

Can Comparative Desert do Without Equality?¹

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Abstract: In the article 'Equality and Desert,' Shelly Kagan rejects the principle of equality as an arbiter of distributive justice. He claims instead that all of our intuitions about distributive justice that are thought to support some principle of equality can be captured under the principle of desert. I argue that Kagan's claim fails because, in cashing out his notion of desert, Kagan makes tacit appeal to the principle of equality.

I.

In the article 'Equality and Desert,'² Shelly Kagan claims (1) that desert is an important criterion in evaluating the justice of distributions and (2) that it is desert and *not* equality that generates most of our intuitions about what makes a distribution just. More specifically, Kagan claims that our intuitions about desert make the appeal to equality superfluous: in cases in which the claims of equality and desert conflict the claims of equality are nullified, and in cases in which the claims of equality and desert coincide it is desert that does all the work, with further appeal to equality doing nothing to either strengthen or supplement the desert claim.³ Thus, Kagan's article issues a steep challenge to egalitarianism: given our commitment to distributing in accordance with desert, we have

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2 Shelly Kagan 'Equality and Desert' in L.P. Pojman and O. McLeod Eds. *What Do We Deserve?* (Oxford, 1999). Kagan further develops his conception of desert in the 2003 paper 'Comparative Desert,' in Serena Olsaretti Ed., *Desert and Justice* (Oxford, 2003) and in his *The Geometry of Desert* (Oxford, 2012). I focus on the 1999 piece because this is where Kagan advances his canonical attack on the principle of equality. All references to Kagan are to the 1999 piece unless explicitly stated otherwise.

3 Of cases where desert is not a consideration, Kagan claims that either equality cannot generate any obviously compelling intuitions, or such cases do not exist.

neither need nor reason⁴ to endorse the principle of equality.

The bulk of Kagan's lucid and thought-provoking article is dedicated to developing this challenge, but I do not look at those specific arguments here. Rather, I take issue with Kagan's more fundamental claim, namely, that he has cashed out a notion of desert that is independent of equality. While Kagan does not explicitly state this claim until the end of his article, it is integral to his challenge to egalitarianism: if claims of desert can make claims of equality superfluous, they must not themselves depend on the principle of equality. I claim, however, that Kagan's conception of desert tacitly appeals to the principle of equality. This subjects Kagan to a dilemma: either he must revise his conception of desert to exclude claims of equality,⁵ or he must reject his claim that desert renders equality superfluous (since equality already plays a role in his conception of desert).

I first summarize Kagan's conceptions of equality and desert. I then review the (brief) argument he provides to circumvent the objection I raise, and say something about why this argument fails. In Part II, I address what I take to be the most serious objection an interlocutor might raise against my claims.

Kagan gives two senses to the egalitarian principle, that of 'strict equality' and that of 'weighted beneficence'.⁶ I am only interested in strict equality here. Strict equality is a principle concerning *interpersonal comparisons*, of how well people are doing, or how they are being treated, relative to one another. Strict equality, on Kagan's brief account, is the

4 No need because equality's most plausible claims are already generated by other principles; no reason because the principle of equality generates additional false claims.

5 While I flag this first horn of the dilemma as one of the two potential consequences of my claim against Kagan, I do not pursue it further here. The implications to his overall position of revising Kagan's conception of desert require a more detailed reconstruction of his position than I provide here. Rather, I take, with Kagan, that it is his *complete* conception of desert that would have the capacity to generate all (or most) of our intuitions about distributive justice (and so undermine the value of equality), and not some partial conception.

6 Kagan, p. 299.

principle that any such inequality makes a situation morally worse. Egalitarians who believe in strict equality are (at least *prima facie*) committed to rectifying these inequalities, whether by improving the position of the worse-off or by lowering the position of the better off.

