

# Absolute Prohibitions under Risk

Main Text: 1013 Words

January 15, 2017

Jackson and Smith (2006), Huemer (2010), and Isaacs (2014) have created the appearance that consequentialists have a monopoly on decision-making under risk. But this appearance is illusory: even those non-consequentialists who believe in absolute prohibitions can provide a good theory of risky decisions.

In this paper, I develop a version of expected value theory that incorporates absolute prohibitions. Using this theory, I answer the objections of Jackson and Smith, Huemer, Isaacs, and Smith (2014). Suppose that some actions are absolutely prohibited, so it's forbidden to perform them no matter what good may come of it. A soldier's killing a non-combatant is a plausible example of an absolutely-prohibited action. On my view, agents are allowed to take some risks of violating an absolute prohibition. For example, if it's 95% likely that no innocent would be killed by bombing, a pilot may be required to do so to end a war. This can hold even though the pilot would be forbidden from bombing if it were only 94% likely that no innocents would be killed, regardless of *any* other considerations.

Take as given an order over actions  $\succeq$ .  $A \succ B$  means that, ignoring absolute prohibitions, it is wrong to perform  $B$  rather than  $A$ . For example, bombing a factory to end the war  $\succ$  allowing the war to continue. This is because, ignoring the absolute prohibition on killing innocents, it would be wrong to allow the war to continue, allowing many more people to die than there are at the factory. With  $\succeq$ , we get  $u$ , a deontic value function that represents  $\succeq$ .<sup>1</sup>

We'd like to extend  $\succeq$  to  $\succeq^*$ , which takes absolute prohibitions into account. We can read  $A \succ^* B$  as "it is all-things-considered forbidden to choose  $B$  rather than  $A$ ". We also introduce  $\mathcal{A}$  (for absolutist part of the theory) that represents the various "levels" of violation. For example, there is a "level 0" prohibition on killing no innocents, but it has no force. There is a "level 1" prohibition on killing 1 innocent, and it has some force, etc. Here are the desiderata I propose for a theory that adds absolute prohibitions to an existing, non-absolutist theory.

- **Absoluteness:** For non-risky acts  $A$  and  $B$ , if  $B$  violates the prohibitions at a higher level than  $A$ ,  $A \succ B$ .
- **Weak Conservativeness:** For any non-risky acts  $A$  and  $B$ , if  $A$  and  $B$  violate the prohibition at the same level,  $A \succeq^* B$  iff  $A \succeq B$ .

---

<sup>1</sup>For more on deontic value, see Smith (1997, 2014); Berker (2007)

- **Strong Conservativeness:** For any acts A and B, if A and B are guaranteed to violate the prohibition at the same level,  $A \succeq^* B$  iff  $A \succeq B$ .
- **Representation:** There is an expected (deontic) value representation  $u^*$  of  $\succeq^*$ .

**Absoluteness** tells us that the prohibitions really are absolute: no matter what the non-absolutist considerations are, a lower level violation is always preferable to a higher level violation. **Weak Conservativeness** tells us how the new theory should treat non-risky actions coming from the old theory. If you are choosing between two actions that are not risky, and both involve the same level of prohibition violation, then the old ordering is all that matters. **Strong Conservativeness** extends this to actions that are risky with respect to non-absolutist considerations. Finally, **Representation** just says that there is a function that allows us to do expected (deontic) value calculations.

Below, I present the main formal results.

- Theorem 1: If  $u$  is bounded, then there is a  $\succeq^*$  that is **Absolute, Strongly Conservative, and Represented**
- Theorem 2: If  $u$  is unbounded, then there is *no*  $\succeq^*$  that is **Absolute, Strongly Conservative, and Represented**
- Theorem 3: If  $u$  is unbounded, then there is a  $\succeq^*$  that is **Absolute, Weakly Conservative, and Represented**

Next, I argue that absolutists have principled grounds for rejecting unbounded deontic value functions. Briefly, unboundedness is equivalent to holding that every risk can be justifiably traded off against some other. But absolutists should not accept that: just as they don't accept that every killing has its price, they should not accept that every risk of killing has its price.

