

RESPONSE

A desert menu

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In ‘Sir John Stuffgut’s Soup and a Taste for Desert,’ Adam Oliver elaborates on Feinberg’s discussion of moral desert and blame by linking intentions and outcomes in an insightful typology centered on the notion of harm. The dyadic nature of the argument is both a strength (simplicity being the truest form of elegance) and a limitation, however. A third element pertinent to attributions of desert and blame should get more attention, namely, the context (situation) in which the intentions, acts, and outcomes unfold.

Consider the unfortunate Sir John, for example. In Oliver’s account, the action turns on his gluttony, its consequences (spilled soup), and harm (wet trousers) to another guest at Lady Mary’s dinner party. We learn that the nervousness that impelled Lady Mary to spill the soup was triggered by Sir John’s gruff tone when demanding more, but it appears too that the guests were plainly hungry and restless. Perhaps their failure to maintain stiff upper (and in this setting) lower lips contributed to Lady Mary’s agitation. Or perhaps this is a case of ‘blaming the victim’: If Sir John’s reputation preceded him and was known to Lady Mary, should she not have anticipated his ‘need’ by proactively inquiring whether he might want more? Moreover in polite society (such as the soirees we enjoy at Columbia’s Department of Health Policy and Management), we pass bowls to the tureen for refilling, not the other way round, as was done at Lady Mary’s dinner party. (But of course: we public health types know that prevention works.) In the Sir John incident, blaming, viewed in context, is diffuse enough not to exonerate that overeager eater, but perhaps to move that the unfortunate event along a continuum to (as the French say) ‘*Ca peut arriver.*’ (Such things can happen.)

Context figures in criminal cases too. If one man kills another with malign intent and forethought that is murder. If he kills inadvertently that is manslaughter. If the killing occurs because he is defending himself from attack by another, this is (probably) legitimate self-defense. (Though depending on the legal system in question, whether he is lawfully ‘standing his ground’ or could and should have elected to seek safe ground in hopes of avoiding further violence is itself an important contextual question.)

When one shifts from the sphere of interpersonal behavior to that of social policy, contextual considerations in judgments of blame and desert are often central. A first type of desert may be called ‘*contributorial.*’ What *do* citizen owe each other? In a

word, reciprocity. In its Vagabonds and Beggars Act of 1494, England affirmed that ‘sturdy beggars’ were obliged to work for their bread and shelter. In Puritan New England, community leaders viewed their poor residents charitably up to point – our (tax) money funds your support only insofar as you are “one of us” and behave properly (Rogers, 2018, chapter 9). Contemporary European nations regard their capacious systems of social protection as deriving from the ‘solidarity community’ and may surprise and disappoint humanitarian universalists when they insist that those outside it (migrants, e.g.) are welcome to join it and partake of its benefits only insofar as they contribute to its maintenance (by working and paying taxes, earmarked for social insurance and/or general) and by honoring its norms and rules.

Applied to specific groups within a community (solidaristic or other), reciprocity underlies a second type of desert, namely *generational*. It has often been argued that ‘we’ (society) owe much to the aged who brought us up, made sacrifices, paid into social insurance and/or private savings in order to sustain their later years, and so on. Not so long ago these claims of desert seemed to support a broad portfolio of legitimate policy ‘entitlements.’ More recently, the tenor of this talk about desert has shifted: in pensions and health care systems, beneficiaries receive substantially more than they have contributed, some of them ‘need’ those benefits much more than others do, and why should ‘greedy geezers’ seize resources that could be spent on children – vulnerable and unable to care for themselves, and future contributors obliged to sustain regimes of social protection – who have claims to desert of their own?

Claims to desert go well beyond those based on contribution and chronology. A third type may be called *situational*. Social democracy comes in various flavors, but their common ingredient is the proposition that circumstances of birth (social class status, most notably) impose a distribution of ‘life chances’ that systematically disfavors those (e.g., the working class) whose lives unfold under the control (anyway influence) of those who hold economic power. Citizens who are unfairly disfavored by their socioeconomic conditions may claim desert to ‘generally being treated as persons of some importance’ (Bainbridge, 2003, p. 143), to get an education that might break the chains of immobility (Maynes, 1995), to participate in the selection of political leaders, and to enjoy a set of social protections (including but not limited to health care). Such claims may at times try to contextualize what society defines as blameworthy behavior. In *West Side Story*, a juvenile delinquent assures a policeman that he (the wayward youth) is ‘depraved on accounta [he’s] deprived.’ Jean Valjean stole bread because the social order could not contrive to give him the means with which to buy it. The redistributive agenda that won fame for Robin Hood meant stealing from the rich and giving to the poor.

Claims based on situational desert sometimes seek elevation to type four, *rights-based* claims. Most societies maintain, as a matter of culture and/or law, that health care, for instance, is a right. Whether grounded on humanitarian, constitutional, natural, or other arguments, the right boils down to the proposition that no one deserves to go without health care because he or she lacks money (or indeed for any reason other than need) and that a society in which money (or other non-need-based criteria) interferes with access is therefore blameworthy (as also is one that imposes on care seekers out of pocket payments that are more than

nominal). But this right cannot be read as a claim to every kind of medical care (present and future) for every citizen who could possibly obtain some clinical benefit from it, so in practice it is interpreted to mean access to ‘medically necessary and appropriate care,’ the practical content of which is worked out pragmatically (and occasionally philosophically, as in the Netherlands, Sweden, and NICE, e.g.).