Kagan conceives of desert, as he does of equality, as having two separate senses, which, taken together, constitute his complete conception of desert. These are ‘absolute desert,’ and ‘comparative desert,’ respectively. In defining absolute desert, Kagan claims the following:

I am going to assume that for each person there is an absolute level that the person deserves to be at. This is what the person deserves absolutely. If people have what they deserve, this is good from the point of view of desert. If people have less than they deserve, then this is less good, or perhaps even bad, from the point of view of desert. More controversially, I also believe that if someone has *more* than they deserve, this is less good, or perhaps even bad, from the point of view of desert.⁷

Absolute desert is measured *intrapersonally*; what each person deserves absolutely is determined irrespective of what anyone else deserves (absolutely). Evaluations of absolute desert are thus essentially non-comparative.

Kagan contrasts and supplements this with comparative desert:

Also important for our purposes will be the notion that not all desert considerations are essentially non-comparative. There is also, I think, essentially comparative desert It matters—from the point of view of comparative desert—how I am doing compared to you, in light of how (absolutely) deserving we are. If I am as absolutely deserving as you, I should be doing as well as you. If I am more deserving than you, I should be doing better than you. These are essentially comparative judgments, for they say not how well we should be doing in absolute terms, but only how well we should be doing relative to each other; they are based not solely on what I deserve absolutely but more essentially on how what I deserve absolutely compares to what you deserve absolutely.⁸

7 Kagan, p. 300.

8 Kagan, p. 301.

It is important to emphasize that Kagan treats comparative desert as integral to his conception of desert-proper, as something both distinct from and supplementary to absolute desert. The difference—as well as the relationship—between the two can be brought out by considering a case in which two people are equally absolutely deserving. If two people have equivalent desert claims (say, to the same size shares of some common good), then *absolute desert* demands that they get equal portions. But from the point of view of absolute desert, this demand is contingent on the size of their respective individual absolute desert claims. If A gets what she deserves and B gets *less*, then absolute desert claims that B is subject to an injustice. But this injustice is viewed as *identical* to the injustice of a situation in which B gets less than she deserves, and A *does not come into the picture*. Absolute desert cannot be appealed to in identifying the injustice in *the very fact of the difference* between A and B's portions. In contrast, *comparative desert* is an interpersonal measure. In cases in which identical absolute desert claims are unequally met, comparative desert regards the very fact that there is this difference as the source of the injustice, in this case, the injustice against B. Absolute and comparative desert are thus distinct, though complementary ideals. Absolute desert captures the injustice of B getting less than she deserves, while comparative desert grounds the claim that it's *worse*, from the point of view of justice, when B *not only* gets less than she deserves, but also gets less *than A* when she deserves as much as A.⁹

I accept, with Kagan, the intuitions generated by absolute and comparative desert; and I accept (for the present purposes) that together they capture what is fundamental in our thinking about distributive justice. I deny, however, that both are pure principles of desert. While *absolute* desert is a pure desert principle, I claim that *comparative* desert is

⁹ It is important to note that the relevance of comparative desert isn't limited to cases in which people have identical desert claims. In another kind of case, when C deserves more than D, comparative desert claims that C ought to get more than D, and that there would be an injustice if she does not in the very fact that she does not, regardless of the size of each of their respective absolute desert claims.

a hybrid principle, combining the principle of desert with the principle of equality. I thus *reject* Kagan's conclusion (the arguments for which, again, I do not discuss here) that desert alone, in its combined senses of absolute and comparative desert, renders the principle of equality superfluous in evaluations of distributive justice.

Kagan anticipates and responds to this objection, in a set of brief concluding remarks:

.... Some might argue that talk of comparative desert just *is* a way of accepting the importance of strict equality—that it is the very same concern, incorporated into the theory of desert Both strict equality and comparative desert are sensitive to relative standings, and strict equality in particular seems quite similar to comparative desert: Both hold that when one person is worse off than another but just as deserving, there is more reason to help the worse-off person than the better-off, and there is some reason to lower the better-off.

