

## Is Desert in the Details?<sup>1</sup>

Christopher Freiman

Shaun Nichols

Modern political philosophers have been notoriously reluctant to recognize desert in their theories of distributive justice.<sup>2</sup> A large measure of the philosophical resistance to desert can be attributed to the fact that much of what people possess ultimately derives from brute luck. If a person's assets come from brute luck, then she cannot be said truly to deserve those assets. John Rawls suggests that this idea is “one of the fixed points of our considered judgments;”<sup>3</sup> Eric Rakowski calls it “uncontroversial;”<sup>4</sup> Serena Olsaretti claims that a theory must accept it to be “defensible;”<sup>5</sup> Peter Vallentyne, to be “plausible.”<sup>6</sup>

But there is dissent. Two prominent liberal political philosophers, David Miller and David Schmidtz, have recently denied that brute luck nullifies claims of desert and, in turn, articulated

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<sup>1</sup> Thanks are due to Adam Arico, Matt Bedke, Mike Bruno, Jerry Gaus, Kate Johnson, Josh Knobe, David Schmidtz, Daniel Silvermint, Jen Zamzow, and an anonymous referee for this journal.

<sup>2</sup> Samuel Scheffler says that “none of the most prominent contemporary versions of philosophical liberalism assigns a significant role to desert at the level of fundamental principle.” Samuel Scheffler, “Responsibility, Reactive Attitudes, and Liberalism in Philosophy and Politics.” *Philosophy and Public Affairs* 21, no. 4 (1992): 299-323, 301. See, for example John Rawls, *A Theory of Justice*. Revised ed. Cambridge: Belknap Press, 1999, 89; “The Basic Structure as Subject.” *American Philosophical Quarterly* 14, (1977): 159-65, 162; Ronald Dworkin, “Why Bakke Has No Case.” *New York Review of Books*, November 10, 1977; Thomas Nagel, *Mortal Questions*. Cambridge: Cambridge University Press, 1979; Brian Barry, *Political Argument*. London: Routledge and Kegan Paul, 1965; Robert Goodin, “Negating Positive Desert Claims.” *Political Theory* 13, no. 4 (1985): 575-598.

<sup>3</sup> John Rawls, *A Theory of Justice*. Cambridge: Harvard University Press, 1971, 104.

<sup>4</sup> Eric Rakowski, *Equal Justice*. Oxford: Clarendon Press, 1991, 112.

<sup>5</sup> Serena Olsaretti, *Liberty, Desert, and the Market*. Cambridge: Cambridge University Press, 2004, 28.

<sup>6</sup> Peter Vallentyne, “Brute Luck Equality and Desert.” In *Desert and Justice*, edited by Serena Olsaretti, 169–185. Oxford: Oxford University Press, 2003, 175.

theories of justice that accord desert pride of place.<sup>7</sup> Miller follows David Hume in appealing to commonsense morality's indifference to the conditions under which desert bases are acquired.<sup>8</sup>

Still, Miller acknowledges that ordinary opinion is not wholly consistent here; he maintains that there are conflicting tendencies to judge individuals' deserts in terms of their performance alone and to restrict such judgments to those products within their control.<sup>9</sup> If Miller is right about this, then the philosophical conflict appears to be mirrored in a conflict among the folk.

We wanted to explore whether this conflict in people's judgments might be partly located in the established asymmetry between judgments made in response to abstract and concrete scenarios. Our hypothesis was that subjects presented with a purely abstract question about desert would be more likely to give responses conforming to the brute luck constraint than subjects presented with a concrete case about a particular individual.

The paper proceeds as follows. We begin (§1) with an analysis of methodology in political philosophy, specifically attending to the role of common sense moral judgments in theories of justice. Next (§2) we define and discuss the brute luck constraint on claims of desert. (§3) presents an experiment testing our hypothesis that there would be an asymmetry in intuitions about attributions of desert in abstract and concrete scenarios. We then (§4) explore the philosophical implications of the experimental results. (§5) concludes.

## §1

In developing theories of justice, political philosophers frequently appeal to people's pretheoretical intuitive judgments of justice. This appeal to common sense moral judgment is made quite explicit by philosophers on both sides of the debate about desert. David Miller, for example,

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<sup>7</sup> See David Miller, *Principles of Social Justice*. Cambridge: Harvard University Press, 2003, especially chap. 4 and 7; David Schmitz, *Elements of Justice*. Cambridge: Cambridge University Press, 2006, part 2.

