# THE GEOMETRY OF DESERT

by

SHELLY KAGAN


The Lindley Lecture
The University of Kansas
2005

The E. H. Lindley Memorial Lectureship Fund was established in 1941 in memory of Ernest H. Lindley, Chancellor of the University of Kansas from 1920 to 1939. In February 1941 Mr. Roy Roberts, the chairman of the committee in charge, suggested in the *Graduate Magazine* that

> the Chancellor should invite to the University for a lecture or a series of lectures, some outstanding national or world figure to speak on "Values of Living" -- just as the late Chancellor proposed to do in his courses "The Human Situation" and "Plan for Living."

In the following June Mr. Roberts circulated a letter on behalf of the Committee, proposing in somewhat broader terms that

> The income from this fund should be spent in a quest of social betterment by bringing to the University each year outstanding world leaders for a lecture or series of lectures, yet with a design so broad in its outline that in the years to come, if it is deemed wise, this living memorial could take some more desirable form.

The fund was allowed to accumulate until 1954, when Professor Richard McKeon lectured on "Human Rights and International Relations." The next lecture was given in 1959 by Professor Everett C. Hughes, and has been published by the University of Kansas School of Law as part of his book *Student's Culture and Perspectives: Lectures on Medical and General Education.* The selection of lectures for the Lindley series has since been delegated to the Department of Philosophy.

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The Lindley Lecture, The University of Kansas
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# The Geometry of Desert

Shelly Kagan

Here are two widely accepted claims about (moral) desert. First, people differ from one another in terms of how deserving they are, and because of this, some deserve more than others. Second, other things being equal, it is an intrinsically good thing for people to get what they deserve.

These two claims—which I will pretty much take as given in this paper—seem simple and straightforward enough. Of course, they immediately bring us face to face with some familiar (and perennially controversial) questions. For example, what exactly is the relevant desert basis? That is, by virtue of what is it that one person is more deserving than another? And what, exactly, is the relevant deserved magnitude? That is, what is it that the more deserving deserve more of?

In this paper, I will have nothing much to say about these more familiar questions. For concreteness, to be sure, I am going to assume that the more deserving are more deserving because they are more *virtuous* (and the less deserving are less deserving because they are more vicious). This strikes me as a plausible enough suggestion, as far as it goes, but for present purposes we can take such talk of virtue and vice as something of a placeholder for a more complete specification of the desert basis, whatever it is. Similarly, I am going to assume that what the more deserving deserve more of is *well-being*. That is, in certain situations, at least, the more virtuous deserve to be better off. This too strikes me as a plausible enough suggestion, but I believe that little of what I say below turns on it being correct; those who accept a different account of the deserved magnitude should be able to readily translate my discussion into their own, more favored, idiom.

Another familiar question is whether or not it is truly the case that desert has *intrinsic* moral significance. After all, if we reward moral behavior (and punish immoral behavior) this will lead to better results overall. Perhaps, then, considerations of desert have only instrumental significance: it may be instrumentally valuable for people to get what they deserve, but not good in and of itself. However, my concern in this paper is not to defend the second claim—the claim that desert is not only instrumentally but also intrinsically significant—but rather to explore it. Accordingly, I am simply going to assume that it is indeed an intrinsically good state of affairs for someone to be getting what they deserve. (Of course, to claim that desert has intrinsic value in this way is not at all to

claim that it is the only thing with intrinsic value; in any given case the intrinsic value of someone's getting what they deserve might well be outweighed by other, intrinsically bad, features of the situation.)

But once these various familiar questions are put aside, it may seem as though there is little left to discuss. What remains, as I say, seems straightforward enough: people differ in terms of how deserving they are, and it is intrinsically good for people to get what they deserve.

In fact, however, I think that there is a great deal left to discuss. The topic of desert is a surprisingly complicated one—complicated in ways that have been largely overlooked. Or so I shall argue.[1]

To fix intuitions, consider the following case. Imagine that there has been an explosion in the factory, and two workers—Amos and Boris—have been injured. Paramedics are on their way, but both Amos and Boris are in considerable pain. Unfortunately, we have only one dose of painkiller—so we can help either Amos or Boris, but not both. If we imagine as well that other things are equal (the two are in equal pain, the painkiller will help both equally, neither owns the painkiller, and so forth), then it seems as though we should flip a coin in choosing between them.

But let us now change one important detail. Suppose that it is Boris's fault that the explosion took place (perhaps he negligently forgot to turn off the sparking mechanism), while Amos is completely blameless (he is not at all at fault for the explosion). Intuitively, this changes things. It breaks the tie. Most of us believe that it is now preferable to give the painkiller to innocent Amos, rather than to somewhat culpable Boris. Because Boris is at fault, while Amos is not, it is better to help Amos rather than Boris, given that we cannot help both. Boris deserves a lower level of priority, at least when compared to Amos.

We can call the view at work here *fault forfeits first*.[2] According to this view, those who are at fault deserve to go "to the back of the line" behind those who are not culpable. Accordingly, since we cannot aid both Amos and Boris, it is better (in terms of desert) to aid innocent Amos, rather than culpable Boris.

Note that accepting this view is compatible with insisting that if there were enough painkiller to treat both Amos and Boris, then it would be better still to do this. The claim being put forward now is only the modest claim that if we cannot help both, it is better to help the innocent. There is no suggestion (yet) that it would be better to leave Boris in his pain, even if there were enough painkiller to go around.

Consider, now, a further modification to the case. Imagine, as before, that Boris caused the explosion, but assume now that he did this intentionally. Perhaps he was deliberately trying to injure Amos (without justification), but incompetently got caught in the explosion as well.

Some people—call them *retributivists*—think that in this revised case it might well be true that even if we could aid both Amos and Boris it would be better to leave Boris unaided. Of course, any given retributivist might not think this about the particular case as we have just described it, but in principle, at least, retributivists believe that if Boris is sufficiently vicious then it would be better not to aid him, better to leave him suffering. That is, if someone is *sufficiently* vicious, they can deserve to suffer.

In contrast, *moderates* about desert believe that no one deserves to suffer, no matter how vicious they are. Thus, provided that there is enough painkiller to go around, it cannot possibly be better to leave Boris unaided.

Note, however, that although the moderate rejects retributivism, she still accepts the view that fault forfeits first: while it is better to aid both Amos and Boris if one can, forced to choose between the two it is better to aid Amos; Boris still goes to the back of the line behind Amos. (The retributivist, in contrast, accepts a version of fault forfeits first according to which if Boris is sufficiently vicious he may in fact get kicked out of the line for aid altogether!)

Regardless of whether you are a moderate or a retributivist, you are going to want an expansive understanding of fault forfeits first, to take into account the fact that culpability and fault come in various degrees. This may already be apparent with regard to the retributivist, since the retributivist thinks that only those who are *sufficiently* vicious deserve to suffer; but it is true, as well, for the moderate.

Suppose, for example, that there are three people who have been injured in the explosion: Amos is completely blameless, and Boris is somewhat culpable (having negligently failed to check the sparking mechanism), while this time it is Catherine who is quite vicious (deliberately leaving the sparking mechanism turned on so as to injure Amos). Clearly, Amos is the person who most deserves our aid. But if we can aid a second person as well, who should it be? If all we are told is that the culpable go to the back of the line behind the blameless, this doesn't yet tell us whether (after having aided Amos) we should help Boris or help Catherine.

Presumably, however, even the moderate will agree that it is better to help Boris than Catherine in this case, given Catherine's considerably greater level of vice. (Of course, the moderate also insists that it would be best to help all three, if only we could.) Thus even the moderate will want to accept a version of fault forfeits first according to which different degrees of fault are to be distinguished. We should assume, therefore, that according to fault forfeits first the more culpable and vicious deserve to go "behind" those who are less culpable or vicious.