Nonetheless, it seems to me rather misleading to say that comparative desert is fundamentally egalitarian in its concern, in the way that strict equality obviously is. It is, of course, true that when we are dealing with two people who are equally deserving, then comparative desert favours equality. But this is just a particular case. It gives us no good reason to think of comparative desert as being especially egalitarian. After all, it is just as true that in other cases, where the two people are *not* equally deserving, comparative desert favours *inequality*. So there is no more reason to think of comparative desert as being fundamentally egalitarian than the opposite.¹⁰

The first paragraph quoted above presents a version of the objection I raise; the second summarizes Kagan's response. I first reformulate and press the objection, then consider Kagan's response.

The objection, as Kagan states it, can be understood in one of two ways. It can be understood as claiming that comparative desert *draws upon* the principle of equality, or it can be understood as claiming that the demands of comparative desert are identical to those of equality. I am interested in the former. While Kagan's conception of absolute desert cashes out an intuitive notion of what the basic concept of desert entails (and thus is uncontroversial as an explication of desert), this is not true

¹⁰ Kagan, pp. 311-312.

of his conception of comparative desert. Rather, *there is nothing essentially comparative internal to the notion of desert the appeal to which could justify Kagan's comparative desert as a pure desert principle*. Unadulterated desert cannot explain why we should care about the relative fulfillment of different peoples' desert claims as anything more than a contingent matter of the degree to which their respective absolute desert claims are filled. Nor can it explain why the fact that you have more than you deserve can give me a legitimate desert-claim to more than I (absolutely) deserve.¹¹ Rather, *these claims only become intelligible when one appeals to the principle of equality alongside desert*. Parity between individuals must matter in order for disparities in the fulfillment of people's desert claims to be a cause for moral disapprobation. The requisite egalitarian principle would be something along the lines of 'people's claims ought to be equally met' or '*ceteris paribus*, people's claims ought to be met to an equal extent'.

Note that I am combining two distinct claims. The first is that some purely comparative principle is required alongside the principle of desert to ground the notion of comparative desert. The second is that this principle is *equality*.¹²

This is worth pointing out in turning to Kagan's response to this objection. While the objection, as he raises it, is ambiguous in its charge of whether comparative desert appeals to the notion equality or simply makes demands that are identical to those of equality, the *response* he gives is directed against the latter claim only. He thus leaves the claim that it is not just desert, but desert in combination with some (purely) comparative principle that generates comparative desert uncontested.

Kagan's response that comparative desert is in any case non-egalitarian is, however, unsuccessful. For his response, Kagan offers what

¹¹ Kagan endorses this as part of comparative desert. Kagan, p. 302.

¹² In later publications Kagan implicitly grants the claim that comparative desert combines the principle of desert with a purely comparative principle; he says comparative desert is synonymous with desert-sensitive fairness, or fairness in the domain of desert. (See Kagan, 'Comparative Desert' p. 98 and *The Geometry of Desert*, p. 351). I'm claiming, *contra* Kagan, that his conception of comparative desert relies on an *egalitarian* conception of fairness.

he takes to be a counter-example. Although the demands of equality and of comparative desert match up in cases of equally deserving people, comparative desert demands *inequality* in cases of unequally deserving people, revealing a fault line between the distributive demands of comparative desert and the distributive demands of equality. The implicit claim is that even among the unequally deserving, egalitarianism would demand that everyone receive an equal share. While this implicit claim is true with regard to *some* forms of egalitarianism (such as those favouring equality of outcome), as a general characterization of egalitarianism, particularly in its contemporary forms, it is false. 'Equality of opportunity' egalitarianism(s), for example, requires that people be given equal opportunities, but counts inequalities arising from the ways in which people *use* their opportunities as just; similarly, responsibility-catering egalitarianism(s) permits inequalities for which people are responsible. A corollary of these egalitarian positions would be the claim that it would be unjust to eliminate at least some of these inequalities, since this would involve the unequal treatment of people. Also note that the egalitarian principles I suggested above to explain the intuition that equally deserving people should have equal shares—'people's claims ought to be equally met' and '*ceteris paribus*, people's claims ought to be met to an equal extent'—are compatible with, and plausibly entail, the claim that unequally deserving people should be given *unequal* shares.

