

The Tension of Sentiment: Rights and Desert in Mill's Theory of Justice

Abstract

In the final chapter of *Utilitarianism*, John Stuart Mill takes a rights centered approach to justice and argues for rights as the distinguishing characteristic of his theory. Within his theory of justice, Mill includes several other additional notions often associated with our pedestrian notion of justice including: equality, impartiality, voluntary undertakings and desert. It is my view that each of these components are compatible with a rights centered approach to justice with the exception of desert. In this essay, I will argue that the conception of rights Mill is committed to does not accord with an appropriate understanding of desert and that the specifications of morality and justice to which Mill is committed create this conflict.

In making this argument, I will need to do a bit of ground-clearing in an effort to display the position of justice within Mill's broader utilitarian theory. To this end, I will first discuss the notions of general expediency and morality—distinguishing the two according to obligations. Next, I will need to say a word about sanctions and the moral sentiments differentiating sundry aspects of morality in order to delimit the scope of justice according to the broader ideas of general expediency and morality. With Mill's broader theory out in the open, I will then develop the understanding of rights to which Mill is committed as the essential feature of justice.

Framing the discussion by sufficiently developing Mill's understanding of the various relations and dependencies of his utilitarian theory will be important for exposing the underlying tension in his commitment to rights and desert as central features of justice. Indeed, with this picture on the table, I will next briefly look at the notions of desert and entitlement. Desert, I will argue, is a notion of morality founded on a narrowly construed sentiment of differentiation used to adjudicate claims between individuals. Entitlements, on the other hand, are claims of differentiation backed by substantive social practices that allow for the adjudication of individuals according to established social rules and practices. This difference between desert and entitlements, and the conflict between rights and desert, allows room to argue for the inherent tension in Mill's commitment to both rights and desert as essential components of justice. But all is not lost. I will use the notion of entitlements to show that much of the work for which Mill thinks he needs desert can be accomplished, and without the inconsistency, if, instead of his discussion of desert being understood as desert, we understand that discussion in terms of entitlements.