We will probably want to expand our understanding of fault forfeits first in a second way as well. Suppose that Frank is only slightly more culpable than Frances. If so, it seems implausible to claim that it is better to help Frances rather than Frank (if we can only help one of the two) regardless of *how much* we can do for each of them. It might be, for example, that we can help Frank a great deal, while we can only help Frances a small amount. In such a case, presumably, despite the fact that Frank's needs having a lower priority (unit for unit), this is outweighed by the fact that we can do so much more good for him. Thus, a plausible version of fault forfeits first will take into account not only how culpable someone is, but also how much good we can do for that person.

Now one way to capture this (doubly) enriched conception of fault forfeits first would be through the idea of a culpability discount rate. For those who are blameless we can let potential increases in well-being carry their full weight (zero discount). But for those who are culpable we can partially discount well-being, so that it counts for less, unit for unit. The more vicious the individual, the greater the discount. For example, if Boris is only slightly culpable, potential increases in his well-being might be discounted by 20%, while if Boris is highly vicious the discount rate might be 70% (or even higher).

A view like this readily incorporates the two desirable features that we have just identified. On the one hand, we can make fine-grained distinctions between varying levels of fault, assigning steeper discounts for the more vicious. And at the same time, using a discount rate also allows us to capture the plausible idea that even if someone is more vicious it might still be better to aid them, if they have enough more at stake. For example, even if Tom has a discount rate of 40%, while Larry has a discount rate of only 20%, if I have to choose between aiding Larry by 10 units of well-being and aiding Tom by 15 units, it will do more good to aid Tom. (Admittedly, gains to Tom are discounted by 40%, which means that they get only 60% of their "normal" or full weight, while gains to Larry are discounted only 20%, so they get 80% of their full weight. But 60% of 15 is 9, while 80% of 10 is only 8.)

So long as the discount rate never reaches 100%—no matter how vicious the individual in question may be—a view like this will be acceptable to moderates. For no matter how steep the discount is, so long as it is less than 100% it will always do at least some good (from the standpoint of desert) to aid the needy. Thus, given sufficient resources, it will always be best to help everyone, just as the moderate insists.

As a limit case, some moderates may in fact be willing to allow the discount rate to reach 100% for extraordinarily vicious individuals. A person this vicious would have no claim to being helped at all; from the

standpoint of desert their well-being would be completely discounted. Of course, allowing for this possibility distinguishes this position from that of a typical moderate. For if 100% discounts are possible, then even when we do have enough resources to help everyone, it won't necessarily make things better to do this.

Note, however, that even if we do go this far, we have not yet embraced the retributivist claim that for those who are sufficiently vicious, it is *better* if they suffer. For even if well-being is completely discounted, that doesn't yet "reverse" the normal order of things, making suffering into something intrinsically good (from the point of view of desert). To do that, we need to allow for discounts even *steeper* than 100%.

Of course, to talk this way runs the risk of seeming paradoxical. How can there be a discount greater than a "complete" discount? Accordingly, it may be preferable to talk, instead, of a culpability *multiplier*. Instead of saying, for example, that a mildly culpable individual has a discount rate of 20%, we can say that she has a culpability multiplier of .8. (Potential increases in well-being must then be multiplied by .8 to determine their weight from the standpoint of desert.) Similarly, a significantly vicious individual may have a multiplier of .3 (corresponding, of course, to a discount rate of 70%), while a completely blameless individual will have a multiplier of 1 (corresponding to a discount rate of 0).

We might then state the distinction between moderates and retributivists in this way. Moderates believe that culpability multipliers must be positive, or at worst zero. Retributivists, in contrast, believe that multipliers can be *negative*. For it is, of course, precisely a negative multiplier that is required to reverse the normal value of well-being. With a negative multiplier, increases in well-being will actually make things worse, rather than better; improving the situation (from the standpoint of desert) will instead require a reduction in well-being. Thus, by allowing negative multipliers in sufficiently extreme cases, we can capture the retributivist idea that sufficiently vicious individuals deserve to suffer.

Thinking of desert in terms of a culpability multiplier still leaves us with a fairly simple picture, all told. In various ways I believe it remains inadequate. But we will be in a better position to discover a superior account if we first try our hand at visually displaying the sort of view we have been developing. For we can, I believe, better appreciate the complex nature of desert if we approach it graphically.

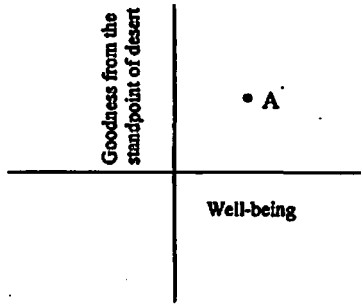


**Figure 1.** Desert Graph axes with a sample point.

In Figure 1, the X axis represents possible levels of well-being. Points to the right of the origin represent lives worth living overall, and the further to the right, the greater the level of well-being. Points to the left of the origin represent lives not worth living overall (lives worse than nothing), and the further to the left, the worse the level of well-being.

(On an alternative approach, which some may prefer, the X axis would represent not the overall level of well-being, but rather the magnitude of the reward or punishment that someone receives. For simplicity of exposition, however, I will assume that it is indeed overall well-being that is being represented here.)

The Y axis represents the goodness of a given state of affairs from the point of view of desert. (Actually, it only represents goodness from the point of view of *noncomparative* desert; but the meaning of this qualification—and the need for it—won't become clear until later.) More precisely, the Y axis represents the contribution made to the intrinsic value of a given state of affairs by someone's having, or failing to have, what they deserve. Points above the origin represent states of affairs that are good from the standpoint of desert; those below the origin, states of affairs that are bad from the standpoint of desert.

Note that the Y axis does not represent the *overall* intrinsic value of a given state of affairs, but only the particular contribution made to this arising from desert. If someone has what they deserve, this is an intrinsically good state of affairs (regardless of whether this is in turn outweighed by still other considerations), and the Y axis tells us how good a state of affairs it is. But it focuses solely upon the intrinsic goodness of that fact from the point of view of desert; other intrinsic values simply do not register here.

Thus, to place a point—such as A—within this coordinate space is to say how good (or bad) it is, from the standpoint of desert, for the

relevant individual to be at the specified level of well-being. The X coordinate of the given point will of course correspond to some particular level of well-being, and the Y coordinate of the point will indicate how good (or bad) it would be for the individual in question to be at that particular level. By marking out similar points, for still other levels of well-being, we would eventually generate the individual desert line for the given individual. Such a line would tell us just how good (or bad) it would be—from the point of view of desert—for the individual to be at the various possible levels of well-being.

Now if the individual in question is blameless—Amos, for example—then the culpability multiplier will be 1. Each unit of well-being will have its full, normal weight; and a one unit increase in well-being will make things one unit better from the standpoint of desert. Thus we have an individual desert line like that shown in Figure 2A: a straight line with a positive slope of 1. Increases in well-being make things better from the standpoint of desert, and increases in suffering make things worse.

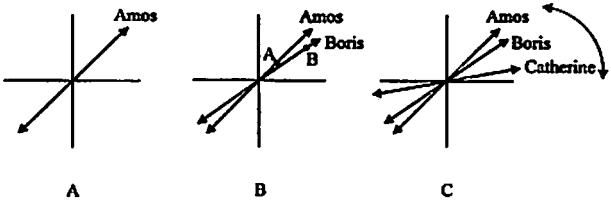


**Figure 2.** Individual desert lines.

Suppose, however, that we want to draw the individual desert line for someone who is slightly culpable. Imagine that Boris has a multiplier of .8. This means, of course, that each potential unit of well-being for Boris will generate only .8 units of good from the standpoint of desert. (In contrast, of course, for Amos each unit of well-being generates 1 unit of good.) Here, too, the result will be a straight line with positive slope, but this time the slope will be .8.