I have argued, against Kagan, that the acceptance of his principle of desert as our primary criterion for evaluating the justice of distributions does not entail the rejection of the principle of equality, because Kagan's conception of desert itself incorporates the principle of equality. In this, I have made two claims: first, that Kagan's 'comparative desert' cannot be articulated as a 'pure' desert principle, but rather must be articulated as a hybrid principle combining desert with some purely comparative ideal, and second, that this ideal is equality. The first claim appeals to no more than an intuitive understanding of what is (and is not) entailed by

the notion of desert; it thus strikes me as quite compelling.¹³ I regard the second claim, however, as unestablished. I have not proven that the relevant comparative principle motivating comparative desert is that of *equality*, although I have shown that Kagan's preemptive denial of equality's capacity to play this role is unsupported, and I do take equality to be an extremely plausible candidate. I thus reject Kagan's ultimate conclusion that desert alone can generate all of those intuitions about distributive justice that are thought to support some principle of equality, while recognizing that there is much more to be said on this question.

II.

Here is one objection to my second claim (which says, again, that the particular comparative principle to which Kagan's conception of comparative desert appeals is the principle of equality). This objection says that while comparative desert must appeal to some comparative principle, it need not appeal to an *egalitarian* principle. Rather, the comparative aspect of comparative desert can be supplied by the formal principle of justice, which stipulates simply that relevantly like cases ought to be treated alike and relevantly unlike cases unlike.¹⁴ The objection says that this formal principle of justice, when combined with the principle of desert, is all that Kagan needs to generate his conception of comparative desert. The objection thus articulates a rival hypothesis to mine. If this rival hypothesis succeeds, my claim that Kagan's comparative desert is essentially egalitarian will be proven false.

I will respond to this objection in three stages. I will first offer a preliminary response, which denies that the formal principle of justice

¹³ It also, again, consistent with Kagan's own later published views.

¹⁴ The insight that the formal principle of justice can be combined with a non-comparative principle of what each person is due in order to generate an account of comparative justice was brought to my attention by Thomas Christiano's 'An Argument for Equality and Against the Levelling Down Objection,' (unpublished version). The specific claim that the formal principle of justice can be combined with absolute desert to generate comparative desert is also noted by Serena Olsaretti in her 'Introduction,' *Desert and Justice*, pp. 22-23.

can be combined with the principle of desert to generate a satisfactory account of comparative desert. I will then say something about why this response fails: I will concede that there is indeed a way to generate comparative desert by combining desert with the formal principle of justice. Finally, I will claim that *Kagan* cannot generate his particular conception of comparative desert in this way. I will therefore reject the rival hypothesis and stand by my initial conclusion.

The objection that the formal principle of justice can do the comparative work of comparative desert makes a *prima facie* plausible claim. It tells us that like, or equivalent desert claims ought to be treated in the same way and that unlike desert claims ought to be treated differently. That the appropriate treatment of people's desert claims involves giving people what they deserve is supplied by the principle of desert. Taken together, the formal principle of justice and the principle of desert tell us that when two people have equivalent desert claims they ought to be rewarded equally, and that when one person has a larger desert claim than another, she ought to be rewarded with *more*. These are precisely the claims *Kagan* requires from his principle of comparative desert.

Let me now develop a preliminary response, which I shall later reject. The preliminary response claims that this account of comparative desert becomes problematic when applied to cases in which there are insufficient resources to give each person what she deserves. Imagine that A and B have equal desert claims, but there are only enough resources available either to give *one* of them everything that she deserves or to give each of them half of what she deserves. The desert aspect of comparative desert tells us that we ought to give each of A and B everything that she deserves, insofar as this is possible. The formal principle of justice tells us that we ought to treat A and B's equal desert claim alike. There are, however, at least two different ways in which we could fulfill the formal principle of justice in this case, while meeting the demands of desert. We could give A and B each half of what she deserves, thus meeting their desert claims to equal extents. Or we could

give A and B each a lottery ticket with a one in two chance of winning everything she deserves and a one in two chance of winning nothing, thus giving each of them an equal chance of having her desert claim fully satisfied.¹⁵ From the perspective of the formal principle of justice, neither of these two strategies is preferable to the other. The former strategy, however, presents a much more intuitively plausible account of the demands of comparative desert. Thus, the preliminary response claims, the formal principle of justice cannot be combined with desert to generate an intuitively plausible account of comparative desert. Rather (this response suggests), a substantive comparative principle, specifying that people's desert claims ought to be met *to an equal extent*, is required to complete the principle of comparative desert.¹⁶

