

Responsibility and Desert: Defending The Connection

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Feldman (1995) makes a striking claim: our central philosophical way of thinking about desert is misguided. Feldman targets two elements of the philosophical understanding of the notion of desert: the connection between responsibility and desert, and the connection between time and desert. *I believe that we have the resources to handle Feldman's doubts about responsibility and desert, and maintain the conceptual connection between the two. Like Feldman, I concentrate on the core notions, not on any possible minor exception. Once the connection between responsibility and desert is secured we can partially accept Feldman's other claim, about time and desert, but we can also see why it should not trouble us greatly. I can consider this second issue only briefly.*

The methodology of Feldman's interesting and provocative paper is simple. He claims to explicate the traditional philosophical view about responsibility and desert and about time and desert, and then produces obvious and widespread counter-examples, which should conclusively show the principles of "received wisdom" on desert to be indefensible. Feldman also considers the question why virtually all previous philosophers have made such gross mistakes. But in the case of responsibility and desert this amounts to little more than pointing out the purported "failure to consider a sufficiently wide variety of examples" (Feldman 1995, p. 72).

According to Feldman, received wisdom about responsibility and desert is as follows: "DR: If S deserves x in virtue of the fact that S did or suffered y , then S is responsible for doing or suffering y " (Feldman 1995, p. 64). This analysis fits many cases. For example, we often say that a man deserves blame for doing something wrong because we assume that he was responsible for doing it. If we were to learn otherwise we would not hold him to be deserving of blame. Feldman claims however that "There are countless perfectly ordinary cases in which we deserve things in virtue of facts for which we bear no responsibility" (Feldman 1995, p. 68). An innocent figure-skater attacked by a thug "deserves an apology and some compensation in virtue of the fact that she was viciously attacked. Yet she bears no responsibility for the attack" (ibid.). Here we may claim that the element of responsibility is introduced through the attacker, who is

responsible. This however puts the responsibility in the wrong place for the purpose of inquiring after the connection between the responsibility and desert of the skater. Moreover, Feldman anticipates this move and says that any revised DR taking it into account would also be false.

Consider, for example, a case in which a young child becomes ill with a painful disease. Suppose the child suffers for a while with this disease, and eventually dies. The parents are overwhelmed with grief. Surely no one bears any responsibility for their misfortune, and yet the grieving parents might deserve various things in virtue of enduring it. (Feldman 1995, p. 69)

I agree that Feldman's examples refute DR. This, however, is of little consequence, for DR is not a plausible way of understanding the connection between responsibility and desert. Some previous philosophers Feldman quotes have indeed spoken in terms of DR. I will not consider the exegetical question whether DR represents the complete view of all these philosophers. I will attempt to show that within certain parameters, responsibility is a condition of desert. It is not so according to DR, but the fault is with DR rather than with the connection between responsibility and desert. I think that the position I argue for is an articulation of the "common-sense" view on responsibility and desert rather than a strongly revisionist position.

The "connection" view on responsibility and desert is much richer than DR. It can be said to consist of four basic elements:

- (i) A specification of the background conditions.
- (ii) The idea of a "baseline" of desert.
- (iii) The distinction between "positive" and "negative" responsibility as conditions for desert.
- (iv) The distinction between "first-order" and "second-order" desert.

It is important to get an adequate view of the first two not only because they are crucial in understanding the view I am presenting, but also because they may seem to be exceptions to the conditionality of desert on responsibility. Both are however (a) well known and (b) lie outside of the core of our attitudes and practices concerning desert. They create the framework within which the connection between responsibility and desert is established.

(i) "Background conditions": one exception where even partial responsibility cannot be assumed lies at the outer reaches of the construction of the conditions for social responsibility—the separation of the potentially responsible and deserving from those who lack the potential for responsibility-based desert. As Sidgwick noticed, we can be troubled here by the matter of animals (Sidgwick 1963, p. 284). A chicken, for example, is not responsible for not being a person: why then does it deserve worse treat-

ment than a person—whatever that may mean, say, equal consideration of its needs? There are difficult matters involved here, but they do not constitute a threat to the core conception of responsibility and desert. One can make a two-tier distinction. First we determine the class of those who have potential for desert based upon responsibility, i.e. persons. Then the “game” of desert is played within this group, with responsibility as a condition for desert.