<sup>8</sup> Miller reviews corroborating empirical evidence that indicates differential desert claims based on differential productivity enjoy wide popular appeal. *Principles of Social Justice*, chap. 4.

<sup>9</sup> See David Miller, *Social Justice*. Oxford: Clarendon Press, 1976, 98; *Principles of Social Justice*, 67.

writes, “A theory of justice brings out the deep structure of a set of everyday beliefs that, on the surface, are to some degree ambiguous, confused, and contradictory.”<sup>10</sup> Political philosophy should produce “a clearer and more systematic statement of the principles that people already hold.”<sup>11</sup> John Rawls writes similarly, “One may regard a theory of justice as describing our sense of justice . . . . A conception of justice characterizes our moral sensibility when the everyday judgments we do make are in accordance with its principles.”<sup>12</sup>

This is not to say that a theory of justice is merely a catalogue of folk intuitions. Rawls argues that the best account of a person’s sense of justice is one that “matches his judgments in reflective equilibrium.”<sup>13</sup> We cannot simply read off principles of justice from common sense moral judgments. For one thing, moral intuitions should be filtered by a procedure of impartial reflection. We seek an account that systematizes, in Rawls’s terms, our *considered* moral judgments.

Moreover, a person may be right to accept a theory of justice that fails to accommodate some of her considered moral judgments. She may decide that this theory does an otherwise admirable job of explaining her considered moral judgments; thus, she chooses to revise or discard the particular considered moral judgment that conflicts with the theory rather than revise or discard the theory.

We bring considered moral judgments into reflective equilibrium by undergoing a process of revising general principles against particular judgments. We discard a general principle if it yields a particular judgment we refuse to accept; we discard a particular judgment if it violates a general principle we refuse to revise. Eventually we reach a satisfactory balance of principles and judgments. Thus, the principles of justice are not meant to serve as *ad hoc* explanations of our common sense

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<sup>10</sup> Miller, *Principles of Social Justice*, 51

<sup>11</sup> *Ibid.*

<sup>12</sup> Rawls, *A Theory of Justice*, 1999, 41.

<sup>13</sup> *Ibid.*, 43.

intuitions. Our goal is to arrive at a systematic articulation of the verdicts of moral common sense. As Miller puts it, these principles bring out the “deep structure” of our moral beliefs.

In light of his conception of the aims of theorizing about justice, Miller claims, “Empirical evidence should play a significant role in justifying a normative theory of justice, or to put it another way, that such a theory is to be tested, in part, by its correspondence with our evidence concerning everyday beliefs about justice.”<sup>14</sup> There are at least two important roles for empirical evidence in a theory of justice.

First, we want to discard moral judgments that we have good reason to suspect are distorted by morally irrelevant factors.<sup>15</sup> As noted, considered judgments are held on the basis of undistorted, unbiased reasons. Thus, it is useful to learn whether there are conditions under which our judgments about justice are distorted by morally irrelevant factors.

Empirical evidence can also play a more ambitious theoretical role. If theories of justice aim to articulate our shared conception of justice—in Rawls’s terms, a conception “which is congenial to the most deep-seated convictions and traditions of a modern democratic state,” we should conduct empirical research to learn what conception of justice is shared by citizens of modern liberal democratic states.<sup>16</sup> We cannot simply assume that our intuitions are representative of the intuitions of lay persons, or even other philosophers. Statements about the distribution of intuitions are empirical claims. Thus, Miller concludes that “a theory of justice needs to be grounded in evidence about how ordinary people understand distributive justice.”<sup>17</sup>

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<sup>14</sup> *Principles of Social Justice*, 51.

<sup>15</sup> Classic examples of such distortions are illustrated in Daniel Kahneman & Amos Tversky, “Choices, values, and frames.” *American Psychologist*, 39 (1984): 341-350.

<sup>16</sup> John Rawls, *Political Liberalism*. New York: Columbia University Press, 2005, 300.

<sup>17</sup> *Principles of Social Justice*, 61.