There is, however, a line of resistance against this preliminary response that is open to the advocate of the formal principle of justice, and which can be developed as follows.¹⁷ The advocate of the formal principle can *grant* that the formal principle cannot select between

15 The same strategy could be applied to meeting people's unequal desert claims, through weighted lotteries.

16 It's worth emphasizing that the claim that people's desert claims ought be met to equal extents (which I've said is what Kagan's comparative desert demands) is not meant to provide an all-things-considered judgment about which distributive principle should be followed in any particular case. Rather, comparative desert is one among several potentially competing *pro tanto* distributive principles that must be adjudicated in forming an all-things-considered judgment about which among different available distributions should be effected. If, for example, everyone is equally deserving, but there's only enough food to provide enough for survival to some, the demand of comparative desert (to distribute the food equally) would be defeated by a principle of (desert-sensitive) sufficiency, which says that the first distributive priority is to provide (deserving) people with enough for survival. Perhaps more interestingly, sometimes the demand of comparative desert will come into conflict with, and be defeated by, the demand of *absolute* desert. To see this, consider a case in which a full dose of a certain drug will completely alleviate a person's chronic pain, while a half-dose of that drug will alleviate just 8% of a person's chronic pain. Two moderate-chronic-pain sufferers are equally deserving of the drug, but there's only one dose left. Here, plausibly, absolute desert prefers giving one sufferer the full does of the drug, while comparative desert prefers giving each sufferer a half-dose of the drug. (I owe this example to Julian Savulescu).

17 I am indebted to Thomas Christiano's paper, 'An Argument for Egalitarian Justice and Against the Leveling Down Objection,' (unpublished version) for this line of argument.

different strategies for giving 'equal treatment' to different people's desert claims; she can also grant that any plausible account of comparative desert must indeed be able to do so. But she can nonetheless maintain that the formal principle of justice, combined with the principle of desert, will provide a plausible account of comparative desert.

She can do so by claiming that it is the *desert* aspect of the principle of comparative desert that selects the appropriate strategy for treating people's equal desert claims alike in cases like the one outlined above. To see this, consider the demands of *absolute* desert. The claim that justice demands that a person get what she deserves is a substantive claim about what a person *actually ought to have* in order for justice to be realized. This is disanalogous with the claim that justice can be realized by giving someone a *chance* to get what she deserves, for example, in the form of a lottery ticket. If she receives a winning lottery ticket, justice will indeed be preserved from the point of view of desert, because her desert claim will be fulfilled. However, if she receives a losing ticket, the lottery will produce an *injustice* from the point of view of desert, since she will receive less than she deserves (in this case, she will receive nothing). At best, lotteries will *contingently* produce outcomes that realize desertarian justice; they cannot be taken as an *instrument* of desertarian justice.¹⁸ (I set aside special cases in which what a person deserves is a lottery ticket fixed at certain odds).

18 One might object that this rejection of the lottery system is too quick: that the *reason* the lottery I sketched out above is unjust is because the *prospective gain* from the lottery is less than what the ticket-holder deserves. If the prospective gain is determined by multiplying the value of the prize (in this case, set at what is actually deserved) by the odds of winning (for simplicity's sake, say 1 in 2) then the prospective gain from the lottery is only half of what the ticket holder actually deserves. The inefficacy of the lottery system as an instrument of desertarian justice therefore can be traced to the insufficient prospective value of the ticket, and not to the lottery system itself. This feature, however, can be easily corrected, by stipulating the amount to be won with a winning ticket at double the amount that is deserved. This suggestion forgets, however, that desert-based justice is concerned with people actually getting what they deserve, and not with their chances of getting what they deserve. Correcting the prospective gain of ticket holders simply insures that *whatever* the outcome of the lottery, the demands of absolute desert will be violated: the ticket holder will wind up getting either more or less than she deserves.

