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Desert after Rawls

M.W. Jackson

I. Introduction

The association of desert with justice is ancient and honorable. Plato and Aristotle each recommended treating like cases alike as a matter of justice. Saint Paul said, 'Master give unto your servants that which is just and equal' to their deserts. Much later John Locke based his theory of the social contract on owning the fruits of one's labor. Then Edmund Burke pined for a time when 'it is an invariable law that a man's acquisitions are in proportion to his labours'. Karl Marx wrote that 'the rights of the producers are proportional to the amount of labor they contribute. Meanwhile John Stuart Mill argued that 'it is universally considered just that each person should obtain that (whether good or evil) which he *deserves*'. Later Henry Sidwick likened desert to the divine saying that 'when we speak of the world justly governed by God, we seem to mean that, if we could know the whole of human existence, we should find that happiness is distributed among men according to their deserts'. In the 20th century W. D. Ross advocated the apportionment of happiness to merit and Jean Piaget found children of 12 favoring rules rewarding skill rather than luck. Novelists invoke desert content that readers comprehend the concept.¹ Despite all of this, lately desert has been a neglected subject.

Now the concept of desert has been the subject of re-newed interest thanks to the stimulation of John Rawls's *A Theory of Justice*.² Ironically, this new lease on life arises from Rawls's denial of the relevance of desert to justice and not from any affirmation of the concept of desert or the recommendation of a particular conception of desert.³ The purpose of these pages is to review some of that recent analysis of desert inspired by Rawls along with Rawls's theory itself.⁴ Following that review, some suggestions about the role of desert in a theory of justice will be made.

For all of the commentary that it has already received, Rawls's theory continues to repay attention, if for no other reason than that it has set the agenda for a good deal of contemporary moral and political thinking.⁵ Specifically,

regarding desert, Rawls argues that there is 'no reason for arranging . . . institutions so that distributive shares are determined by moral desert' (315).⁶ Following Rawls, Amy Gutman eliminates desert from institutional distributions.⁷

Before examining the arguments that leads Rawls and others to reject desert it is necessary to be clear on the meaning of the concept of desert. Compared to so many other moral concepts that seem essentially contested, the concept of desert is straight-forward. Desert looks to the past, not the future, though it has consequences for the future.⁸ Its focus is on achieved rather than ascribed characteristics.⁹ Past achievements are the focus of desert because it is assumed that people can change their future conduct in light of the judgements delivered on their previous actions. If this assumption is not made, 'if . . . determinism were true . . . no one would ever deserve anything good or bad'.¹⁰ Judgements of desert are 'limited to actions within our power to do or not to do' (237), as Rawls says when discussing penalties.¹¹ These judgements may have utility, but the reward of virtue in making judgements of desert is good in itself, as Richard Price declared in the 18th century.¹²

There are 4 parts to the following discussion. In part (II), Rawls's argument that desert is conventional is examined. The deserving-to-deserve interpretation of Rawls's denial of desert is considered and found wanting. Part (III) turns to Rawls's deeper objection to desert which is based on a loose determinism. Rawls's flirtation with loose determinism, it is to be shown, is at odds with his critique of feudal determinism much later in his book. Based on the earlier discussion, part (IV) presents both effort and success as criteria of a conception of desert. Part (V) draws the discussion to a conclusion, stressing that even Rawls's loose determinism permits some desert judgements regardless of his disavowals and that the ill effects of using determinism to undermine the concept of desert is much more disadvantageous than any conception of desert is likely to be.