## §2

In his reviews of the relevant social scientific research, Miller reports that desert principles enjoy strong support among lay persons. Resounding majorities routinely endorse desert as the appropriate principle of distribution to govern cooperative ventures.<sup>18</sup>

Yet political philosophers frequently reject desert as a viable principle of distributive justice. Samuel Scheffler notes that desert has fallen out of favor among liberal political philosophers and that in this regard theories of justice fail to make contact with everyday moral practice, as desert is deeply embedded in commonsense morality.<sup>19</sup>

A concern about brute luck motivates much of the philosophical skepticism about desert. Political philosophers generally accept what we call the *brute luck constraint* on desert claims: if differential benefits are distributed on the basis of desert, brute luck cannot differentially affect the desert base (i.e., that which grounds the desert claim).<sup>20</sup>

Brute luck is typically defined in contrast to option luck. Ronald Dworkin differentiates option luck and brute luck as follows: “Option luck is a matter of how deliberate and calculated gambles turn out—whether someone gains or loses through accepting an isolated risk he or she should have anticipated and might have declined.”<sup>21</sup> Brute luck, by contrast, is not a matter of deliberate gambles.

The thought animating the brute luck constraint is that a person cannot deserve more simply in virtue of being luckier in the natural lottery. Rawls’s view is representative: “We do not deserve our place in the distribution of native endowments, any more than we deserve our initial starting

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<sup>18</sup> See Miller, *Principles of Social Justice*, chap. 4.

<sup>19</sup> See Scheffler, “Responsibility, Reactive Attitudes, and Liberalism in Philosophy and Politics.”

<sup>20</sup> This formulation owes much to the account presented in Vallentyne, “Brute Luck Equality and Desert.”

<sup>21</sup> Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality*. Cambridge: Harvard University Press, 2002, 73.

place in society.”<sup>22</sup> Desert claims are viable only under conditions of fair opportunity, and native endowments, for example, are not distributed under conditions of fair opportunity.

Rawls is far from alone in endorsing the brute luck constraint.<sup>23</sup> Indeed, many philosophers regard the brute luck constraint as a pillar of moral common sense.<sup>24</sup> Even theorists who do not explicitly speak in terms of desert claim that fairness demands the neutralization of the differential effects of brute luck on individuals’ life prospects. Luck egalitarianism, most notably, upholds this as a signature claim. In a representative passage, Dworkin writes, “We want to develop a scheme of redistribution, so far as we are able, that will neutralize the effects of differential [brute luck] talents.”<sup>25</sup> G.A. Cohen agrees: “The fundamental egalitarian aim is to extinguish the influence of brute luck on distribution.”<sup>26</sup> The brute luck constraint is not the peculiar fascination of egalitarians, either: F.A. Hayek<sup>27</sup> and David Gauthier<sup>28</sup> endorse similar claims.

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<sup>22</sup> *A Theory of Justice*, 1999, 89.

<sup>23</sup> Rawls’s views about desert are a matter of exegetical controversy, but one common reading interprets Rawls as endorsing the brute luck constraint on desert. George Sher interprets Rawls’s claim thusly: “If one person does not deserve to have X while another does not [have X], and if having X enables the first person to . . . do Y while the second does not, then the first person does not deserve to have or do Y while the second does not.” George Sher, *Desert*. Princeton: Princeton University Press, 1987, 26. Serena Olsaretti writes similarly, “Rawls’s concern . . . is not that of identifying the necessary conditions for desert in general. Rather, it is with casting doubt on the claim that the *unequal* distribution of talents and effort-making capacity may justifiably give rise to *inequalities* in deserts. His aim is to reject the view that the morally arbitrary and differential possession of attributes may give rise to differential deserts.” Olsaretti, *Liberty, Desert, and the Market*, 25-26.

<sup>24</sup> Olsaretti writes, “The defensible principle of desert is one which does not make the magnitude of people’s unequal deserts depend on unchosen, and unequally distributed, factors” Olsaretti, *Liberty, Desert, and the Market*, 28. Peter Vallentyne recommends similarly that “the differential influence of brute luck on the distribution of benefits be neutralized. Thus, if benefits are distributed on the basis of desert, brute luck egalitarianism requires that the desert base (that which determines how much one deserves) be something that is not differentially affected by one’s brute luck.” Vallentyne, “Brute Luck Equality and Desert,” 172. Vallentyne concludes, “Desert is not affected by brute luck factors. This is not to claim that it is incoherent for desert to be so affected; it is only to claim that such a desert theory does not yield a plausible theory of justice.” *Ibid.*, 175.