Is there, however, another, reciprocal, side of the coin? If health care (or whatever) is indeed a right, is the right-holding, entitled citizen obliged to give something back in order legitimately to exercise it? Presumably not, although nowadays one sometimes hears exhortations to citizens to engage in prevention and healthy lifestyles and to eschew unreasonable demands on the system so as to take care (financially) of the system that takes care of ‘all of us.’ In German law, for example, citizens are held to have “co-responsibility” for their health and should therefore “lead a health-conscious life” while taking part in preventative health measures and in medical treatments and rehabilitation, which may reduce disease burden and disability within the population’ (Schmidt, 2007, pp. 242–43, quoted in Elliot *et al.*, 2014, p. 1076).

The USA, notoriously averse to claims of rights to social protections, offers instructive examples of the policy conundrums besetting attempts to ensure that citizens who claim to deserve public benefits are obliged to reciprocate (that ‘give something back’). One case in point is the US history of ‘public assistance’ (aka ‘welfare’) and the tenacity of distinctions between the deserving and undeserving poor. As noted above, in New England Puritan towns care of ‘our’ poor was accepted as a charitable duty, but claims of reciprocity quickly kicked in: recipients were expected to work if they could and to do nothing to raise costs to the town or to offend its moral sensibilities (Rogers, 2018). Later on, mothers and veterans were agreed to deserve special programs that elevated them above less meritorious claimants (Skocpol, 1995). In the Progressive Era, the federal Children’s Bureau and ‘settlement houses’ in the voluntary sector taught poor immigrant women how to be good mothers – and those mothers were expected to comply with their teachings (Dutton, 2021, chapter 1). The New Deal created the Aid to Dependent Children program, later retitled as Aid to Families with Dependent Children (AFDC), which allotted welfare benefits according to criteria of need, desert, and merit. These programs underscored semantically the basis of legitimate claims, by putting the word ‘dependent’ in the title, and practically, by specifying that able-bodied childless adults should seek work, not public assistance. In 1965, eligibility for public assistance (as defined, quite disparately, by the states) became the criterion for eligibility for Medicaid [understood to be a program of ‘welfare medicine in America,’ in the title of Stevens and Stevens’s (1974) book on the then new program].

Enforcing the distinction between deserving and not is, however, hard to bring off in practice. What to do if the guardians of the system (mainly front-line public officials in local offices of state departments of social services) are too lax in defining desert (aka eligibility) for the benefits the hard-working US taxpayer is compelled to sustain? In the aftermath of the government-expanding Great Society, launched in the mid-1960s, ‘welfare’ became an ever more appealing target for small government conservatives appalled by the growth of a bigger welfare state on American soil. Ronald Reagan effortlessly made political hay by deploring and ridiculing ‘welfare queens,’ widely understood as code for single black women who preferred collecting

benefits to working. Throughout the 1980s, right wingers warned that excessive public indulgence was creating ‘generations’ of families who handed down their non-working ways to their children, all at the expense of the taxpaying middle class. By the early 1990s, demands by right of center politicians for ‘welfare reform’ were loudly and insistently broadcast (although the percentage of federal dollars devoted to public assistance was very small), and President Bill Clinton, eager to polish his bona fides as a ‘new’ (more centrist) Democrat, pledged to ‘end welfare as we know it’ (Weaver, 2000).

This promised end came with the enactment in 1996 of the Temporary Assistance for Needy Families (TANF) program, which replaced AFDC and proclaimed a shift from ‘welfare to workfare.’ This shift has been, then and since, controversial. Defenders of TANF contend that it applies long-overdue pressure to welfare recipients to seek and retain jobs and the sense of dignity they confer. Critics assert that it is an exercise in cruelty, making life harder for the most disadvantaged members of society. The verdict depends, as usual, on a complicated set of contextual considerations. To make workfare work as a social policy, certain supports must be put in place, among which are financial aid for recipients while they get training, adequate training programs in the community, jobs to be had when training is completed, child-care if necessary, and reasonable transportation. Getting these (and other) supports up and running, and then implementing and maintaining them successfully, is a sizable feat of policy engineering, made more complex still by differences in capacities and preferences among the state and local agencies charged with interpreting and implementing them. Giving back is hard to do.

The situational plot thickens when one ponders the intricacies of policies for the disabled, who are (at least *prima facie*) assumed to be both deserving of benefits and excused from (mandated) efforts at reciprocity, held back as they are not by bad luck inflicted at birth by social class but instead by adversity imposed by physiological happenstance. In the USA, eligibility for the Social Security Disability Insurance (SSDI) program confers eligibility for Medicare and Medicaid as well, and the growth of spending for the disabled is a serious fiscal concern, especially in Medicaid. Ascertainment of the desert that establishes eligibility is not transparent, still less self-evident.