II. Desert and convention

Rawls links desert to expectations established by customs and rules.¹³ The customs and rules that comprise the basic structure of society are morally arbitrary for Rawls. They are conventional, in their justification, not natural. Hence Rawls declares that moral worth be defined in terms of social utility rather than Price's goodness. Rawls says that 'the concept of moral worth is secondary to those of right and justice' (315), which are the rules that define what is valued. He continues, 'for a society to organize itself with the aim of

rewarding moral desert as a first principle would be like having the institution of property in order to punish thieves' (313).¹⁴

Any conception of desert will be conventional and not natural in Rawls's view. 'It appears to be one of the fixed points of our considered judgments', he asserts, 'that no one deserves one's initial starting place in society' (104). Left unqualified as it is, this statement would seem to include both physical and social attributes situating a person in the basic structure. Rawls himself calls attention to the 'natural endowments favored by social circumstances' (75). No one deserves to benefit from natural endowments because they themselves are undeserved (103, cf. 15, 75, and 305).

Now some argue that the natural endowments are neither just nor unjust.¹⁵ Hence it is a moot point to ask if they are deserved. It is the use that individuals make of their natural, as well as social, endowments that may be just or not.¹⁶ At one point Rawls would seem to agree with this view when he says that the endowments 'are simply natural facts' (202). However within 2 pages he writes of the natural endowments as undeserved (104).¹⁷

It is important to note that declaring the natural endowments to be undeserved acknowledges the concept, if not a conception, of desert. Judged accordingly, the natural endowments are undeserved. If they are undeserved then benefitting from, if not the very fact of possessing, them is unjust. As a consequence, Rawls concludes that the natural endowments belong to the community as a whole and not to the individuals who happen to possess them (179). This is powerful conclusion, but even if one accepted Rawls's argument against desert, community ownership does not follow from it. Disproving that individuals have a just title to their natural endowments does not suffice to prove that the community has a just title to them.¹⁸ After all, it is possible that no one has a just title to them. If they are natural facts, perhaps they are not matters of justice at all. Moreover, even if Rawls's conclusion were accepted, the natural endowments cannot be directly re-distributed, as he knows (197). If Rawls's principles of justice were rigorously applied, individuals would be permitted to exercise their natural endowments only in ways consistent with the difference principle. All other uses, however harmless or amusing, would be unjust.¹⁹ It should be noted that the difference principle permits the reward only of success in benefitting the least advantaged class and not merely the effort to do so.

It seems to be Rawls's argument that the basis upon which a person is judged deserving must itself be deserved.²⁰ Alan Zaitchik terms this the requirement of deserving to deserve.²¹ It leads to infinite regress since there is no place at which to satisfy the requirement once and for all in a way that is not arbitrary. Every basis of desert can be challenged, carrying the argument to deserving to deserve to deserve, and so on. This is the construction of desert

that some writers have seen in Rawls's theory and they hold it misconstrues desert. To Michael Zuchert, for instance, desert simply does not presuppose desert.²²

Arbitration of this dispute is made difficult by virtue of the fact that Rawls makes two claims simultaneously. On the one hand, he argues that desert should not be a part of justice, while on the other hand he argues that it cannot be a part of justice.²³ As Stuart Hampshire says, Rawls is utterly obscure on desert.²⁴ Admittedly the requirement of deserving to deserve is fallaciously circular, but there is reason to doubt that this is Rawls's argument against desert.²⁵

To recapitulate, differences in natural endowments are due to external factors. These endowments determine, not merely limit, one's actions for Rawls. Only if this is Rawls's argument can desert be completely excluded from justice as he would have it.²⁷ Accepting Rawls's argument leads to the conclusion that persons of equivalent natural endowments will not, indeed cannot, use their endowments in different ways to a degree that is morally or socially significant. Yet such different uses seem all too obvious.²⁸ At this point Rawls's theory seems to lead to a conclusion that is counter-factual to say the least.

The use made of endowments is important not only for drawing out one implication of Rawls's theory but also because it brings a deeper insight into desert. Writing prior to Rawls's book, Brian Barry argued that 'since the amount and direction of effort is the only thing under a person's control, it is the only factor which can . . . be praised and blamed, rewarded and punished'.²⁹ Hence the effort one makes to use the natural endowments would be the point at which desert could be judged according to Barry. It will be maintained later in these pages that effort is one crucial dimension of a suitable conception of desert. As we shall see Rawls entertains and rejects effort as a criterion of desert.