Figure 2B displays the individual desert lines for both Amos and Boris. This desert graph makes it plain that, unit for unit, more good is done by aiding Amos rather than Boris. Boris's line has a gentler slope than Amos's line, and so potential increases in well-being do less good than comparable increases for Amos. But the graph also makes it easy to see that, despite this, in certain cases it will do more good to aid Boris rather Amos. (For example, if we must choose between having Amos at

the origin, and Boris at B, or Boris at the origin and Amos at A, it will do more total good, from the standpoint of desert, to aid Boris.)

If Catherine is still more culpable or vicious than Boris her multiplier will be even smaller, and this will result in an individual desert line with an even gentler slope. The result is shown in Figure 2C. We could easily add still other lines, but these three should suffice to illustrate the general point: increases in vice rotate individual desert lines clockwise (around the origin); increased virtue rotates desert lines counterclockwise.

(In Figure 2C, of course, none of the desert lines have a slope greater than 1. This corresponds to the assumption that culpability multipliers have an upper bound at 1. But this assumption could be questioned. Perhaps particularly virtuous individuals will have desert lines with slopes that are even greater than 1.)

Provided that we are moderates, of course, there is a clear limit to the amount of clockwise rotation that is possible. If multipliers must remain positive, then no matter how vicious the individual in question may be, the slope of the individual desert line will always remain positive as well. (And even if multipliers are allowed to reach zero, so long as they cannot go past this, slopes cannot become negative.)

If one is a retributivist, however, then the possibility of individual desert lines with negative slopes opens up. Figure 3 displays one such line. (Other lines, with even steeper negative slopes, are possible as well.) This is the desert line of a person—call him Dorian—who is sufficiently vicious that he deserves to suffer. Even if one could aid him, from the perspective of desert it is better not to. Suppose, for example, that Dorian is actually at the level of well-being corresponding to (the X coordinate of) point A. Even if we could increase this, moving him instead to (the level of well-being corresponding to the X coordinate of) point B, this would actually make things worse from the standpoint of desert, as we immediately see by noting that B has a lower location along the Y axis than A. In terms of what Dorian deserves, then, it is better to leave him at A. Indeed, since Dorian deserves to suffer, it would be better still if he were at C rather than A.

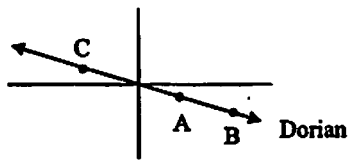


**Figure 3.** A desert line with negative slope.

Although Dorian's desert line has a negative slope, it is fairly gentle. It corresponds to a culpability multiplier of ("only") -.3. The retributivist, however, can certainly allow for the possibility of individuals who are even more vicious than this. An extraordinarily vicious individual, for example, might have a desert line with a slope of -.8, or even -1 (or perhaps even steeper). All of these people will of course deserve to suffer, but in keeping with our enriched conception of fault forfeits first, there will be relevant distinctions to be drawn between them. For example, if Eleanor has a desert line with a slope of -.8, then other things being equal it is more important that Eleanor suffer than Dorian. Unit for unit, it does more good (from the standpoint of desert) for Eleanor to have the unhappiness she deserves than for Dorian to have the unhappiness he deserves. Other things being equal, it is more important (from the standpoint of desert) for Eleanor to be punished. (Of course the greater priority to be given to punishing Eleanor can be outweighed, if one can give Dorian sufficiently more of what he deserves.)

All of this seems fairly straightforward, at least from the perspective of the retributivist (moderates, of course, are unwilling to countenance negative slopes). Nonetheless, there is a problem. Consider once again the desert line in Figure 3. Since Dorian deserves to suffer, his desert line continues down and to the right: if, contrary to what he deserves, Dorian is well-off, this is a bad state of affairs; and the better off Dorian is, the worse it is. Putting the same thought the other way around, the desert line moves up and to the left, thereby representing the claim that Dorian deserves to suffer—so that if he does suffer, this is actually a good thing. (It may not be better overall, of course, but the Y axis only represents goodness from the standpoint of desert.)

But the desert line shown in Figure 3 moves up and to the left *forever*. This entails more than the basic retributivist claim that Dorian deserves to suffer. Indeed, it entails a far stronger claim, that the greater the level of Dorian's suffering, the better the state of affairs. As Dorian's suffering grows greater and greater, the resulting state of affairs is, from the point of view of desert, better and better.

This is clearly an unacceptable position, and even retributivists will want to reject it. It is, after all, one thing to say that Dorian deserves to suffer. It is quite another thing to say that he deserves unlimited suffering, so that the worse off he is, the better. On the contrary, it seems intuitively clear that even if Dorian deserves to suffer, at a certain point he will be suffering *enough*. If his level of suffering is greater than this, then this is more suffering than he deserves: he is suffering too much. Accordingly, if Dorian's suffering is increased beyond this point, this does not make things better from the standpoint of desert; rather, it makes

things worse. Indeed, the more and more he suffers beyond this point, the worse and worse things get.

Presumably, then, retributivists don't actually accept the sort of desert line shown in Figure 3. Rather they will want to claim that Dorian's desert line looks more like the mountain shaped line shown in Figure 4. Here it remains true that Dorian deserves to suffer. But there is a limit to how much he deserves to suffer. This point is marked by the (X coordinate of the) peak of the mountain.

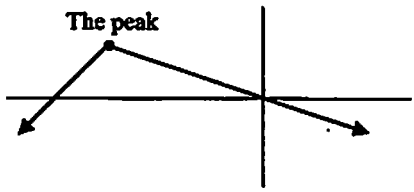


**Figure 4.** A mountain shaped desert line.

We can say that the peak marks the particular level of suffering that Dorian *absolutely* deserves. If Dorian's actual level of well-being is precisely at this level, then this situation is optimal from the standpoint of desert. But if Dorian is worse off than this, or for that matter better off than this, then the situation is less than optimal. The goodness of the situation drops off. That's why the desert line slopes down and away from the peak on both sides. Not only is it a bad thing (or, more precisely, a less than optimal thing) if Dorian has more than he deserves, it is also a bad thing if he has less than he deserves. Dorian deserves to suffer, but only so much.

Let us suppose, then, that the retributivist believes that even if someone deserves to suffer, there is a limit to how much they deserve to suffer—there is a particular level of suffering that they absolutely deserve, and to suffer more than this is a bad (or less than optimal) state of affairs. Even so, there is no reason to suppose that the precise level of suffering that is absolutely deserved is always the same, regardless of how vicious the given individual may be. On the contrary, it seems more plausible to suppose that the more vicious someone is, the greater the amount of suffering they absolutely deserve. Thus, all vicious individuals will have individual desert lines that are shaped like mountains, but the peaks will be located at different points along the X axis. The more vicious the individual in question, the further to the west will be the peak—thus marking the fact that the person absolutely deserves a lower level of well-being.

One possible way of capturing a view like this is shown in Figure 5.

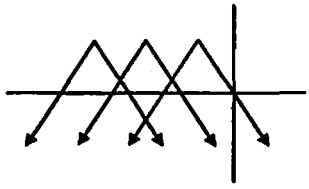

**Figure 5.** Some desert lines with negative peaks.

Now Figure 5 only displays desert lines for people who deserve to suffer. For each such person there is a particular level of well-being that is absolutely deserved. But I am inclined to believe (perhaps somewhat cynically) that the very same thing is true for everyone, including those who deserve to be *happy*. That is to say, even for those who do deserve to be happy there is some particular level of well-being that is absolutely deserved. And while it is less than optimal, from the standpoint of desert, for the person to have less than he deserves, it is also less than optimal, I believe, for him to have *more* than he deserves. Thus mountain shaped desert lines are appropriate even for those who deserve to be happy.

