argued that we have reason to prefer a 'motivational' theory of desert, according to which a person's desert is based only on the quality of their motives.

In Chapter 5, I argued that subjects deserve to be well or badly off only in the sense of deserving to experience good or bad moments. I then defended a fourth constraint on the kinds of facts that can serve as desert bases, according to which the basis of a subject's desert of a present object cannot be a fact about the future. I also suggested that we have reason to consider a kind of presentist view of desert, according to which desert of a present object can be based only on facts about the present.

In Chapter 6, I argued that there is reason for consequentialists about moral rightness to assign a role to desert in their theory of the good. In particular, I argued that act consequentialists can defuse some of the problem cases that threaten their theory by saying that it is an intrinsically good thing for people to be as well off as they deserve to be. The strongest version of act consequentialism is one that recognises the intrinsic moral significance of desert.

In Chapter 7, I argued that, given plausible background assumptions, it cannot always be an equally good thing, from the standpoint of desert, for people to be as well off as they deserve

to be. I also argued that it can never be a good thing, from the standpoint of desert, for a person who deserves to be well off to in fact be badly off, or for a person who deserves to be badly off to in fact be well off. Finally, I argued that it can never be a bad thing, from the standpoint of desert, for a person who deserves to be well off to be less well off than they deserve to be, but well off nonetheless, or for a person who deserves to be badly off to be less badly off than they deserve to be, but badly off nonetheless.

If my arguments here have been successful, therefore, then the novel account of the nature of desert that I outlined at the beginning of this thesis does indeed emerge as a surprisingly plausible one. Desert is *welfarist*—well-being is the only deserved entity. Desert is plausibly *presentist*—desert of a present object is plausibly based only on facts about the present. And desert is, in at least one sense, *non-agential*—people are not made more or less deserving by acting morally or immorally.

Desert is also *important*. Anyone who endorses a consequentialist theory of the right has reason to assign a role to desert in their theory of the good. Act consequentialism, in particular, benefits from recognising the axiological significance of desert. If we ought always to make the world better rather than worse, then we should recognise that one of the things that does this—one of the things that actually *makes* the world better, rather than worse—is people getting what they deserve.

Many questions about desert remain unanswered. In Chapter 2, for example, I argued that well-being is the only deserved entity. But do people only ever deserve to be somewhat *well* off? Or can people also deserve to be somewhat *badly* off, or neither well off nor badly off? And if people do sometimes deserve to be badly off, just how many of us deserve this, and how often do we deserve it? Is ‘negative desert’ a rare phenomenon, restricted to the very worst of humankind? Or, in a troubled world, are we in its presence every day?

In Chapter 4, I suggested that we have reason to favour a motivational theory of desert, according to which a person’s desert is based exclusively on the quality of their motives. The motivational theory avoids the problems that afflict agential theories of desert, and seems able to respect the four desert-base constraints I defended in Chapters 3 and 5. But just how plausible is the motivational theory all things considered? It is natural to think that a person’s motives are *among* the things that make them more or less deserving, but are they really the *only* things that do so?

In Chapter 5, I argued that we should consider going further than the ‘non-forward-looking’ constraint on desert bases, and saying that desert is, in fact, *non-backward-looking* as well. On this view, desert of a present object can be based only on facts about the present. I argued against a seemingly paradigmatic example of backward-looking desert—past moral agency—in Chapter 4, and another putative example of such desert, that of past suffering, can be defused in the same way as the claim that *future* suffering is a basis for desert. In any case, the claim that suffering is a desert basis seems to violate two of the desert-base constraints I

defended in Chapter 3. So does desert really only have eyes for the present? Or are some instances of backward-looking desert ultimately inescapable?

These questions are important, and merit further discussion. In many cases, their answers will have implications for questions of distributive and retributive justice, and indeed, on the way each of us ought to live our lives. But they are, nevertheless, questions for another day.

Maybe then we can take another step towards understanding one of the most prominent, yet most mysterious, concepts in moral and political philosophy: the concept of desert.

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