Of course effort alone cannot be the whole of desert. If it were absurd conclusions would follow. For example, it would require that a man be paid more or praised more for doing a job simply because it is more effort for him to do it than for a woman to do it.

III. Determinism and autonomy

Rawls's references to the external causation of desert hints at his major theoretical argument against desert as a criterion of justice. That argument is that deserving qualities, not excluding effort, are involuntarily determined from without. Whereas the natural endowments are determined by nature, effort

is determined by social environment on Rawls's showing. Where two people with the same natural endowments make different kinds and degrees of effort it would follow that their differences result from an effort-making ability implanted in them and not from volitional choices for which they could be held responsible. The assumption of a hidden effort-making ability results from the silent presumption that no one is capable of making any more effort than one does in fact make. If so, then the effort-making ability is measured by effort-expended, but the equation of effort-making ability with actual effort-expended has no justification.

Rawls is explicit on this point. He does not recognize a distinction between the effort-making ability and effort-expended. He writes that a person's character 'depends *in large part* upon fortunate family and social circumstances for which he can claim no credit' (104, emphasis added, cf. 7).³⁰ The natural endowments together with 'one's initial place in society' are undeserved according to Rawls (104). Character, he argues, is largely determined by external environment. It would follow that no one is responsible for one's own character. The unstated implication in Rawls's text is that character determines effort. In his emphasis on external causation Rawls approximates determinism in that he frees the individual from responsibility for the quality (effort-making ability in one's character) that produces the deserving deed (effort-expended). To repeat, the individual is not responsible because character is a function of social and natural forces.

At a later point in *A Theory of Justice* addresses Rawls effort more explicitly in a passage that must be quoted in full:

The distributive shares that result do not correlate with moral worth, since the initial endowments of natural assets and the contingencies of their growth and nurture in early life are arbitrary from a moral point of view. The precept which seems intuitively to come closest to rewarding moral desert is that of distribution according to *effort*, or perhaps, conscientious effort. Once again, however, it seems clear that the effort a person is willing to make is *influenced* by his natural abilities and skills and the alternatives open to him. The better endowed are more likely, other things being equal, to strive conscientiously, and there seems to be no way to discount for their greater good fortune (311 — 312, emphasis added).

Seeing someone making more effort indicates to Rawls then that this person is better endowed. It is hard not to agree with George Sher that there is a difference between having and using an endowment.³¹ In sum, Rawls position seems to be this: Effort is a function of character which is determined by natural endowments and social circumstance. Let it be noted that there is not a word anywhere in his book on that part of character that is not externally determined and for which the individual would be responsible on his own

grounds. Nor has this subject been taken up in any of his subsequent writings. Instead Rawls is content to insist that 'the more advantaged representative man cannot say he deserves . . . to acquire benefits. There is *no* basis for making this claim' (104, emphasis added).

Mark Twain once wrote that 'what a person deserves . . . should depend not on what he has accomplished nor on how much effort he has put into it but on what he would have accomplished if he had been given the chance'.³² Rawls would certainly agree, and add, 'if he had been given the natural endowments'.

When Rawls speaks of the determinants of character in the first instance his statement is qualified with the terms 'influence' and 'in large part'. However by the time he reaches his conclusion of rejecting desert these qualifications have disappeared. He claims that persons in the original position, let it be recalled, would have *no* reason to choose desert as a principle of justice (311), apparently because of his analysis of external causation.³³ That he is silent on the parts of character not influenced in whole by externalities reveals the direction, if not the nature, of his argument.

From this portion of the discussion it can be concluded that Rawls does offer an argument against desert and that argument is determinism. Noting his qualified argument, we might call it loose determinism. Rawls's denial of desert does not rest solely on a misconstrual of desert as deserving to deserve.³⁴ At the same time it must be clear that loose determinism is not sufficient to exclude desert completely as a distributive criterion, but this is Rawls's conclusion nonetheless.