The definition of disability, the conditions that come under that definition, and the degrees of disability (ability to perform activities of daily living, extent of frailty, and so on) are policy constructs carefully specified in law and regulations. The practical application of those definitions requires bureaucratic review and judgment, aided, perhaps dominated, by evaluations by physicians (Stone, 1984). Some of the disabled, moreover, want to work, at least part time, a preference that generates more initiatives and programs and thence questions like those posed by TANF about the adequacy of training programs, and still more about how many hours and/or dollars of earnings should be permitted before benefits under Medicaid and other programs decline.

In the USA, promoting reciprocity in such contexts – crafting acceptable givebacks that defang resentment of the taxpaying public about giveaways – consumes much legislative and bureaucratic time and labor at all three levels of government. And in the USA even some of those who are comfortable with policies predicated

on the distinction between deserving and undeserving poor wonder whether the game is worth the candle. Decades ago that paragon of market conservatism, Milton Friedman, complained that the platoons of social workers and other bureaucratic busybodies required to validate that distinction enlarge the growth of the public sector and the intrusive reach of the state. If people are poor, mused Friedman (1962, chapter 12) why not simply give them money? This notion, radical in the US cultural context, nonetheless found favor with Richard Nixon's domestic advisor (and later US Senator) Daniel Patrick Moynihan, who persuaded Nixon to propose a guaranteed family income, which was accepted by the House, only to fail in the Senate (Moynihan, 1973; Burke and Burke, 1974). The premise of these decluttering exercises holds, in essence, that enforcing reciprocity (givebacks) may do more harm than good to society, and the debate goes on (on TANE, see Weaver *et al.*, 2015, pp. 355–72).

In housing policy too, contextual particulars are key to defining who needs/ deserves what type of assistance. One authority (Nunez, [personal communication](#)) posits three categories: (1) People who have lost their jobs, and therewith their incomes, and need a roof over their heads as they get back on their feet and find new work. (2) People who need a battery of services (job training, health care, nutrition counseling, and so on) but can plausibly anticipate a return to work and, perhaps, self-sufficiency. These two types can be said to 'deserve' housing and related aid because they have hit bad luck *and* have good prospects of repaying that aid by reentering the ranks of workers and taxpayers. Type (3), however, are badly beaten down by misfortune and bad personal decisions (such as drug addiction) and are unlikely to find their way back to steady work and the requisites of reciprocity. They are fated to remain 'draw-ers' – not [as Macy (2018, p. 280) found in her study of addiction to opioids] connoisseurs of the arts of pen and brush but rather citizens whose chosen metier is simply to receive benefits to keep them going, as did their parents and grandparents before them. They may lay claim to a kind of negative desert – 'they don't deserve to die in the streets' – which presumably nullifies society's claims to repayment.

Finally, a fifth form of desert might be called *reparational*. American history swings and sways between the ethos of the poet Emma Lazarus ('Give me your tired, your poor, your huddled masses, yearning to breathe free') and that of the comedian Mort Sahl ('Is there anyone here I haven't offended?'). Debates about desert, therefore, reverberate with claims by groups who demand (or could demand) compensation for wrongs they have suffered in the past and expect to give nothing 'back' for that compensation beyond their grant of forgiveness (or anyway their grudging acknowledgment that perhaps justice has been partially and belatedly served). These groups include African Americans (especially descendants of slaves, but arguably too ones severely disadvantaged by the Jim Crow regime and other types of discrimination into the mid-1960s and even beyond), Native Americans, Mexicans, Asians, Jews, and arguably Irish and Italians (who for years 'need[ed] not apply' for various jobs) (for a sobering recent overview, see Grandin, 2019). What does desert demand in such cases of blatantly blameworthy behavior by generations past? What do a society's current generations owe to such groups?

How, if at all, does reciprocity apply in such cases? What kind of response can reparative policies be expected to ‘buy’ from such afflicted groups?

In cases of such flamboyant wrongdoing, one might expect claims of desert to stand on solid moral ground, and perhaps they do. But the practical question in the USA turns on how to gauge demands of reciprocity. When it comes to the retrospective assignment of collective responsibility, Americans incline to Mrs. Thatcher’s view that ‘there is no such thing as society,’ only individuals and families. Nowhere close to a majority of US citizens believe that they (still less their children) should bear the costs of redressing past wrongs they themselves did not commit, and such attempts to redress historical wrongs as have been advanced (mandated school busing and affirmative action, for instance) have worked mainly to harden hearts, discourage reciprocity, and nudge the nation rightward politically (for an argument along these lines, see Caldwell, 2020).

In sum, context counts – and complicates judgments of blame and desert. To be sure, context can only be counted so far: the formalities of law, for example, must be made to ‘work’ and can only do so by some abstraction from contextual considerations (Stinchcombe, 2001). In the more fluid realm of everyday blaming and claiming such as that triggered by Sir John’s soup, however, ‘crisp distinction melts away’ (Boone, 2005, p. 33) and moral judgment may proceed within a gentler penumbra of ambiguity.

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