This discussion is relevant in turning our attention back to comparative desert, and in recalling the objection at hand. The formal principle of justice, combined with the principle of desert, regulates the way in which each person's desert claim is to be treated relative to how everyone else's desert claims are treated. As long as people's desert claims are treated consistently with one another's, the formal principle of justice remains indifferent to *the way in which* people's desert claims are treated. Thus, when A and B deserve the same amount but there are only enough resources available either to give each of them half of what she deserves or to give one of them all of what she deserves, the formal principle of justice is indifferent between giving each of them half of what she deserves and giving each of them a lottery ticket with a 50% chance of winning everything she deserves.

The principle of desert, however, is not indifferent to the way in which people's desert claims are treated: it maintains that we ought to give people what they actually deserve (insofar as this is possible), and not lottery tickets against what they actually deserve. It is concerned with securing certain outcomes for people, and not with giving them the opportunities to achieve certain outcomes.¹⁹ The formal principle of justice, combined with the principle of desert, can therefore be cashed out as a principle of comparative desert as follows: (1) people's desert claims ought to be treated in the same way with respect to *the extent to which their claims are actually met*, and (2) each person ought to receive as much of what she deserves as is consistent with (this form of) equal treatment. This more fully explicated principle of comparative desert clearly does recommend giving A and B each half of what she deserves over giving both of them equal chances in a lottery for everything that each of them deserves; it specifies the relevant domain of comparison as

¹⁹ An interlocutor might object that sometimes what people deserve *are* opportunities. But in standard cases of this kind, entering people in lotteries for opportunities will likewise fail to satisfy desertarian justify. Suppose, for example, that every student who passes the qualifying exam deserves consideration for a place in the program. Entering all the qualifying students in a lottery, the winners of which will receive consideration, falls short of the demands of desert; the lottery's losers won't receive the consideration they deserve.

being the actual extent to which A and B's claims are satisfied. This principle also meets the broader challenge of the objection, in offering a plausible conception of comparative desert.

At this juncture, the rival hypothesis appears vindicated. The formal principle of justice can be combined with the principle of desert to generate a plausible conception of comparative desert, and it can parry the purported counter-example in which there are only enough resources to give either two people half, or one person all of what she deserves. But the rival hypothesis's claim to victory is premature. I shall now argue that the formal principle of justice combined with the principle of desert commits us to accepting one central category of *inequalities* in fulfilling people's equal desert claims. By contrast, Kagan's conception of comparative desert commits us to rejecting this set of inequalities. Thus, despite appearances, the formal principle of justice cannot be combined with the principle of desert to generate Kagan's conception of comparative desert. The rival hypothesis will therefore be falsified.

To identify the relevant category of inequalities, consider the following example. A and B, again, have equal desert claims. But this time, imagine that their claims are for equivalent values of distinct, non-fungible goods (A might deserve apples while B deserves oranges). We have enough of the good that A deserves to fully satisfy her desert claim, but only enough of the good that B deserves to *partially* satisfy B's desert claim.

At first glance, the principle of comparative desert explicated above might appear indifferent between the choice of giving A all of what she deserves even though we can only give B half of what she deserves, and the choice of giving A and B each half of what she deserves. The requirement that we treat A and B's desert claims in the same way with respect to the extent to which each of their claims are actually met can be fulfilled, in this case, either through giving A and B each the same amount of what they respectively deserve, or through satisfying each of A and B's desert claims *to the greatest extent that we can*. Again, however, the

desert aspect of comparative desert prefers that we fulfill each person's desert claim to the greatest extent that we can; 'equal treatment' merely limits the extent to which we fulfill each person's claim by how this affects our ability to fulfill the desert claims of others. It requires that we do not fulfill any one person's desert claim *at the expense of* fulfilling anyone else's desert claim. In this example, the extent to which we fulfill A's desert claim has no impact on the extent to which we are able to fulfill B's desert claim. This conception of comparative desert, therefore, demands that A's desert claim be fully satisfied: to do otherwise would violate the requisite form of equal treatment; we would be failing to give A as much of what she deserves as we can while giving B as much of what *she* deserves as we can.