Rawls, it might be worth reporting, is not the first writer to juxtapose desert and determinism. L. T. Hobhouse held that individual effort and success played only a small part in determining outcomes compared to the roles of social and natural fortune.³⁵ But Hobhouse, unlike Rawls, acknowledged that small role. A better parallel to Rawls is Sidgwick who leaves no room for personal responsibility:³⁶

The only tenable Determinist interpretation of Desert is, in my opinion, the Utilitarian: according to which, when a man is said to deserve reward for any service to society, the meaning is that it is expedient to reward him, in order that he and others may be induced to render similar services by the expectation of similar rewards.³⁷

A loose determinism that renders people irresponsible for their own efforts and character is a determinism that renders moral evaluation otiose, as Robert Nozick among others, has noted.³⁸ If people are not responsible for their character and efforts to some degree there is no point in evaluating them since neither they nor anyone else can respond to that evaluation by making a

change in themselves. This determinism makes the bedrock of morality in character and action (effort) into ascribed rather than achieved characteristics. It is surely true that if they are ascribed characteristics then they cannot be judged deserving or in any other moral way. Of course, ascribed characteristics may be judged aesthetically, as appearance is. If determinism of a kind is implied in his theory, then Rawls's drive for an unqualified moral equality leads not to a strictly egalitarian society but one that is literally amoral. Preserving individual responsibility for character and effort to some degree, it seems to me, would be one good reason for persons in the original position to incorporate a conception of desert into a theory of justice.

Nor does Rawls seem altogether content with his embrace of loose determinism. Elsewhere in *A Theory of Justice* he denies determinism. In his few remarks on caste and aristocratic societies (102), and feudal society (547) he argues that autonomy is true and determinism is not.³⁹ Though such feudal societies may produce a pleasing sense of self-respect, Rawls argues that they are not just because in these societies people are conceived as determined 'independently of human control' (547). In these societies, he says, 'the basic structure is said to be already determined, and not something for human beings to affect' (547). Instead people are conceived of as determined by this eternal basic structure. If the determinism Rawls advocates against desert is loose determinism, let us call this determinism that he denies feudal determinism.

Feudal determinism presents a false picture of the world according to Rawls. Earlier with loose determinism the impression is left, especially by his silence on the undetermined part of character and effort, that social circumstances and natural endowments conspire to shape citizens and not vice-versa. Now against feudal determinism he argues that social institutions change over time, more to the point that they are changed by the will power of individuals (547). More generally personal autonomy sits at the center of Rawls's theory of justice. At the very least there is an unresolved tension in this theory between the claims of loose and feudal determinism as descriptions of the human condition.⁴⁰

IV. Effort and success

Since the appearance of *A Theory of Justice* many other writers have examined effort as a criterion of desert. Michael Slote goes so far as to make the distinction between effort and success analogous to that between capitalism and socialism.⁴¹ Imagining two people assisting in the search for dropped eye wear Slote argues that they both deserve one's gratitude and not only the one

who finds it. Hence effort, not success, is the criterion of justice or desert. Unfortunately on closer inspection this example lends itself to many other interpretations than the one with which Slote is satisfied.

The first thing that needs to be said is that it is gratuitous for anyone to help in the search for a contact lens. Ergo gratitude is due to both searchers out of sheer politeness, having nothing to do with desert still less justice.

Second, the search is a zero-sum game. There is only one lens to find. Once found there is no way for the other searcher to contribute. Social life is seldom so limited. In fact, in Slote's example the unsuccessful searcher might have contributed in other ways, say by being the first to volunteer for the search and so by example to have induced the second and subsequently successful searcher to join in the hunt, or by setting a positive and cheerful tone to the proceedings. In contributing in these ways the unsuccessful searcher would have been successful in other ways.

Third, Slote implies that the finder of the lens was only successful by luck. But if the finder, though not a lens wearer, had taken a training course in spotting lost lenses might we not think this searcher especially deserving of our thanks, even if unsuccessful on the occasion. Luck is often the product of hard work.