(ii) The “Baseline” of desert: a second possible exception concerns factors like the favorable environment we inhabit. If there was no fresh air around human life would cease, but while people may be responsible for the demise of fresh air they are not responsible for its original existence. Still, we may want to say that people deserve fresh air. If God were to deprive us of it he might be said to have done wrong, and similarly for more pedestrian polluting agencies. Hence it seems that people deserve without being responsible. One reply would be that people do not strictly deserve fresh air, but are at most entitled to it. This may create the appearance that I am making things too easy for myself. However, even if we want to speak here in terms of desert Feldman would not get much mileage in his argument against the connection between responsibility and desert. This difficulty is not directly relevant to his main case, and, again, it has been recognized and dealt with before (e.g. Sher 1979, pp. 364–5). The solution is to see only exceptions beyond a certain “baseline” as necessitating a responsibility-base for desert. We are not deserving of fresh air by reason of our responsible actions but, since in this people are equal and the desert is unobjectionable, the demand for responsibility does not come into place. Responsibility comes in only when the question is whether one is deserving of exceptional treatment (prizes, punishment, suffering and the like).

Feldman’s case for the lack of connection between responsibility and desert can now be compared to my formulation, with these conclusions in mind. There is no responsibility-base for the desert of fresh air (even if we want to speak of desert in this case), but this is not an interesting result, since fresh air is morally unobjectionable and all equally “deserve” the fresh air. We need to consider a case where exceptional desert comes into place: if a chemical plant seriously ruins the air of a town the citizens of the town deserve compensation, or at least compassion. Feldman would interpret the case so that responsibility is not a condition for desert: after all, the citizens of the town are not responsible for the polluting of their town by the plant. The alternative interpretation I am offering maintains the connection between responsibility and desert: since persons can morally *expect* not to be harmed when not responsible for being harmed, and since the people of the town are *not responsible* for the pollution (they have done *nothing to deserve it*), they *deserve* e.g. compensation.

More formally:

- (1) We assume background conditions delineating those to whom the categories of responsibility and desert apply (persons of a certain capacity).
- (2) We assume a “baseline” of desert (e.g. everyone deserves fresh air).
- (3) The only way in which people can come not to deserve the “baseline” is through being responsible for not deserving it.
- (4) Hence, if people suffer from the lack of the “baseline” without being responsible, they do not deserve to suffer.
- (5) In such a case they deserve as a consequence e.g. compensation.
- (6) Desert, then, can follow from “positive responsibility”, from what one is responsible *for* doing or suffering; or from “negative responsibility”, from suffering (lack of the “baseline”) *without* being responsible for this.
- (7) Desert due to “negative responsibility”, as in (5) above, can be seen as “second-order” desert, for one deserves compensation for not receiving one’s “first-order” desert.

This formulation needs to be further explicated and refined, but it will do for our purposes. It seems to me that this formulation meets the two crucial tests: it more truly represents the actual way in which desert is commonly understood, and it overcomes the examples Feldman presents against the connection between responsibility and desert. Take Feldman’s example of the skater who becomes deserving by suffering an attack. In order for a person to deserve she must either be responsible for deserving (the “positive” condition), or have suffered without being responsible (the “negative” condition). Feldman considers *only* “positive responsibility”, and hence cannot see how responsibility is a condition for desert. On my formulation the skater deserves because she has been done badly, below the “baseline” for desert, and is not responsible for this: she deserves something not despite the fact that she was not responsible, but *because* she was not responsible for being attacked. She might deserve the suffering were she responsible, but the lack of responsibility means that she does not deserve to suffer: she deserves compensation or an apology because she does not deserve to suffer, and she does not deserve to suffer because she is not responsible for the suffering.