At this point, we can use the theory to answer the problems for absolutism. Responses come in three varieties: either (i) they do not apply to the theory developed, (ii) they are already problems for the theory of absolute prohibitions under certainty, or (iii) they apply to consequentialism just as well. To illustrate, consider this passage from Huemer:

Consider a policy of punishing defendants in criminal trials whenever the probability of the defendant's being innocent is [incredibly unlikely]. But if the policy is applied in millions of criminal trials, then the sequence of trials will almost certainly far exceed the acceptable risk of punishing someone innocent. [So] this policy is absolutely prohibited... To stay under the acceptable risk threshold, we would have to rapidly increase the standard of proof toward absolute certainty.

Compare Huemer's case to

**Death by a Thousand Cuts:** We discover that an innocent person, Larry, has magical properties. If a natural disaster is looming

and you cut Larry, an angel comes down from heaven and averts the disaster. But Larry is only human. He can survive exactly 999 cuts. Upon the thousandth cut, he will die.

What should the absolutist say about this case? If we know how many disasters there will be and how bad each is, the answer is easy. Pick out the 999 worst disasters, and cut Larry to prevent just those. If we don't know, then any policy we settle on is going to cause problems. Suppose we decide to cut Larry only when a disaster is going to kill 10,000 or more people. "But if the policy is applied in millions of [natural disasters], then the sequence of [cuts] will" violate the prohibition. So any once-and-for-all policy is prohibited, unless we raise the standards as we cut Larry more and more. It will be harder to justify the 900th cut than it was to justify the first one.

Now this idea, that we should become more reluctant to cut Larry as the thousandth cut approaches, or that we should increase the burden of proof as more trials are brought to the court, doesn't look so bad to me. But what **Death by a Thousand Cuts** illustrates is that this doesn't arise because of our uncertainty about whether an action violates an absolute prohibition. It arises because we are not sure how long the sequence of decisions is. Insofar as it is an issue, it arises even when comparing actions which are certain to either violate the prohibition or are certain not to. At any rate, non-absolutist theories have to deal with the same problem, so long as they recognize two considerations such that there's some amount of the first that is better than any amount of the second.<sup>2</sup> Very similar issues arise when we are deciding how to distribute finite resources across future generations.

## References

- Arrhenius, G. and Rabinowicz, W. (2005). Millian Superiorities. *Utilitas*, 17(2): 127–146.
- Berker, S. (2007). Particular Reasons. *Ethics*, 118(1): 109–139.
- Colyvan, M., Cox, D., and Steele, K. (2010). Modelling the Moral Dimension of Decisions. *Noûs*, 44(3): 503–529.
- Huemer, M. (2010). Lexical Priority and the Problem of Risk. *Pacific Philosophical Quarterly*, 91(3): 332–351.
- Isaacs, Y. (2014). Duty and Knowledge. *Philosophical Perspectives*, 28: 95–110.
- Jackson, F. and Smith, M. (2006). Absolutist Moral Theories and Uncertainty. *Journal of Philosophy*, 103(6): 267–283.

---

<sup>2</sup>This is a sufficient condition. In Arrhenius and Rabinowicz (2005)'s terminology, this is recognizing weak superiority between considerations. It would be possible to state necessary and sufficient conditions formally, but they are unnecessarily complicated for our purposes. This sort of boundedness is commonly postulated in the population ethics literature. See for example Parfit (2004) and Temkin (2012) for stronger versions than what is needed here.

- Parfit, D. (2004). Overpopulation and the Quality of Life. In Ryberg, J. and Tännsjö, T. (eds.), *The Repugnant Conclusion*. Kluwer.
- Smith, H. (1997). A Paradox of Promising. *Philosophical Review*, 106(2): 153–196.
- Smith, H. (2014). The Subjective Moral Duty to Inform Oneself before Acting. *Ethics*, 125(1): 11–38.
- Temkin, L. (2012). *Rethinking the Good*. Oxford University Press.