For these three reasons, Slote's argument for rewarding effort and discounting success is not adequate. Taking the issue from the other way around, there is no reason to say that only success need be rewarded even in the capitalist society of Slote's imagination. If success is a function of effort, then effort must be encouraged so that success occurs.⁴² Ideally, as David Miller writes, desert judgements would only reward those efforts that would not have occurred but for the incentive of the reward.⁴³ Nor is there any reason to suppose that the rewards of desert need only be material.⁴⁴ Esteem and praise, these are the moral rewards for the moral qualities underlying desert. The only advocate of desert as a criterion of justice who is satisfied with a *laissez faire* market for morality was Herbert Spencer.⁴⁵ Rawls himself is preoccupied with the material in his stipulation of the primary goods, of the rewards permitted by the difference principle, and in identifying the least advantaged class.⁴⁶ Moral rewards do not play a part in his theory.

If the conception of desert were to be grounded exclusively in effort as Slote recommends the scope for controversy would be endless.⁴⁷ Worse still, the controversies would be methodological and not moral in nature. For instance, one worker may expend twice the effort of another and yet be capable of four times more effort than that actually expended. Is desert to be judged on effort-expended simpliciter, as Rachels says.⁴⁸ If so, is that effort to be measured relative to the effort of other workers or to the individual's capacity, as George Schedler asks.⁴⁹ Obviously, effort-expended if the easiest

to measure, but insofar as effort is subjective — a task that is easy for one person may be difficult to another with no apparent reason — measurement will always be problematic. One writer, at least, having identified these methodological problems with desert, uses them as the grounds for rejecting it.⁵⁰ Hence the undetermined part of character and effort that Rawls allows does not offer scope for desert judgements because of the subjective nature of effort and the problems in measuring effort. This same writer, let the record show, advocates the use of the concepts of self-respect and need as the criteria of justice. These two concepts, one might be forgiven for thinking, are no less subjective or fraught with measurement problems than effort, character, and desert. No important criterion of justice is likely to be simple and self-interpreting.

As Aristotle teaches the precision of a theory should be dictated by the nature of the subject, and not by some textbook model of theory construction. Moral reality is complex, vague, and incomplete and so our understanding of it must be complex, vague, and incomplete. The aim is to be no more complex, vague, and incomplete than necessary. Complexity, vagueness, and incompleteness *per se* are not grounds for rejecting a conception of desert still less the concept of desert.

At the risk of laboring the point, compare the prevalence of the models of econometrics in *A Theory of Justice* with the reality, say, of even light fiction. In the memoirs of that famous and fictitious detective Jules Maigret it is recounted that one of his first assignments was to arrest a pickpocket at a carnival. While Maigret watches and waits it rains steadily. He is conscious of his wet feet and a growing congestion in his head, ever aware that the culprit is not such a bad fellow trying to eke out an unhappy living. What indeed is justice in this case?

Whatever the principles of justice, there will be rainy days when someone will have to act in a reality that is complex, vague, and incomplete. A conception of desert that takes account of effort and character allows for fine grained responses to that reality. A theory of justice that denies desert any place, especially on the grounds of loose determinism, sacrifices all such subtlety.

V. Conclusion

The purpose of this discussion has been to show that desert has been completely disallowed as a criterion of justice by many contemporary theorists, most particularly by Rawls. Reviewing the arguments sustaining that denial reveals that they are inadequate. They certainly suffice to show that desert cannot be taken as the only criterion of justice. However to commend desert

as a criterion of justice does not require one to deny all other criteria of justice.⁵¹ Indeed because any adequate conception of desert must be complex it would not be impossible to reconcile desert with other criteria, as Locke tried to combine it with need. If fitting a criterion of desert into a theory of justice presumes a full theory of the good, as Gutman has it, that is not a reason to dismiss desert, but rather a reason to develop a full theory of the good.⁵²

The concept of desert rests on nothing more than the limited autonomy of persons. To the degree that we are autonomous, we may respond to judgements made on our actions. Naturally the particular qualities to be rewarded under a conception of desert arise from and also change through the history, geography, and culture of a society. Being thus rooted in reality makes any conception of desert arbitrary from what Rawls calls the moral point of view. Nevertheless it is reality. One of Gutman's objections to any conception of desert is that it would encourage people to do socially approved actions.⁵³ Now if those actions are worthy of approval then it would be right for them to be promoted. If one disapproves of the conception of desert in one's society surely the thing to do is to mount a moral argument against it rather than trying to outflank it with a theoretical argument against the concept of desert, as Gutman does.