Of course, even if we accept this, it isn't plausible to think that all those who deserve to be happy deserve the very same level of well-being. On the contrary, here too we should expect that differences in virtue will be reflected in differences in the level of well-being that is absolutely deserved. The more virtuous one is, the further to the east will lie the peak of one's individual desert line. Thus, greater virtue shifts your peak to the east, while greater vice shifts it to the west. More briefly: the more deserving deserve more.

Perhaps, then, retributivists should accept a graph like the one shown in Figure 6. This displays mountain shaped desert lines for everyone, with the peaks moving from west to east as we move from great levels of overall vice to great levels of overall virtue.

**Figure 6.** Desert lines with varying peaks.

What about the moderate? Should she accept Figure 6 as well? Obviously enough, moderates cannot accept a view precisely like the one shown in Figure 6. For that graph includes desert lines with peaks along the left half of the X axis, and this means that the individuals in question deserve to suffer. But moderates, as we know, believe that no one at all deserves to suffer, no matter how vicious. So at a minimum, moderates will want to disallow all of the mountains drawn in the left half of Figure 6. Mountains with negative peaks (peaks with negative X coordinates) will simply be rejected by the moderate as impossible.

It is important to be clear, however, that there is nothing at all in the idea of a mountain shaped desert line per se that must give the moderate pause. On the contrary, the moderate too can agree with the idea that everyone has a particular level of well-being that is absolutely deserved. And the moderate can accept as well the accompanying idea that not only is it bad to have less than one absolutely deserves, it is also bad (from the standpoint of desert) to have more than one deserves. Thus moderates too can accept the idea that the characteristic shape of an individual desert line is that of a mountain, rather than a straight line.

From the perspective of the moderate, therefore, the problem with Figure 6 is not the fact that the desert lines are drawn as mountains, but rather the simple fact that some of those mountains have negative peaks. In effect, then, the moderate might accept a truncated version of Figure 6—one where all the mountains with peaks to the west of the Y axis have been erased. (Some moderates will want to go even further, eliminating the mountain with the zero peak as well.)

(It is worth noting, if only in passing, that if the moderate, like the retributivist, does accept the claim that the characteristic shape of an individual desert line is that of a mountain, we will have to redescribe the distinction between moderates and retributivists. Since each such mountain will have a negative slope in its right half, we can no longer claim that only retributivists believe in the possibility of desert lines with negative slopes. Instead, we might try characterizing the difference between retributivists and moderates in this way: moderates deny, while retributivists accept, the possibility of desert lines with negative peaks.)

Now it must be admitted that some moderates—and for that matter some retributivists—would reject the claim that all desert lines are shaped like mountains. For example, it might be suggested that if someone is sufficiently virtuous then the right half of their individual desert line should level off, rather than sloping down. (To say this would be to claim that we should reject the possibility of such a person having "too much" from the standpoint of desert.) But I won't try to explore this, or other, more exotic, possibilities here. Instead, I am simply going to assume that

something like the mountain shape is appropriate for everyone. For there is a different problem with Figure 6 (whether or not we truncate it to suit moderates) that I want to focus on instead: it systematically violates the plausible view that fault forfeits first.

To see this, let's consider the desert lines of two individuals who differ significantly in terms of how virtuous they are—let one be a "saint," while the other is a "sinner." Since the more deserving deserve more, the peak of the saint's desert line lies to the east of the peak of the sinner's desert line. Perhaps, then, the situation is like that shown in Figure 7 (which selects two relevant mountains from Figure 6).

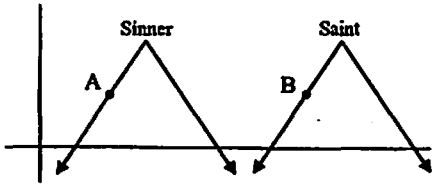


**Figure 7.** Giving someone less than they deserve.

Now in the ideal case, of course—ideal, that is, from the standpoint of desert—each person would receive exactly the level of well-being that they absolutely deserve. Each person, that is, would be at their respective peak. Suppose, however, that this isn't possible. Instead, exactly one person, though it can be either person, can be given just what they deserve, while the other must be left some fixed amount—perhaps 10 units of well-being—short of this.

Our choice, then, is this. We can have the saint located precisely at her peak, while the sinner is at point A, corresponding to a level of well-being 10 units less than what he absolutely deserves; or we can have the sinner at his peak, with the saint, instead, at point B.

Clearly, either situation involves a dropoff from the ideal case; but from the standpoint of desert are the potential losses the same? Forced to choose whom to shortchange, is this a matter of indifference as far as desert is concerned?

According to Figure 7 (and thus, by implication, Figure 6 as well), it is indeed a matter of indifference. For that graph portrays points A and B as being equally far down along the Y axis. (There is an identical loss compared to the good that would have obtained if the given individual had been, instead, at their respective peak.) Intuitively, however, I think it is clear that it is better to shortchange the sinner rather than the saint.

That is, as far as desert is concerned, less good is lost when it is the sinner who falls short of receiving what he absolutely deserves than when it is the saint who falls short. Thus Figure 7 does not actually represent the situation accurately. The 10 unit shortfall should produce more of a drop along the Y axis in the case of the saint than it does in the case of the sinner.

Think about what this means in terms of the slopes of the two individual desert lines. A 10 unit shift to the west along the X axis from the sinner's peak results in a smaller drop along the Y axis than does a similar 10 unit shift in the case of the saint. Thus, the slopes on the western sides of the two mountains must differ. More precisely, the western slope for the sinner's mountain must be gentler than the western slope for the saint's.

A similar conclusion would be plausible even if we were to consider instead two individuals whose levels of virtue were significantly closer than those of the saint and the sinner. Though no doubt the effect would be less pronounced, it remains plausible to claim that from the standpoint of desert, if someone must be shortchanged, other things being equal it is better to shortchange the less virtuous rather than the more virtuous. Thus, the western slopes of desert lines must grow ever gentler, as we move to lower and lower levels of virtue.

Turning our attention now to eastern slopes, suppose this time that while either the saint or the sinner can be given exactly what they absolutely deserve, one of the two must be given *more*, again by some fixed amount. Here, too, then, some kind of loss is inevitable from the standpoint of desert. But once again it seems implausible to suggest that it is a matter of indifference whether it is the saint or the sinner that is overcompensated. On the contrary, it seems clear that if someone must receive more than they absolutely deserve, less good is lost from the standpoint of desert if it is the saint, rather than the sinner, who receives more than they deserve. Thus Figure 7 errs in this regard as well. The eastern slope of the saint's mountain should in fact be gentler than the eastern slope of the sinner's.

Here, too, a similar conclusion would be plausible if we were to consider instead two individuals who were significantly closer in terms of their respective levels of virtue. Though the effect would presumably be less pronounced, it seems plausible to claim that from the standpoint of desert, if someone must be overcompensated, other things being equal it is better to overcompensate the more virtuous rather than the less virtuous. Thus, as we move to lower and lower levels of virtue the eastern slopes of desert lines must grow ever steeper.

