

## Philos 117AC, Fall 2017

Main texts:

John Rawls, *A Theory of Justice*, §§ 12, 17, 47-48;  
*Justice as Fairness*, §§ 20–22

*Main idea:*

- Commonsense: “Justice is people getting what they deserve!”
- Rawls (and Nozick!): No, distributive/economic justice does not consist, even in part, in giving people what they deserve. Desert is simply not relevant to distributive/economic justice.

*Commonsense precepts of justice*

In §47, Rawls observes that when we think about economic rewards, we often rely on “commonsense precepts” of justice. Examples:

- “to each according to his effort”
- “to each according to his contribution.”

Rawls argues, however, that these precepts are nothing more than generalizations about market outcomes.

- Contribution varies with demand for labor, so usually attracts a higher wage.
- Effort varies (inversely) with supply of labor, so usually attracts a higher wage.

But generalizations about what the market usually gives people are not principles of justice, suited to evaluating the basic structure.

- For example, “to each according to his contribution” seems satisfied by a competitive market, since labor receives its “marginal product” = difference it makes to output. This may seem fair.
- But marginal product depends on broader social conditions. For example, marginal product is higher if fewer offer similar services. So salaries for college graduates may be higher if there are fewer graduates—perhaps because college is available only for a privileged few.
- So to tell whether market outcomes are fair, we have to consider broader social conditions: i.e., whether the basic structure of which the market is a part satisfies the two principles overall.

*Precept of desert*

In §48, Rawls turns to another commonsense precept:

- “income and wealth, and the good things in life generally, should be distributed according to moral desert. Justice is happiness according to virtue” (273).

Again, Rawls thinks it’s a mistake to treat this precept as a principle of justice. What, he asks, is desert?

- *Contribution?*
  - Contribution depends external factors: e.g., whether other people supply similar talents.
- *Effort?*
  - Effort also depends on talent, and there’s no way to discount for this.
- *Just behavior?*
  - This is *circular*. Justice is rewarding desert, and desert is doing what justice requires.

*Desert vs. legitimate expectations, deservingness*

For Rawls, people are entitled to not what they *deserve*, but instead to their *legitimate expectations*.

- Legitimate expectations are *incentives* to socially beneficial behavior, which must be *honored* when the behavior is displayed in the right way. In other words, people have followed the rules of just institutions, then they are entitled to what those institutions *promised* them.
- Legitimate expectations are *not rewards for moral merit*. They are just *society holding up its end of the bargain*.

*A nuance:* Rawls suggests that we can also speak of *deservingness*. Sometimes people display the incentivized behavior, but, by bad luck, don't meet the conditions that legitimately entitle them to the rewards. (E.g., the fastest runner trips right before the finish line.) But to accept that people can be deserving is not to accept the precept of desert.

- Deservingness is defined *in terms of* the two principles of justice: behaving in the way that *just* institutions encourage. (According to the precept of desert, by contrast, justice is defined *in terms of* desert. Justice is giving people what they can independently be said to *deserve*.)
- Deservingness does *not entitle* you to rewards. Only legitimate expectations do.

*A common (mis-?)interpretation of Rawls:*

Nozick, Simmons, Pojman, and others suggest that Rawls claims:

- Natural talents are (i) *not deserved* and/or (ii) *not chosen*. (This, they suggest, is what Rawls means by "arbitrary from a moral point of view.")
- Distribution should be sensitive *only* to what people (i) deserve and/or (ii) have chosen.
- So, the distribution should not be sensitive to natural talent.

*Why this common interpretation is probably a misinterpretation:*

- Rawls's difference principle makes distribution sensitive to natural talent (at least to some degree)!
- Rawls explicitly *rejects* the precept of desert: that the distribution should be sensitive only to what people deserve!
- Rawls would presumably agree with a point of Nozick, Pojman: It doesn't follow from the fact that one's *natural talents* are undeserved that one cannot deserve something for *what one achieves as a result of those talents*.
  - No one thinks you must deserve your talents to deserve what flows from your talents!
  - Would seem to imply that no one ever deserves anything! But surely athletes deserve gold medals, MVP trophies; scientists deserve Nobel Prizes; etc.

*Nozick on desert:*

- Nozick believes it can be just for distribution to be influenced by natural talent to a *greater* extent than Rawls's different principle would allow.
- However, Nozick does *not* believe this *because* he believes justice requires rewarding desert or that people deserve what flows from their talents.
- Instead, talents may justly influence the distribution, because people *own* themselves, and hence they have a *right* to what they do and to what results from what they do.
- According to Nozick, you're entitled to your wealth, provided that the principles of historical entitlement have been followed, even if you don't deserve your wealth. Maybe you won the lottery, struck oil by accident, or have rich parents.
- For all of their differences, *both* Rawls *and* Nozick reject the commonsense view of desert.