There is no theoretical or moral reason for denying that a conception of desert has social utility, as Gutman seems to think. 'What is wrong is to forget that' judgements of desert 'really are expressions of our moral attitudes and not merely devices we calculatngly employ for regulative purpose' in the words of P. F. Strawson.⁵⁴ Anticipating some of the disquiet that Rawls and others feel about the conventional character of desert, Jean-Jacques Rousseau admitted that any conception of desert is a social product, but that once it arises it can reflect genuine, existing communities of interest.⁵⁵

Even if one insists on excluding desert from justice, loose determinism is not the appropriate means to do so for it excludes individual responsibility, too.⁵⁶ If effort cannot be praised or blamed, then there seems to be nothing left to be praised or blamed, recalling a remark quoted earlier from Barry. To the extent that desert among other criteria of justice is distinctive in its emphasis on individual responsibility it has a particular contribution to make to a theory of justice.

Desert may be one criterion of justice among others. Desert itself must be complex in combining judgements of character, effort, and success.⁵⁷ It must also deal with material and moral rewards. All of this may sound impossibly difficult but it is worth remembering that people do it all of the time. A writer may contend that 'the differential worth of persons must remain unknown to the secular state', but it will not remain unknown to one's fellows whatever theorists think.⁵⁸

Notes

1. Respectively Plato, *The Republic*, Book I, Part 2 and *The Laws*, Book VI; Aristotle, *Ethics*, Book V, Chapter 3 and *Politics*, Book III, Chapter 9; *The letter of Saint Paul to the Colossians*, Chapter 4, Verse 1; Locke, *The Second Treatise*, Chapter 5, section 27; Burke, *Vindication of a Natural Society*, *The Works* (London: Holsworth, 1842), I, p. 19; Marx, 'The Critique of the Gotha Program', *Selected Works* (Moscow: Foreign Language, 1962), II, pp. 23-24; Mill, *Utilitarianism*, G. Sher, ed. (Indianapolis: Hackett, 1979), p. 44; Sidgwick, *The Methods of Ethics* (7th ed) (New York: Dover, 1907), p. 280; Ross, *The Right and the Good* (London: Oxford University Press, 1930), pp. 21 and 138; Piaget, *The Moral Judgement of the Child* (London: Routledge & Kegan Paul, 1932), pp. 1-13; and, e.g., John Galsworthy, *The White Monkey* (London: Heinemann, 1924), p. 272.

2. (Cambridge: Harvard University Press, 1971). All parenthetical references are to this book.

3. Following Rawls, I distinguish between a concept and a conception (6). A similar distinction regarding desert is bruted in J. Kleinig, 'The Concept of Desert', *American Philosophical Quarterly*, 8 (1971) 1 p. 73.

4. Though Rawls has published a good deal since 1971, the book remains the authoritative statement of his theory. Among the writers following Rawls's agenda are Ronald Dworkin, *Taking Rights Seriously* (London: Duckworth, 1977); Amy Gutman, *Liberal Equality* (Cambridge University Press, 1980); and Bruce Ackerman, *Social Justice and the Liberal State* (New Haven: Yale University Press, 1980).

5. Moreover writers who do not follow Rawls's theory share his rejection of desert. See, e.g., M. Walzer, 'In Defense of Equality', *Dissent* (Fall 1973), pp. 400-401 and Friedrich A. von Hayek, *The Constitution of Liberty* (London: Routledge & Kegan Paul, 1959), p. 96.