Putting these two sets of results together, we find that the desert lines rotate as we vary the level of virtue. Greater vice results in a gentler western slope and a steeper eastern slope; greater virtue results in a steeper western slope, and a gentler eastern slope. If we momentarily think of the peak as fixed, then changes in virtue and vice result in a swinging of the mountain like a bell: to the left for increased vice, to the right for increased virtue. The result is shown in Figure 8. (I have added imaginary bases to the mountains to make it easier to keep straight which segments represent western slopes, and which, eastern slopes; I've also exaggerated the amount of rotation, to make it easier to see.) We can call this effect *bell motion.*

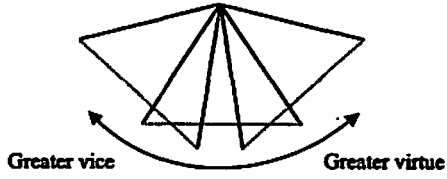


**Figure 8.** Bell motion.

Arguably, all of this was already implied by the view that fault forfeits first—or rather, it is implied once we recognize that the characteristic shape of the individual desert line is that of the mountain rather than the straight line. For fault forfeits first tells us that, other things being equal, the less virtuous go to the back of the line behind the more virtuous.

Applying this idea is fairly straightforward with regard to the western side of the desert line. If we will do more good—unit for unit—by aiding the more virtuous rather than the less virtuous, then the western slope of the desert line of the more virtuous person must be steeper. Admittedly, things are slightly more complicated with regard to the eastern side of the line, since aiding those who have more than what they absolutely deserve actually makes things worse, rather than better. But even here, presumably, fault forfeits first holds that the less virtuous should go to the back of the line, in terms of receiving the extra aid. If we will do more good (or rather, more precisely, less bad) by overcompensating the more virtuous rather than the less virtuous, then the eastern slope must be gentler for the desert line of the more virtuous person. In short, fault forfeits first implies that the mountains rotate; it implies bell motion.

It is for this reason that I claimed that Figure 6 involves a systematic violation of fault forfeits first. Although the mountains shown in Figure 6

appropriately differ in terms of their locations along the X axis, the corresponding sides of the mountains all have the same slopes. (That is, the western sides all have the same slope, and the eastern sides all have the same slope.) But as we have just seen, if we accept the idea that fault forfeits first we will want to deny that the slopes are held fixed in this way. Rather, mountains should rotate, in keeping with bell motion. Instead of Figure 6, then, we should have Figure 9. (I've exaggerated the rate of bell motion to make it easier to see. And moderates will, once again, prefer a truncated version of this graph—eliminating the mountains with peaks to the left of the Y axis.)

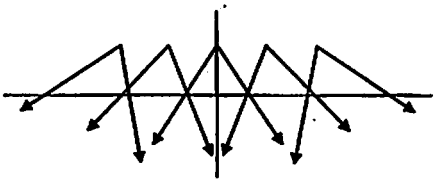

**Figure 9.** Desert lines with bell motion.

This graph nicely combines each of the main ideas that we have identified up to this point. The individual desert lines are mountains, rather than straight lines. The peaks of the mountains are spread out along the X axis, representing the fact that the more deserving deserve more. And the mountains themselves rotate, in accordance with bell motion: they swing to the left as we move to more vicious individuals, and to the right, as we move to individuals with greater virtue.

Should we therefore accept Figure 9 as an adequate representation of the nature of desert? It is certainly more plausible than our earliest graphs, which displayed individual desert lines as simple straight lines, or the later graphs, which introduced mountain shaped desert lines, but failed to rotate them appropriately. But there are at least two further features of Figure 9 which might still be questioned.

The first is this: although we have replaced simple straight lines with mountains, even so, the desert lines are still "straight," in the sense that the two sides of any given mountain are drawn as straight lines (or, more precisely, rays). Now from the very fact that the desert line is shaped like a mountain, it follows, of course, that the further you are from your peak, the worse the situation is from the standpoint of desert. But having the two sides of the mountain be straight like this has the additional particular implication that the dropoff in goodness grows linearly. That is, as we move further and further away from the peak (on a given side), each

additional unit change in the level of well-being makes the very same difference to the decrease in goodness.

This view—*straight desert*—is certainly a possibility. But I think that it is more plausible to accept instead an alternative view according to which the incremental dropoff increases, rather than staying constant, the further you are from the peak. That is to say, the further you are from having what you absolutely deserve, the greater the difference even small changes in well-being will make. On this alternative view—*curved desert*—the sides of the mountain are not straight, but rather are curved, growing steeper and steeper, the further from the peak you go. Thus, an individual desert line might look more like the one shown in Figure 10.

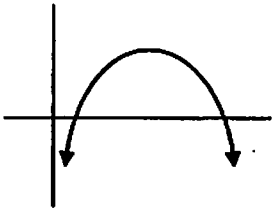

**Figure 10.** Curved desert.

Clearly, if I am right in thinking that curved desert is the more plausible of the two views, then at least one revision of Figure 9 is called for: we would need to redraw the graph, substituting mountains with curved sides where we currently have mountains with straight ones. Nonetheless, in what follows I am going to continue to draw individual desert lines with straight sides. So far as I can see, this simplification shouldn't affect any of our remaining points (and at least sometimes, I think, it can be easier to grasp the essential points of a desert graph when it is drawn from the perspective of straight desert).

The second feature of Figure 9 that might be questioned is this: all of the mountains in this graph are drawn at the same height. That is, although the peaks of the various mountains differ in terms of their $X$ coordinates, they all share the same $Y$ coordinate. More particularly, all the peaks fall at the same point along the upper half of the Y axis. Figure 9 thus expresses a further pair of thoughts: first, that it always does some good for a given individual to be at their peak; and second, that it always does the very same amount of good, regardless of how virtuous or vicious the person may be. But either of these thoughts could be questioned.

To explore this issue, let's introduce a simpler kind of desert graph, one that plots only the locations of the various possible peaks. Eliminating any information about the sides of the mountains, this leaves us with a graph of what I will call the *skyline*.

Of course, Figure 9 actually shows only a very small sample of its possible mountains (otherwise the graph would appear as an undifferentiated gray band). But when drawing the skyline we are not limited in this way: we can include all of the peaks countenanced by the general view in question, including those not explicitly shown in Figure 9 itself. The result—the skyline presupposed by Figure 9—is shown in Figure 11. (As usual, moderates will prefer a truncated version of this graph.)

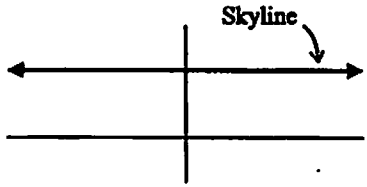


**Figure 11.** The standard skyline.

This is an example of a *standard* skyline. It is a straight line, parallel to the X axis, cutting across the upper half of the Y axis. As we have already noted, if we accept the standard skyline we are claiming that it always does some good—and indeed, the very same amount of good—for a given individual to be at their peak. In effect, to accept the standard skyline is to hold that even though people differ in terms of how much well-being they absolutely deserve, it is equally *important*, from the standpoint of desert, for people to get whatever it is that they absolutely deserve. You may well deserve far more happiness than me, for example, but when I get the well-being that I do deserve this does just as much good from the standpoint of desert as when you get the greater level of well-being that you deserve.

Clearly, this is not an unattractive view. It implies that in one crucial sense everyone matters equally from the perspective of desert, even though not everyone is equally deserving. But there are alternatives to it, which can also seem compelling. First of all, even if we agree that it should do the same amount of good whenever someone is at their peak, perhaps we should not be so quick to assume that it actually does produce a robustly good state of affairs when someone gets what they deserve. Perhaps, instead, all that happens is this: when people get what

they absolutely deserve, an intrinsically bad state of affairs that would otherwise obtain is eliminated.

According to this alternative view, it is an intrinsically bad state of affairs (from the standpoint of desert) when someone has less, or more, than what they absolutely deserve. And the further they are from their peak, the worse it is. But this means, of course, that the closer someone is to their peak, the more of this intrinsic bad that has been eliminated. In the limit case, then, when someone is getting precisely what they absolutely deserve, the bad will have been eliminated altogether. But no intrinsic good will thereby be created.

