

## **Philosophy 285: Risk, Responsibility, and Morality**

Winter 2021: Wednesdays 1pm-3:50pm

(Draft December 2020)

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### **Course Description**

In theoretical discussions, moral dilemmas are often presented as though it is certain what outcomes of each option will be and that everyone involved knows what they are. But in real life, people facing moral choices are almost never in that position. Some moral theories (e.g., Utilitarianism) would seem to be in a good position to handle this sort of situation since they appeal solely to expected value, while others (e.g., Deontological theories) seem at a disadvantage. In this seminar, we will investigate the resources of a variety of moral theories to address situations that involve risk of harm. Further, the law and common-sense morality treat risk imposition as less serious crimes and as less blameworthy, respectively, as compared to the imposition of harm, and we will investigate how theories of responsibility and blameworthiness can and should accommodate cases of risk imposition. Finally, we will spend some time at the end of the seminar addressing the application of our conclusions for policy-making such as the programming of self-driving cars which raise still further issues of the relationship of moral theory to policy. We will use some classic and cutting-edge work on risk and moral theory as well as some recent legal theory and applied ethics as our guides.

### **Notes for these unusual times**

- We will be meeting by Zoom for seminar and office hours and links will be available through the Canvas website and a class email.
- We completely understand that there might be even more unexpected events or challenges than usual, and we are happy to help and facilitate in whatever ways we can. Please be in touch with us early and often!
- We realize that many questions are answered with a quick stop by our offices in normal times. We want you to have the opportunity to do something similar, so don't hesitate to send us an email or make a zoom appointment outside of office hours any time. We will be checking email often. No question is too small.

## Schedule of Topics and Readings

### Notes:

- All required readings will be available for download from our Canvas website.
- We have included some optional recommended readings below, and will add more throughout the seminar. (Please check the Canvas website periodically for updates.)
- There might be some small changes to the readings listed below. If so, we'll be sure to give you good lead time.

### Week 1: The Nature of Risk

Stephen Perry, "Responsibility for Outcomes, Risk, and the Law of Torts" (97-101)

Judith Jarvis Thomson, "Imposing Risks"

John Oberdiek, Imposing Risk, Chapters 1 and 2

### Week 2: Risk and Harm

Claire Finkelstein, "Is Risk a Harm?"

Stephen Perry, "Risk, Harm, Interests, and Rights"

John Oberdiek, Imposing Risk, Chapter 3

Possible Further Reading: Adriana Placani, "When the Risk of Harm Harms"

### Week 3: Problems for a Right Against Risking

Robert Nozick, Anarchy, State, and Utopia (pp. 73-78)

Dennis McKerlie, "Rights and Risk"

Peter Railton, "Locke, Stock, and Peril"

Judith Jarvis Thomson, The Realm of Rights (242-247)

Judith Jarvis Thomson, "Some Questions about Government Regulation of Behavior" (154-168)

### Week 4: Rights Theory and Risk

Optional Background: Judith Jarvis Thomson, The Realm of Rights, Chapters 3 and 4

Stephen Perry, "Torts, Rights, and Risk"

David McCarthy, "Rights, Explanation, and Risks"

John Oberdiek, Imposing Risk, Chapter 4

Week 5: Consequentialist or Non-Consequentialist Justification for Risking

Heidi Hurd, "The Deontology of Negligence"

Barbara Fried, "The Limits of a Nonconsequentialist Approach to Torts"

John Oberdiek, *Imposing Risk*, Chapter 5, Sections 1-2

Week 6: Contractualism and Risk

Elizabeth Ashford, "The Demandingness of Scanlon's Contractualism," Sections I and IV.