6. In this essay I follow Rawls's very unusual asymmetry in dividing desert from punishment in the interest of limiting the discussion (241, 314ff., and 575ff.).

7. Gutman, p. 163.

8. See, e.g., Kleinig, p. 73; John Hospers, *Human Conduct* (New York: Harcourt, 1961), p. 445; David Miller, *Social Justice* (London: Oxford University Press, 1976), p. 92; or J. Rachels, 'What People Deserve', *Justice and Economic Distribution*, John Arthur and William H. Shaw, eds. (Engelwood Cliffs: Prentice-Hall, 1978), p. 154.

9. See, e.g., J. Cottingham, 'Race and Individual Merit', *Philosophy*, 55 (1980), p. 526. Not all agree for Norman Daniels speaks of someone deserving a job because that person would do the job well, in the future, 'Merit and Meritocracy', *Philosophy and Public Affairs*, 7 (1978) 3, pp. 212-213.

10. Rachels, p. 157. Cf. Austin Duncan-Jones, *Butler's Moral Philosophy* (Harmondsworth: Penguin, 1952), p. 134.

11. Brian Barry, *Political Argument* (London: Routledge & Kegan Paul, 1965), pp. 108-109.

12. *A Review of the Principle Questions in Morals* (3d ed) (London: Cadell, 1787), p. 128.

13. L. Holbrow, 'Desert, Equality, and Injustice', *Philosophy*, 50 (1975), p. 161.

14. See also Stanley Benn and R. R. Peters, *Social Principles and the Democratic State* (London: Allen & Unwin, 1959), p. 137 and D. Daiches Raphael, *Moral Judgement* (London: Allen & Unwin, 1955), p. 77.
15. D. Gauthier, 'Justice and natural Endowment', *Social Theory and Practice*, 3 (1874) 1, p. 16.
16. According to D. Rasmussen, 'A Critique of Rawls's Theory of Justice', *The Personalist*, 55 (1974) 1, p. 15.
17. See J. Schaar, 'Equality of Opportunity and the Just Society', *John Rawls's Theory of Social Justice*, H.G. Blocker and E. H. Smith, eds. (Athens: Ohio State University Press, 1980, p. 170.
18. D. Schaefer, 'The "Sense" and Non-Sense of Justice', *Political Science Reviewer*, 3 (1973), p. 24. Cf. D. Lugenbehl, 'Some Remarks on the Difference Principle', *The Personalist*, 57 (1976), pp. 292-298.
19. Holbrow, p. 159.
20. *Ibid.*, p. 161.
21. 'On Deserving to Deserve', *Philosophy and Public Affairs*, 6 (1977) 4, p. 372. For a more elaborate interpretation along similar lines see Michael J. Sandel, *Liberalism and the Limits of Justice* (London: Cambridge University Press, 1982), pp. 83-84 and 142-143. Cf. Michael Walzer, *Spheres of Justice* (Oxford: Martin Roberson, 1983), pp. 261 ff.
22. 'Justice Deserted', *Polity*, (1981) 3, p. 477.
23. Rasmussen, p. 311. Cf Gauthier, pp. 15-16.
24. 'A New Philosophy of the Just Society', *New York Review of Books* (24 February 1972), p. 36.
25. F. O'Connor, 'Justice, Desert, and Rawls', *Philosophical Studies* (Ireland), 25 (1877), p. 188.
27. G. Sher, 'Effort, Ability, and Personal Desert', *Philosophy and Public Affairs*, 8 (1979) 4, p. 361.
28. *Ibid.*, p. 367.
29. Barry, p. 107.
30. Repeated in Rawls, 'The Basic Structure as Subject', *Values and Morals*, A. I. Goldman and J. Kim, eds. (Dordrecht: Reidel, 1978), p. 55.
31. Sher, p. 368. Rawls's claim that the able try harder would bemuse school teachers and athletic coaches.
32. *Extracts from Captain Stormfield's Visit to Heaven*, quoted in M. S. Everett, *Ideals of life* (New York: Wiley, 1954), p. 505.
33. A similar line of thought is followed in B. Williams, 'The idea of Equality', *Justice and Equality*, Hugo Bedau, ed. (Engelwood Cliffs: Prentice-Hall 1971), p. 127. There is also a nascent social capital argument against desert in Rawls (315), but that has no moral connotations and so is not assessed here.
34. See Zuchert, p. 477 and W. A. Galston, 'Moral Personality and Liberal Theory', *Political Theory*, 10 (1982) 4, pp. 506-507.
35. *The Elements of Social Justice* (London: Allen & Unwin, 1922), pp. 161-162.
36. Sidgwick, pp. 283-284.
37. *Ibid.* p. 284 N7 and 446.