It is striking that our thinking is here symmetrical. The same reason which would have made her deserving of the suffering, i.e. that she was responsible, makes by its absence the skater not deserving of the suffering, and hence deserving of e.g. compensation. The role of desert is in this way counterfactual, that no one deserves to suffer unless she is responsible. This keeps responsibility as a condition for deserving suffering, and results in (“second-order”) desert for compensation because the “negative

responsibility” condition for desert is met, i.e. because of lack of responsibility for not getting the “baseline” of acceptable conditions she deserves (personal safety from attack, in this case). Responsibility is throughout a crucial *consideration* for the establishment of desert.

My interpretation of the connection between responsibility and desert not only satisfies our intuitions in the examples considered. It also accords with the *general structure* of our thought concerning justice, in so far as it involves desert. Consider first criminal justice. The urgency of the free will problem, for example, follows just from the fact that responsibility is normally considered a condition for desert, in the way I specified. If we accept hard determinism a criminal cannot be considered ultimately responsible for doing what he does: we would then say that he does not deserve to be punished (Smilansky 1993). If the criminal is nevertheless “punished”, say, for consequentialist reasons, we would then say that he (“second-order”) deserves compassion. As before, we see that responsibility is a condition for desert. Or consider distributive justice. Here the importance of desert is in dispute, and there are various other complexities, but certain egalitarian positions neatly show the structure we are after. Under what is perhaps the most sophisticated recent egalitarian formulation, the only way in which a person can come to deserve to be less well off than others is if she is responsible for being less well off (Cohen 1989). Responsibility is once again a condition for desert, with equality as the “baseline”.

To conclude on the matter of responsibility and desert. I have argued that while Feldman has pointed out certain deficiencies in expressions of “received wisdom” on responsibility and desert, he has not refuted the view that there is an inherent connection between the two. Although his counter-examples refute DR (his formulation of “received wisdom”), the connection between responsibility and desert can be maintained, in the way I have explicated. Since Feldman’s counter-examples should not worry us, there is no reason, as far as one can see, to abandon the view about the inherent connection between responsibility and desert.

Feldman also attacks a second component of our view about desert, the *connection of desert with time*. “DT: If at t S deserves x in virtue of the fact that S did or suffered something at t' , then t' cannot be later than t ” (Feldman 1995, p. 67). Here as well Feldman works by proposing a counter-example. A child we believe is shortly about to suffer from a terminal illness deserves benefits from the Make-a-Wish Foundation, although he might not know his condition and his actual suffering has not yet begun (Feldman 1995, p. 70).

Feldman is clearly more successful here than with responsibility, and we are in his debt. The formulation I proposed above is helpful here as

well. It seems that the role of time in desert largely derives its importance from the factor of responsibility. To the extent that we require “positive responsibility” for actions in order to generate desert, such as when punishment is involved, the desert needs to come after the base for desert. There are various pragmatic reasons for this but the central principled reason is that not to do so trespasses the obligation to respect persons.¹ I have argued this in detail before, concerning punishment (Smilansky 1994, a reply to New 1992, who has responded in New 1995).

Feldman’s strength on time and desert mostly lies with “negative responsibility” cases such as where (“second-order”) desert follows from the lack of responsibility for suffering. Once we keep in mind the structure of thought on responsibility and desert I formulated above, the idea that desert may come temporally before the base for desert, allowing innocent sufferers-to-be to “pre-deserve”, should not trouble us greatly. “Pre-desert” for “negative responsibility” would not affect the role of responsibility in desert, nor pose any significant threat to the core of our view of desert and its role in moral life. The matter of time and desert merits a more detailed consideration than I can give it here. But neutralizing Feldman’s threat to the crucial connection between responsibility and desert means that we see *why* the exceptions to DT are severely limited, and that we need not be seriously troubled by the matter of desert and time.

Responsibility and desert lie at the centre of our ethical life, and are important for our views of ourselves and for the evaluation of the justness of social and political arrangements. Crucial questions can be asked, questions such as: how important is responsibility-based desert for distributive justice? How do we determine the “baseline” for desert? Which forms of responsibility are required for desert, and can they be met? The conceptual connection between responsibility and desert is not however problematic.²

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¹ There is also a difference between our reactions to desert of favorable things such as praise or gifts and unfavorable ones such as blame or harm. The matter of connecting to the person responsible is important with both, but with respect to time will trouble us more concerning desert of unfavorable things. I cannot further consider such complexities here.

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