<sup>25</sup> Dworkin, *Sovereign Virtue*, 91.

<sup>26</sup> G.A. Cohen, “On the Currency of Egalitarian Justice.” *Ethics* 99, (1989): 906-44, 931.

<sup>27</sup> F.A. Hayek, *The Constitution of Liberty*. Chicago: University of Chicago Press, 1960, 94.

<sup>28</sup> David Gauthier, *Morals by Agreement*. Oxford: Oxford University Press, 1986, 220.

A few depart from the prevailing view and reject the brute luck constraint. As we saw above, Hume argues that ordinary judgments of merit and demerit ignore the distinction between moral qualities and natural abilities, between those excellences that are voluntarily acquired and those that are not.<sup>29</sup>

Miller follows Hume in denying the brute luck constraint. Miller believes that attributions of desert are essentially intertwined with attitudes like admiration and gratitude which are elicited by voluntarily and involuntarily acquired traits alike. He writes,

If we consider the attitudes of admiration, approval, etc., it is plain that we do not adopt them only towards qualities believed to be voluntarily acquired. When we admire the superlative skill of a musician, we do not ask about the conduct which led to its acquisition before granting our admiration. The attitude is held directly towards the quality as it now exists, and the question, ‘voluntarily acquired or not?’ is simply not considered. If the close relation between appraising attitudes and desert is admitted, it seems inconceivable that such judgments as ‘Green (the musician) deserves recognition’ should not be made on the same basis: on the basis of the skill alone, without reference to the manner of its acquisition. And this is indeed our practice.<sup>30</sup>

Miller stresses the finding that lay persons endorse differential desert claims based on differential contributions.<sup>31</sup> In concert with his methodological presumptions, he endorses a contribution theory of desert. According to such theories, people deserve their marginal products.

### §3

Is the brute luck constraint part of moral common sense as philosophers often claim? Do people render moral judgments that conform to the constraint? To answer this question, we posed non-philosophers with a statement of the brute luck constraint presented in the form typically considered by philosophers, i.e., in the abstract. Participants were given the following simple statement:

Suppose that some people make more money than others solely because they have genetic advantages.

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<sup>29</sup> David Hume, *A Treatise of Human Nature*, book 3, part 3, section 4; *An Enquiry Concerning the Principles of Morals*, Appendix 4.

<sup>30</sup> *Social Justice*. Oxford: Clarendon Press, 1976, 96.

<sup>31</sup> *Principles of Social Justice*, chap. 4.

We then asked whether such people *deserve* the extra money and also whether it is fair that the genetically-advantaged people get the extra money.<sup>32</sup> As we explain more fully below, the results confirmed what political philosophers have maintained – people did indeed make judgments that conform to the brute luck constraint. On average, people maintained that the people who made more solely because of genetic advantages did not deserve the extra money, nor was it fair that they get the extra money.

Although our initial result indicated that people’s judgments fit well with standard philosophical views about the brute luck constraint, we wanted to explore whether different kinds of judgments would manifest if people were presented with questions about concrete individuals. A large body of research in psychology indicates that people’s judgments are sometimes affected by the degree to which the information is presented abstractly.<sup>33</sup> Recent work indicates that something similar is true for intuitions about moral responsibility. People give different responses concerning moral responsibility depending on whether the question is phrased abstractly or about a concrete individual.<sup>34</sup> Given that many see desert as essentially connected to responsibility, we thought that judgments about desert might also be sensitive to whether questions were framed abstractly or concretely.<sup>35</sup> As a result, in addition to the abstract condition described above, we also asked a

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<sup>32</sup> Genetic endowment is typically fielded as a straightforward case of brute luck. For example, Dworkin claims that differences in wealth produced by differences “traceable to genetic luck” are unfair, 92. Vallentyne explicitly mentions genes as brute luck factors, 170.

<sup>33</sup> David Fetherstonhaugh, Paul Slovic, Stephen Johnson, & James Friedrich, “Insensitivity to the value of human life: a study of psychophysical numbing.” *Journal of Risk and Uncertainty*, 14 (1997): 283–300. Tehila Kogut & Ilana Ritov. “The ‘identified victim’ effect: an identified group or just a single individual?” *Journal of Behavioral Decision Making*, 18 (2005): 157–167. Deborah Small & George Loewenstein, “The Devil You Know: The Effects of Identifiability on Punishment.” *Journal of Behavioral Decision Making*, 18 (2005): 311–318.