38. *Anarchy, State and Utopia* (Oxford: Blackwell, 1974), pp. 213-214. Cf. Rachels, p. 163 N8; J. Chapman, 'Rawls's Theory of Justice', *American Political Science Review*, 69 (1975) 2, pp. 591-592; and Lawrence C. Becker, *Property Rights* (London: Routledge & Kegan Paul, 1977), pp. 48-56.
39. It is too simple to say that 'feudalism needs to be condemned because it is an unjust style of life involving cruelty, degradation, armed hostility, and unacceptable inequality', J. Demarco, 'Some Problems in Rawls's Theory of Justice', *Philosophy in Context*, 2 (1973), p. 46. One might ponder Marc Bloch, *Feudal Society: The Growth of Ties of Dependence*, L.A. Manyon, trans. (Chicago: University of Chicago Press, 1940).
40. See also D. V. Morano, 'The Contradictory Homo Sapiens of Rawls in *A Theory of Justice*', *Journal of Value Inquiry*, 13 (1979), p. 283.
41. 'Desert, Consent, and Justice', *Philosophy and Public Affairs*, 2 (1973) 2, p. 323.
42. In speaking thus I refer to capitalism as a doctrine rather than a practice, making use of the distinction pioneered in reference to socialism.
43. Miller, p. 104.
44. For a biting criticism of material rewards for virtue one must see Hastings Rashdall, *The Theory of Good and Evil* (2d ed) (London: Oxford University Press, 1938), I, p. 257.
45. *The Principles of Ethics* (London: Williams and Norgate, 1893), II, p. 17 and *The Principles of Sociology* (London: Williams and Norgate, 1896), III, pp. 563-564.
46. See M.W. Jackson, 'The Least Advantaged Class in Rawls's Theory', *Canadian Journal of Political Science*, 12 (1979) 4, pp. 727-746.
47. Another advocate of effort alone as the basis for desert is Robert G. Olson, *Ethics* (New York: Random House, 1978), p. 41.
48. Rachels, p. 157.
49. 'Social Justice', *Heythrop Journal*, 20 (1974) 1, p. 27. Cf. John Ryan, *Distributive Justice* (3d ed) (New York: Macmillan, 1942), p. 101.
50. Gutman, pp. 163-164. See also Williams, pp. 127-130.
51. J. Feinberg, 'Justice and Personal Desert', *Nomos VI: Justice*, Carl J. Friedrich and J.W. Chapman, eds. (New York: Atherton, 1963), p. 74 and J. Kleinig, *Punishment and Desert* (The Hague: Nijhoff, 1973), p. 63.
52. Gutman, p. 164 and also Ackerman, p. 361.
53. Gutman, p. 164.
54. *Freedom and Resentment* (London: Methuen, 1974), p. 25.
55. *The First and Second Discourses*, R. Masters, trans. (New York: St. Martin's, 1964), pp. 134-135 and 146-149.
56. See A. J. Ayer, 'Free-Will and Determinism', *Philosophical Subjects*, Zak Van Straaten, ed. (London: Oxford University Press, 1980), p. 12.
57. Nicholas Rescher, *Distributive Justice* (Indianapolis: Bobbs Merrill, 1966), p. 48 and O'Connor, p. 175 concur.
58. Gutman, p. 228.