This is, again, a plausible account of comparative desert. It is not, however, an account of comparative desert that is available to Kagan. To see this, consider the following. Recall that comparative desert is a principle of distributive justice; its role is to provide a complete account of the comparative justice of distributions. The account of comparative desert presently under discussion takes the relevant comparative principle to be one of *equal treatment*: it evaluates the comparative justice of outcomes in terms of the way in which people are treated in producing those outcomes. In this respect, it is a deontic principle of justice. It is a distinguishing feature of this account of comparative desert that it recognizes *no comparative injustice* in A ending up with more than B in the example above, since this inequality comes about through our treating A and B's desert claims alike in the requisite way.

According to Kagan, however, 'it matters—from the point of view of comparative desert—*how I am doing compared to you*, in light of how (absolutely) deserving we are. If I am as absolutely deserving as you, *I should be doing as well as you*. If I am more deserving than you, *I should be doing better than you*'²⁰ (italics mine). For Kagan, the primary objects of evaluations of comparative justice are outcomes, or states of affairs: he is

20 Kagan, p. 301.

concerned with how people are doing, relative to one another. How we ought to treat people (relative to one another) is determined as a function of what (comparative) outcomes this will produce. Kagan's principle of comparative desert is thus a telic, rather than a deontic principle.

For Kagan, comparative desert must favour giving A and B the same amount when they both deserve the same amount, even when this means giving A less than we could give her of what she deserves at no cost to B. This is not to say that this must be Kagan's all-things-considered judgment about what desert requires. Absolute desert still favours giving A everything that she deserves, and the demands of absolute desert may defeat the demands of comparative desert in any particular case. But Kagan would maintain that fulfilling A's absolute desert claim would result in a comparative injustice in this example. And here, Kagan's conception of comparative desert distinguishes itself from the deontic conception of comparative desert considered above.

The rival hypothesis proposed by the objection is therefore falsified. The rival hypothesis purports that Kagan can generate his conception of comparative desert by combining the formal principle of justice with the principle of desert. But as the example in which A and B deserve equal amounts of distinct, non-fungible goods shows, Kagan cannot generate his conception of comparative desert in this way.

The upshot of this discussion preserves my initial conclusions. I argued in the first part of this paper that Kagan's 'comparative desert' is a hybrid principle that combines desert with some purely comparative principle; I hypothesized that the relevant comparative principle is that of equality. In the second part of this paper, I considered the rival hypothesis—which I take to be the most promising alternative to the one I advanced—that the comparative principle motivating Kagan's conception of comparative desert is not the principle of equality, but is instead the formal principle of justice. If successful, this rival hypothesis would belie my claim that Kagan's comparative desert is essentially egalitarian; it would thereby preserve comparative desert as an adversary

of egalitarianism. I argued, however, that this rival hypothesis fails: even though combining the formal principle of justice with the principle of desert can indeed generate a plausible conception of comparative desert, it cannot generate *Kagan's* conception of comparative desert. I therefore stand by both of my initial claims. First, that Kagan's comparative desert is a hybrid principle combining the principle of desert with some purely comparative principle, and second, that this comparative principle is the principle of equality.²¹

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²¹ It's worth reiterating that in this paper, I have not developed a positive argument in support of the hypothesis that Kagan's comparative desert appeals to a specifically egalitarian principle. It's sufficient for my purposes that (1) my proposal has intuitive plausibility, and (2) I have dispensed with the chief rival hypothesis to the one I advanced. The burden of proof thus falls on Kagan to refute my proposal.

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