<sup>34</sup> Shaun Nichols & Joshua Knobe, “Moral Responsibility and Determinism: The Cognitive Science of Folk Intuitions.” *Noûs*, 41 (2007): 663–685.

<sup>35</sup> For discussion of desert and responsibility, see Fred Feldman, “Desert: Reconsideration of Some Received Wisdom.” *Mind* 104, no. 413 (1995): 63–77; Fred Feldman, “Responsibility as a Condition for Desert.” *Mind* 105, no. 417 (1996): 165–168. For further discussion of the significance of the abstract/concrete distinction, see Walter Sinnott-Armstrong, “Abstract + Concrete = Paradox.” In *Experimental Philosophy*, edited by Joshua Knobe and Shaun Nichols. Oxford: Oxford University Press, 2008.

question involving concrete individuals. We constructed two versions of the concrete condition. Here's one:

Suppose that Amy and Beth both want to be professional jazz singers. They both practice singing equally hard. Although jazz singing is the greatest natural talent of both Amy and Beth, Beth's vocal range and articulation is naturally better than Amy's because of differences in their genetics. Solely as a result of this genetic advantage, Beth's singing is much more impressive. As a result, Beth attracts bigger audiences and hence gets more money than Amy.

We also had a quite different concrete case, this time with a different activity as well as a switch to male agents:

Suppose that Al and Bill both want to be professional jugglers. They both practice juggling equally hard. Although juggling is the greatest natural talent of both Al and Bill, Bill's hand-eye coordination is naturally better than Al's because of differences in their genetics. Solely as a result of this genetic advantage, Bill can perform more difficult and impressive tricks than Al. As a result, Bill gets bigger audiences and hence more money than Al.

Each participant received either the abstract case or one of the concrete cases. After reading the case, the participants were asked to indicate (on a 7-point scale) the extent to which they agreed that the genetically advantaged people deserve more money. The participants were also asked to indicate their agreement with the claim that it is fair that the genetically advantaged make more money.

The contrast between conditions was quite clear. Participants in the abstract condition disagreed much more strongly with the claim that the genetically advantaged *deserve* the extra money. They also disagreed much more strongly with the claim that it is *fair* for the genetically advantaged to make more money. While people in the abstract condition on average said that the genetically advantaged do not deserve the extra money, in both concrete cases, participants tended to say that

the genetically advantaged individuals do deserve the extra money. The same pattern emerged for judgments about fairness (see figure 1).<sup>36</sup>

#### §4

The results indicate that people make different judgments about desert depending on the format of the question. When faced with an abstract question, people's judgments conform to the brute luck constraint; when given concrete scenarios, people's judgments flout the brute luck constraint. In light of the finding that these different formats elicit incompatible judgments about desert, a question arises: which judgments should guide our theorizing about justice?

Although neither type of judgment appears to score a decisive victory, we will survey considerations on both sides. At first blush one might be inclined to favor judgments issued in the abstract case. There is independent evidence that concrete scenarios are more likely to trigger emotional reactions.<sup>37</sup> This might be taken to suggest that the responses in concrete conditions are not to be trusted. Walter Sinnott-Armstrong, for example, worries that the involvement of emotion in judging the propriety of moral examples may be corrupting—"many pervasive and fundamental moral beliefs result from emotions that cloud judgment."<sup>38</sup> This provides some ground for thinking that the concrete scenarios produce biased responses and that we should, as a result, favor the responses that draw on abstract reasoning.

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<sup>36</sup> The statistical details are as follows. In the abstract condition, the mean response to the desert question was 2.78; the mean response to the fairness question was 2.72 (4 is the midpoint between "strongly disagree" and "strongly agree"). In the concrete singers case, the mean response to the desert question was 4.57, and the mean response to fairness was 4.71; for concrete jugglers, the mean responses for desert and fairness were 4.86 and 5.5. The differences between abstract and concrete were significant in all cases. People agreed more strongly with the claim that the singer deserved the extra money ( $t(30)=2.51$ ,  $p<.05$ ) and that the juggler deserved the extra money ( $t(30)=3.09$ ,  $p<.01$ ). Similarly, people agreed more strongly with the claim that it was fair for the singer to get the extra money ( $t(30)=2.89$ ,  $p<.01$ ) and also that it was fair for the jugglers to get more money ( $t(30)=4.74$ ,  $p<.001$ ).