Thus, the state of affairs in which someone gets what they deserve is a good one only in the comparative sense that it avoids all of the intrinsic bad to be had when someone fails to get what they deserve. But it won't be good in a robust sense: no positive intrinsic value is introduced when someone is at their peak.

If a view like this is accepted, virtually all of any given mountain will lie below the X axis. Only the peaks of the mountains will touch the X axis itself. Desert lines will thus be like underwater mountains, with peaks just managing to touch the water line; at no point, however, will the mountains ever break through into open air.

Since the peaks of these mountains all lie on the X axis, the skyline on this alternative conception is still a straight line. But unlike the standard skyline, which runs parallel to the X axis and crosses the Y axis in its upper half, this alternative skyline—the *sea level* skyline—coincides exactly with the X axis itself. Accordingly, if we were to accept this conception of the skyline we would need to replace Figure 9 with something like Figure 12.

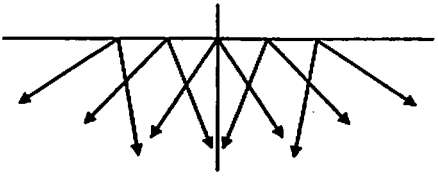

**Figure 12.** Desert lines with a sea level skyline.

The choice between the standard skyline and the sea level skyline turns on the question of whether considerations of desert can be the source of positive intrinsic value. If someone is getting exactly what they deserve, is this a robust good, or merely the elimination of a robust bad? This is obviously an important question for the theory of desert, but I

won't try to settle it here. Instead, I want to mention a third possible conception of the skyline. For both the standard skyline and the sea level skyline share the underlying assumption that it always does the same amount of good for someone to be at their peak—and this assumption can itself be called into question.

Instead of assuming that it is equally important, from the standpoint of desert, for everyone to get what they deserve, it might be suggested that it is more important for those individuals who are morally more "significant" to get what they absolutely deserve. If you deserve far more happiness than me, for example, then perhaps it does more good (from the standpoint of desert) when you get what you deserve. There are various ways this idea might be developed, of course, but the simplest proposal would be that the amount of good done when someone gets what they deserve is directly proportional to how much happiness or suffering they absolutely deserve. If someone deserves a great deal of suffering, or a great deal of happiness, then it does a great deal of good when they get this; in contrast, if someone deserves only a small amount of happiness, or a small amount of suffering, it simply does less good, in comparison, when they receive it.

If a view like this third alternative is accepted, then the skyline is no longer going to be a straight line, parallel to (or coinciding with) the X axis. Instead, it will look like a V, with its base anchored at the origin. This possibility—the *V shaped* skyline—is shown in Figure 13.

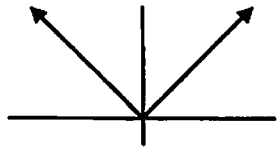

**Figure 13.** The V shaped skyline.

On this view, it is more important that the morally more significant get what they deserve. Note, however, that this is not quite the same thing as saying that it is more important that the more deserving get what they deserve. For if it is indeed possible for someone to deserve great suffering—as at least some retributivists would claim—then it might well do more good if such a person gets what they deserve than it would if, instead, someone who merely deserved a very modest amount of happiness got what they absolutely deserved.

Of course, if you are a moderate, then you will hold that no one at all deserves to suffer. So here, too, moderates will prefer a truncated version of the graph, one where the entire left wing of the V has been eliminated. And while it is, perhaps, a bit strained to refer to the result of this process as still being a V (what remains, after all, is only half a V), the more important point is to see that even here the moderate is accepting an appropriately truncated portion of the underlying V shaped skyline.

(An alternative approach to the V shaped skyline interprets the notion of "moral significance" not in terms of the amount of happiness or suffering that is deserved, but rather in terms of how virtuous or vicious the given individual is. On this approach, presumably, the V will be anchored at the point on the X axis that corresponds to the precise level of well-being deserved by someone who is neither virtuous nor vicious overall. And for moderates—as well as many retributivists—this point will fall to the right of the origin. Thus even if moderates are right, and negative peaks are impossible, the skyline will still have a genuine left branch, retaining a recognizably V-like shape.)

The V shaped skyline represents an important alternative to both the standard skyline and the sea level skyline, in that it rejects the assumption—common to the two latter views—that it always does the same amount of good to give someone what they deserve, regardless of how virtuous or vicious they may be. But I will not attempt to investigate the plausibility of this alternative any further here. I will simply note the obvious point that if we were, in fact, to accept a V shaped skyline, then Figure 9 would need to be revised yet again.

Regardless of how we ultimately settle this question concerning the nature of the skyline, it should by now be abundantly clear just how inadequate was our initial account of desert, limited as it was to assigning different culpability discount rates, or culpability multipliers, to different people. Such an account grossly mischaracterizes the nature of individual desert lines. For a theory limited to assigning multipliers is, in effect, a theory according to which all individual desert lines are straight lines, differing only in terms of their slopes. From the standpoint of our current theory, however, such an account gets a great deal wrong.

Most importantly, of course, it overlooks the fact that individual desert lines are not to be represented in terms of simple straight lines, but rather as mountains. Drawing the lines as mountains appropriately expresses the idea that for each person there is a particular level of well-being that is absolutely deserved, so that if the person has either less or more than that amount there is a dropoff in value from the standpoint of desert. But note that this central idea—the idea of what each person absolutely deserves—is one that we cannot even formulate if we are

limited to thinking in terms of multipliers. (And, of course, without this idea we cannot even begin to raise the kinds of questions about the skyline that we have just been considering; for if we lack the very idea of absolute desert we obviously cannot ask just how much good is done when someone receives what they absolutely deserve.)

To be sure, the appeal to multipliers did correspond to the important idea that the slopes of individual desert lines vary, depending on the given individual's level of virtue or vice. But even this idea is mishandled. For there are, after all, two sides to every mountain, and thus two slopes that must be assigned. Yet the multiplier approach assigns only a single number to any given individual, and so it cannot possibly tell us everything we need to know about the slopes. What's more, we can't even say that at least all multipliers provide information about the very same side of the mountain. On the contrary, positive multipliers correspond to positive slopes, and thus provide information about the western sides of individual desert lines, while negative multipliers correspond to negative slopes, thus providing information about the eastern sides. But there is nothing in the simple appeal to multipliers that marks or explains the significance of this switch.

In short, we have long since transcended the simple account of desert with which we began. Our graphs now represent a far richer and significantly more adequate approach to desert.

(This is not to say, of course, that this richer account could not have been presented in nongraphic terms. But at the same time I hope it is apparent that our desert graphs manage to represent this richer account in a manner that is both compact and perspicuous. This is, indeed, a general advantage of graphs that is worth emphasizing. Regardless of what theory of desert one accepts, graphs provide an easy and intuitive way to compare the essential features of rival theories. And within a given theory, graphing individual desert lines allows a ready grasp of the overall profile of any given person from the standpoint of desert.)

Now the theory of desert that we have been developing is obviously still incomplete in a number of ways. Most obviously, we haven't tried to settle what the skyline should look like. But this is far from being the only significant omission. For example, although I have argued for the existence of bell motion, I have said very little about the particular rate at which desert lines rotate. And for that matter, although I have argued for the centrality of the idea that people differ in terms of what they absolutely deserve, I have said almost nothing about the function that assigns particular levels of well-being, as being absolutely deserved, on the basis of one's particular level of virtue. A variety of other details and complications remain unexplored as well. Nonetheless, I think it fair to

suggest that the main elements of this part of the theory of desert are now in place.

But this brings us to a point that it is important to be clear about. What we have been discussing so far is indeed only one *part* of an adequate theory of desert. We have, in effect, been developing the theory of *noncomparative* desert. A complete theory of desert, however, will need to cover *comparative* desert as well.