Rahul Kumar, "Risking and Wronging"

John Oberdiek, *Imposing Risk*, Chapter 5, Sections 3-6

Week 7: Alternative Approaches/Questions: Virtue, Freedom, and Moral/Factual Uncertainty

Nafsika Athanassoulis and Allison Ross, "A Virtue Ethical Account of Making Decisions About Risk"

Maria Ferretti, "Risk Imposition and Freedom"

Claire Field, "Recklessness and Uncertainty: Jackson Cases and Merely Apparent Asymmetry"

Week 8: Risk and Responsibility

Larry Alexander and Kim Ferzan, *Crime and Culpability: A Theory of the Criminal Law* (chapters 2-4, excerpts)

David Dolinko, Review of *Crime and Culpability*

Week 9: Experimental Philosophy and Moral Psychology

Mikhail, John. *Elements of Moral Cognition: Rawls' Linguistic Analogy and the Cognitive Science of Moral and Legal Judgment* (excerpt)

Arseny A. Ryazanov, Shawn Tinghao Wang, Dana Kay Nelkin, Nicholas Christenfeld, Samuel C. Rickless, "Beyond Killing Five to Save One: Sensitivity to Ratio and Probability in Moral Judgment" (in preparation)

Arseny A. Ryazanov, Shawn Tinghao Wang, Samuel C. Rickless, Craig R. M. McKenzie, Dana Kay Nelkin, "Sensitivity to shifts in probability of harm and benefit in moral dilemmas," *Cognition*

## Week 10: Putting it into Action: Self Driving Cars and Pandemic Policy

Antti Kauppinen, (forthcoming) "Who Should Bear the Risk When Self-Driving Vehicles Crash?"

Johannes Himmelreich, "Never Mind the Trolley: The Ethics of Autonomous Vehicles in Mundane Situations"

Alberto Giubilini, Thomas Douglas, Julian Savulescu, "The Moral Obligation To Be Vaccinated: Utilitarianism, Contractualism, and Collective Easy Rescue"

### Requirements

- Between five and seven short weekly reading response papers (600 words max each), turned in between weeks 2 and 8 (included). Each paper should be sent as an e-mail attachment to us (Dana and Sam) by 8 pm on the day before the seminar in which the relevant issues will be discussed. Your grade will be calculated based on the grades of your five best papers. (This means that you can turn in all seven and drop the lowest two grades, or turn in six and drop the lowest grade, or you can simply turn in five). Your paper should engage with one of the readings for the week, and do one of the following (or something similar): (i) provide a careful reconstruction of a difficult piece of reasoning to be found in a relevant text, (ii) evaluate the validity or soundness of an argument in a relevant text, (iii) articulate and provide support for a philosophical position that competes with those found in the relevant texts, or (iv) offer a new defense of a position found in the reading.
- One long (4500-5500 words) term paper sent by email attachment due March 18 at 5pm, preceded by a prospectus (also emailed) due before seminar on March 3, 2021.
  - The long paper should address positions and/or arguments to be found in the course readings or in readings previously approved on the basis of the prospectus.
  - The prospectus (2-3 pages) should include an articulation of your paper's main thesis, the paper's rough structure, along with a summary of some of the arguments you will be planning to use in support of the main thesis, and a bibliography.
- Attendance is expected at every meeting. If you need to miss a session, please communicate with us (if possible, ahead of time). We understand that there are sometimes reasons to turn cameras off on Zoom, but if it's possible to keep them on, please do.
- Your grade will be based on the quality of your papers (70% for the term paper, 25% for the short papers), and your participation in seminar (5%).

## Resources

- [Basic Needs](#): If you have difficulty accessing sufficient food to eat every day, or lack a safe and stable place to live, and believe this may affect your academic performance, you are encouraged to contact: [foodpantry@ucsd.edu](mailto:foodpantry@ucsd.edu), [basicneeds@ucsd.edu](mailto:basicneeds@ucsd.edu), or call 858-246-2632.
- [Triton Food Pantry](#) is an emergency food relief program to provide food for students and fight food insecurity. You can get canned food, pasta, beans, and rice as well as fruit and vegetables at the pantry. [foodpantry@ucsd.edu](mailto:foodpantry@ucsd.edu)
- [The Hub Basic Needs Center](#) coordinates basic needs resources vital to thrive as a student, which includes access to nutritious food, stable housing, and financial wellness resources. We provide basic needs services and resource referrals to registered UC San Diego students. Ask us about [CalFresh](#) food benefits! [basicneeds.ucsd.edu](https://basicneeds.ucsd.edu) 858-246-2632.
- If you find yourself in need of psychological counseling and you do not already have a counselor, please check in with Counseling and Psychological Services (CAPS): <https://wellness.ucsd.edu/CAPS/Pages/default.aspx>