<sup>37</sup> E.g., Small & Loewenstein 2005.

<sup>38</sup> Walter Sinnott-Armstrong, *Moral Skepticisms*. Oxford: Oxford University Press, 2006, 203.

Alternatively, one might think that judgments in the abstract condition are disengaged from normal moral cognition and that we should really trust the responses in the concrete cases. One way to defend this view is to maintain that proper judgments of desert are connected to our emotional responses, and that these responses are only engaged by concrete cases. Such a view is found in Adam Smith, who argues that our moral intuitions are only reliable when generated by concrete moral examples:

It is only when particular examples are given that we perceive distinctly either the concord or disagreement between our affections and those of the agent . . . When we consider virtue and vice in an abstract and general manner, the qualities by which they excite the general sentiments seem in a great measure to disappear, and the sentiments themselves become less obvious and discernable.<sup>39</sup>

Miller, in fact, does indicate that the moral emotions play an essential role in attributions of desert. He understands desert in terms of “appraising attitudes” such as “admiration, approval, and gratitude.”<sup>40</sup> On his view, adoption of such attitudes is a necessary condition of using the concept of desert at all.<sup>41</sup> Thus, concrete cases may be better suited to elicit reliable judgments about desert.

The role of emotions, while important, isn’t the only matter to consider in assessing the judgments. The inclusion of extraneous details in the concrete condition may complicate individuals’ assessments of the morality of the cases. The abstract condition seems to isolate the morally significant features under consideration. Perhaps this clarity allows agents to better focus

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<sup>39</sup> Adam Smith, *The Theory of Moral Sentiments*. Indianapolis: Liberty Fund, 1982, part IV.2.3. Smith even suggests that ordinary judgments about the connection between luck and merit are sensitive to whether one is considering them in an abstract or concrete light, albeit in a way different from the treatment offered here. *The Theory of Moral Sentiments*, part II.3.Introduction

<sup>40</sup> *Social Justice*, 88.

<sup>41</sup> *Ibid.*, 89. See also Smith, II.i.I and Joel Feinberg, “Justice and Personal Desert.” In *Doing and Deserving*, 55-94. Princeton: Princeton University Press, 1970, 70-1.

their moral judgment. The concrete condition may therefore distract agents from the relevant moral details and thus elicit less reliable moral judgments.

Yet ordinary moral agents may be more competent in making judgments in concrete cases because our normal capacity for making judgments of desert is directed at these sorts of cases. It is only in very special contexts that we discuss abstract principles of desert. Our everyday judgments about who deserves what are almost always focused on concrete cases. One might therefore argue that it is the concrete cases that trigger our fundamental capacity for deciding on desert; on this line of argument, the abstract cases bypass our basic moral sensibilities entirely, yielding superficial and disconnected judgments.

Consider an analogy with grammatical principles. In trying to determine the grammar that guides people's everyday judgments, linguists take the basic data to be pretheoretical intuitions about concrete sentences, not pretheoretical intuitions about abstract principles. For example, many competent speakers likely have the pre-theoretical intuition that there is an abstract principle according to which a proper name has to come before any pronoun that is linked to it. But competent speakers also tend to have the pretheoretical intuition that the following sentence is well-formed: "Before he went to the dance, John greased his hair." The intuition about the abstract principle conflicts with the intuition about the concrete sentence, and linguists would not hesitate to say that we should favor the lay intuition about the concrete sentence and ignore the lay intuition about the abstract principle.

The case of linguistics is especially germane given that many theorists have suggested that there is a deep analogy between our sense of grammaticality and our sense of justice. Rawls writes that a conception of justice should describe our sense of justice and that "[a] useful comparison here is with the problem of describing the sense of grammaticalness that we have for the sentences of our native language. In this case the aim is to characterize the ability to recognize well-formed sentences

by formulating clearly expressed principles which make the same discriminations as the native speaker.”<sup>42</sup>