Let me explain what I mean by saying that the theory that we have been developing is essentially a noncomparative one. The key point is this: for any given individual, to determine how much intrinsic value there is from the standpoint of desert in that person's being at a given level of well-being, we need only consider that person's individual desert line. By determining whether the person has more or less than what they absolutely deserve (whether they are to the east or to the west of their peak) I learn whether specific changes in their level of well-being would make the situation better or worse, and by how much. Thus, I need to consider facts about the person's individual desert line, as well as facts about the person's actual and possible levels of well-being. But what I do not need to take into account is what other people deserve, or how well off they may be. Facts about the well-being of others, or how deserving they are, are simply irrelevant to deciding how much good it would do for a given person to be at a given level of well-being. That's what I mean in saying that the theory is essentially noncomparative.

Of course, once we make these various noncomparative judgments we can certainly compare and compound them. We can ask, for example, whether it would do more good to aid one person by a certain amount, rather than aiding a different person. But for all that, the information being compounded in this way is essentially noncomparative in nature.

A complete theory of desert, however, will include comparative principles as well.[3] For although it matters whether I am getting what I (absolutely) deserve, this is not all that matters. It also matters how I am doing compared to you, in light of how (noncomparatively) deserving we both are. Thus, for example, if I am just as virtuous as you are, then I should be doing just as well as you are (no matter how well you are doing). Similarly, if you are more virtuous than I am, then you should be better off than I am (no matter how well off I am).

These claims are essentially comparative ones, since they go beyond the simple noncomparative question of whether a given individual is getting what she absolutely deserves. They are concerned, rather, with comparing levels of well-being, in light of how (noncomparatively) deserving we are. Of course, comparative desert is not the only value, and so what is better from the standpoint of comparative desert may not be

better all things considered; comparative desert may well be outweighed by other relevant values. But I think it is clear that most of us do feel the pull of these comparative considerations as well.

Indeed, even if we restrict our attention to considerations of desert alone, comparative desert will often be opposed by noncomparative desert. But we feel the pull of comparative desert nonetheless. Suppose, for example, that Bertha is far more virtuous than Alfred, but that Alfred is better off than Bertha. Indeed, he is at a higher level of well-being than either of them absolutely deserves. Unfortunately, we cannot alter Alfred's level of well-being, but we can improve Bertha's. Suppose, however, that although Bertha is at a significantly lower level of well-being than Alfred, nonetheless she is already receiving exactly what she absolutely deserves. Even so, isn't there something to be said in favor of improving Bertha's position, so that she has more than Alfred?

Noncomparative desert clearly says no. To improve Bertha's level of well-being would be to give her more than she absolutely deserves, which—from the standpoint of noncomparative desert—can only make things worse. The fact that Alfred is already beyond the level of well-being that he deserves is certainly bad, but moving Bertha beyond hers as well doesn't make things better.

But from the standpoint of comparative desert there is indeed something to be said in favor of moving Bertha. After all, Bertha is far more virtuous than Alfred, and so deserves to be better off than he is. In this regard, at the very least, increasing Bertha's level of well-being so that she ends up better off than Alfred is in fact an improvement.

In cases like this we have a conflict between comparative and noncomparative desert. So those of us who want to incorporate both aspects into a complete theory of desert will eventually need to work out a tradeoff schedule, indicating which of the two has more weight in such cases of conflict. But that won't be my concern here, for there is a more immediately pressing question, namely, what would the requisite comparative principle look like?

The basic idea at play here, of course, is clear: comparative desert demands that my level of well-being stand in the right relation to your level of well-being, where this relation is itself a function of how our respective levels of virtue compare. But what exactly is the relevant relation? What exactly does the requisite comparative principle demand?

I imagine that the most widely accepted candidate for the comparative principle is the *ratio view*. According to this view, comparative desert is satisfied when my level of well-being stands to your level of well-being as my level of virtue stands to your level of virtue. Thus, if you are twice

as virtuous as me, you should be twice as well off. If I am one third as virtuous as you, I should be one third as well off.

Given the natural assumption that what someone absolutely deserves is fixed in proportion to their level of virtue, this comes to the same thing as saying that the ratio between our levels of well-being should be the same as the ratio between the levels of well-being that we absolutely deserve. Thus, for example, if I absolutely deserve one third as much well-being as you, the ratio view holds that I should be one third as well off.

(This natural assumption—that absolute desert is fixed in proportion to virtue—can certainly be challenged, in which case we will need to distinguish between two different versions of the ratio view: those that fix the relevant ratio in terms of virtue, and those that fix it in terms of what is absolutely deserved. But since both versions are subject to the kinds of difficulties I am about to raise, for simplicity let's suppose that the natural assumption is correct.)

Suppose, then, for example, that A absolutely deserves 10 units of well-being and B absolutely deserves 20. Obviously enough, noncomparative desert will be satisfied in this case only when A is indeed receiving 10 and B is receiving 20. But our present concern is with the demands of *comparative* desert, and according to the ratio view this will be perfectly satisfied whenever B is twice as well off as A. Thus, for example, if A is at 3, B should be at 6; and if A, instead, is at 150, B should be at 300.

I believe, however, that despite the popularity of the ratio view it must be rejected. In a variety of cases it simply gives unacceptable answers. I am going to limit myself to noting two such cases.

First, suppose that A absolutely deserves 0 units of well-being, while B absolutely deserves 10. And imagine that A is, in fact, at 0. Where, then, should B be placed?

Unfortunately, it seems that the ratio view will be satisfied wherever B is placed, so long as A remains at 0. For according to the ratio view, A should have 0 units of well-being for every 10 units that B has, and this will indeed be the case regardless of where B is placed, provided that A has 0. But this is absurd. It is quite unacceptable to suggest that comparative desert is indifferent in this case to how we place B. Indeed, it seems as though the ratio view will be satisfied even if B is given a negative level of well-being (since A will still have 0 units for every 10 that B has). But this, too, is unacceptable. Indeed, it violates one of the original intuitions that we used to motivate the need for a comparative principle in the first place, the intuition that the more virtuous (here, B) should be better off than the less virtuous (A).

Or imagine, second, that A absolutely deserves -10 (he deserves to suffer somewhat) while B absolutely deserves +20. Here the relevant ratio is -10 to +20. That is, for each negative unit of well-being had by A, B should have two positive units of well-being. And now suppose that A's actual level of well-being is fixed at -5. Where should B be placed to satisfy comparative desert?

It seems that advocates of the ratio view must claim that B should be placed at +10. This is the only level of well-being for B that maintains the relevant ratio (given that A is at -5), since it is this level, and only this level, that gives B two positive units for every one of A's negative units.

But this result, too, is completely unacceptable. Think about what it says. A is a vicious individual, sufficiently vicious, indeed, that he noncomparatively deserves to be at -10. In fact, however, he is only at -5, a higher level of well-being than the one he absolutely deserves. What then does comparative desert tell us to do in this case? According to the ratio view, it tells us to take the more virtuous individual, B, and give her *less* than she absolutely deserves!

This is absurd. A plausible theory of comparative desert cannot instruct us to give a more virtuous person less than what she absolutely deserves in response to a less virtuous person having more than what he absolutely deserves. Yet this is exactly what the ratio view tells us to do in this case. So the ratio view must be rejected.

In its place, I want to propose an alternative comparative principle, which I will call the *Y gap view*.[4] The guiding idea behind this alternative approach is this: comparative desert is perfectly satisfied when (and only when) the offense against noncomparative desert is the same for all relevant individuals. Unlike noncomparative desert, after all, comparative desert is not primarily concerned with whether people have what they absolutely deserve. Rather, it is concerned with how people compare in this regard. So even if your situation and my situation both involve some shortcoming from the perspective of noncomparative desert, so long as both of our situations involve the same offense against noncomparative desert, comparative desert will be perfectly satisfied.