Ironically, if we follow Rawls’s linguistic analogy, we are led to a view that conflicts with his substantive moral commitments. Recall Rawls’s claim that principles of justice should accord with our everyday moral judgments. If our everyday moral judgments are, as a rule, directed at concrete cases, principles of justice should accord with people’s judgments in concrete cases. According to Rawls, the linguist’s characterization of our sense of grammaticality “is known to require theoretical constructions that far outrun the ad hoc precepts of our explicit grammatical knowledge. A similar situation presumably holds in moral theory.”<sup>43</sup> The theoretical constructions of a conception of justice may outrun our ordinary moral competence and we should not expect normal moral agents to be able to reliably appraise them. If this is so, Rawls, by his own lights, has reason to favor the judgments rendered in the more familiar concrete condition that deny the brute luck constraint over the judgments rendered in the less familiar abstract condition that affirm the constraint. A tension therefore looms between Rawls’s acceptance of the brute luck constraint and his methodology.<sup>44</sup>

Thus, the asymmetry in intuitions about desert that we find can inspire very different interpretations. Some would favor the abstract judgment on the grounds that such judgment is more disengaged from emotion and more properly disinterested. Others would reject the abstract judgment *because* it’s disengaged from the normal emotional processes of evaluating desert; still

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<sup>42</sup> *A Theory of Justice*, 1999, 41.

<sup>43</sup> *Ibid.*

<sup>44</sup> Miller’s understanding of a theory of justice is similar to Rawls’s. Like Rawls, Miller draws on the linguistic analogy, suggesting that “someone who has an implicit grasp of . . . the ‘grammar’ of justice will understand the norms of appropriateness” governing principles of social justice. *Principles of Social Justice*, 35. Elsewhere Miller writes, “All morally competent adults have a well-developed sense of justice that enables them to cope with the practical questions they confront from day to day. How should my neighbor and I share the cost of the new fence that will run between our properties? Which child in my class ought to get the academic prize? Should I give Smith, my employee, the leave he has asked for to look after his sick mother? We know how to think about such questions, and we can answer them without any knowledge of the many abstract theories of justice that political philosophers from Plato to Rawls have advanced.” *Ibid.*, 21.

others might reject the abstract judgment on the basis of the grammar analogy, which raises the suspicion that competent moral agents, like competent users of language, issue more reliable judgments when working from the ground up rather than the top down. Here we take no stand on the proper resolution of this conflict.

## §5

By way of conclusion, let us briefly examine how these results bear on a number of standing debates within moral and political philosophy.

Our findings suggest that the way we present philosophical questions to ourselves may systematically bias our answers. Whether we consider a moral example abstractly or concretely appears to have a dramatic effect on our intuitive assessment of that example. Thus, addressing this methodological problem is a matter of first importance.

These results also suggest commonsense morality does not unambiguously align with the brute luck constraint or contribution theorists' contention that people deserve their marginal product. The credentials of both claims appear to hinge, at least in part, on which type of judgment we take to be reliable.

Indeed, the dispute between luck egalitarians and contribution theorists may be as much about methodology as morality. Olsaretti, for example, says the contribution theory of desert's "main weakness" is that it makes "desert depend *solely* on the outcome produced and on the fact that the agent brought about that outcome. This . . . goes against the conviction that, for a distribution of differential rewards to be justified by desert, people must first have had a fair opportunity to acquire differential deserts."<sup>45</sup> But there is a crucial question about the source of the conviction that differential deserts must ultimately be grounded in fair opportunities. Under certain conditions, it seems to be the prevailing conviction of lay persons, but under other conditions, this seems not to

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<sup>45</sup> Olsaretti, *Liberty, Desert, and the Market*, 72.

be the case. Our finding complicates the standard practice of reflective equilibrium: it obliges those philosophers that employ reflective equilibrium to adjudicate between the judgments registered under the two conditions. Both detractors and defenders of contribution theories of desert need to try to resolve this issue. Thus, both luck egalitarians and contribution theorists have a stake in the methodological debate.

This result may shed light on the apparent moral divide between lay persons' and political philosophers' attitudes toward desert. Desert's pervasiveness in everyday moral life is undisputed. Social scientific research repeatedly confirms that lay persons regard desert as *the* principle of distributive justice.<sup>46</sup> But as noted, political philosophers generally deny desert a role in their theories of justice. Perhaps this is due to a tendency among lay persons to consider moral questions in concrete cases, whereas philosophers are more likely to directly appraise abstract moral principles. A methodological difference may underwrite the apparent moral difference.

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<sup>46</sup> Miller, *Principles of Social Justice*, chap 4.