Suppose, for example, that I have more than what I absolutely deserve to have. This situation falls short of what is ideal from the standpoint of noncomparative desert, and thus involves an "offense" against noncomparative desert. But so long as you too have more than what you absolutely deserve—or, more precisely, enough more—so that your situation involves a similar offense against noncomparative desert, then neither of us has a comparative advantage with regard to how each is doing relative to what each absolutely deserves. The offenses against

noncomparative desert will be the same, and thus comparative desert will be satisfied.

Clearly, to make good on this idea, we need an account of when offenses against noncomparative desert are the same. In the ideal case, of course, where both of us receive exactly what we absolutely deserve, neither of our situations involves any offense at all against noncomparative desert, and so, trivially, comparative desert will be satisfied. But what about nonideal cases, where one or the other of us has more or less than he deserves? What must be the case for two such offenses to be the same?

It seems to me that there are actually two conditions that must be met if the situations of two individuals are to offend against noncomparative desert in exactly the same way.

The first condition involves what we might think of as a qualitative constraint. Similar offenses must be of the same *kind.* If one person has more than they absolutely deserve, the other person must have more as well; if one has less, so must the other. Otherwise, the offenses cannot possibly be the same. We can call this the *symmetry constraint.*[5] It tells us that if either party is moved off their peak, then comparative desert is satisfied only if both are moved in the same direction.

Clearly, however, the symmetry constraint by itself cannot constitute an adequate account. For if B's situation is to offend against noncomparative desert in exactly the same way that A's situation offends, it will not suffice for it to be an offense of the same kind; it must also be the same *size.* So we need a quantitative constraint as well.

But how is the size of an offense against noncomparative desert to be measured? As it happens, there is a very plausible proposal that suggests itself here. Begin by recalling that in what constitutes the ideal case from the perspective of noncomparative desert—when someone gets exactly what they absolutely deserve—the given individual is at the peak of their individual desert line. In contrast, when someone has less, or more, than they absolutely deserve, there is a dropoff in value; points to the west or the east of the peak are lower down along the Y axis than the peak itself. Thus, when someone is not at their peak, there is a "gap" between the amount of good (from the standpoint of noncomparative desert) that would obtain if they were at their peak, and the amount of good that actually does obtain, given their actual level of well-being. And the greater the gap—the greater the drop along the Y axis—the greater the offense against noncomparative desert.

Thus we arrive at the *Y gap constraint.* It holds that comparative desert is satisfied only when the situation of each person is such as to involve a drop along the Y axis of exactly the same size.

To be sure, we would still lack an adequate account of when two offenses are exactly the same if we had to make do with the Y gap constraint alone. For this constraint can typically be satisfied in two ways, since a Y gap of a given size can normally be produced by locating someone on either of the two slopes of their individual desert line. Thus, even with the Y gap constraint in place the symmetry constraint is still required as well, to tell us which of these two locations is appropriate.

But once the Y gap constraint is combined with the symmetry constraint we do have a plausible account of what it is for offenses against noncomparative desert to be exactly the same. Taken together, therefore, they provide a highly plausible account of comparative desert: comparative desert is satisfied precisely when the situations of the relevant individuals involve similar offenses against noncomparative desert—offenses of the same kind and of the same size. I call this account of comparative desert the *Y gap view*.

Figure 14 shows the Y gap view at work. (I've assumed a standard skyline in this graph and exaggerated the rate of bell motion to make it easy to see; but this won't affect the relevant points.) Suppose that A has more than he absolutely deserves, but that there is nothing we can do about this. Where should B be placed in order to satisfy the demands of comparative desert? We know—given the symmetry constraint—that since A has more than he absolutely deserves, B should have more than she absolutely deserves as well. But how much more? Enough more, so that the Y gap produced by B's being at this level of well-being would be the very same size as the Y gap produced by A's being at his actual level of well-being. Thus, the drop along the Y axis (as measured from their respective peaks) should be exactly the same size for B as for A; and since A is located on his eastern slope, B should be placed on her eastern slope as well.

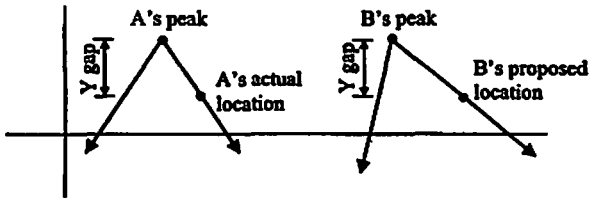


**Figure 14.** The Y gap view.

(Similarly, of course, in a case where A has *less* than he absolutely deserves, comparative desert will be satisfied provided that B too has

less than what she deserves—just enough less, in fact, so that the Y gap created by B's situation is exactly the same size as the Y gap created by A's situation.)

I believe that the Y gap view gives us plausible answers quite generally. But instead of arguing this point in detail, let me limit myself to noting just how readily it handles the two problematic cases that led us to reject the ratio view.

In the first of these cases, recall, A absolutely deserves 0 units of well-being, while B absolutely deserves 10, and A is actually receiving 0. The ratio view unacceptably implies that comparative desert will be satisfied in this case regardless of where B is located. But the Y gap view has no such implication. Instead, it notes that if A absolutely deserves 0 and is actually receiving 0, then A's situation involves no offense against noncomparative desert at all; thus, comparative desert will be satisfied if and only if B's situation similarly involves no offense against noncomparative desert. Which is to say, since A is at his peak, B must be at her peak as well. So B must be placed at 10. And this is, of course, a very plausible conclusion.

In the second case, A absolutely deserves -10, B absolutely deserves +20, and A is actually at -5. Here the ratio view absurdly implies that in the face of A having more than he absolutely deserves, B should have less. But the Y gap view easily avoids this absurdity as well: since A has more than he absolutely deserves, symmetry demands that the same should also be true of B.

Unlike the ratio view, therefore, the Y gap view can provide the basis for a plausible general account of comparative desert. It provides only the basis for such an account, however—and not the complete account—since the Y gap view by itself only tells us what must be the case for comparative desert to be *perfectly* satisfied. It does not tell us how to rank outcomes when the demands of comparative desert are only imperfectly satisfied. So if we are going to be able to compare such outcomes, we will first need to appropriately extend the Y gap view. But I won't try to do that here either.

Instead, I want to conclude this discussion by returning to the theme with which I began, the complexity of desert. As we have seen, despite the hold that considerations of desert have upon much of our moral thinking, many questions about the nature of desert have been insufficiently explored, or neglected altogether. As a result, the underlying structure of desert is something that is not yet adequately understood.

Most of us, of course, are inclined to agree that it is a good thing if people get what they deserve; we intuitively recognize the *value* of desert.

What we have generally failed to recognize, I think, is just how complicated this value turns out to be.

## Notes

1. In all that follows I draw on my considerably larger work in progress, *The Geometry of Desert*, which also examines a great many complications and qualifications that I cannot consider here.

2. The phrase comes from Joel Feinberg, "Sua Culpa," in *Doing and Deserving* (Princeton: 1970), pp. 187-221, at p. 218.

3. My discussion of comparative desert is particularly abbreviated. For a fuller—though still incomplete—treatment, see "Comparative Desert," in *Desert and Justice*, edited by Serena Olsaretti (Oxford: 2003), pp. 93-122.

4. It was suggested to me, independently, by both Alastair Norcross and Kyle Stanford. Clearly, I owe a tremendous debt to both of them.

5. I called it the symmetry *principle* in "Comparative Desert."

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