

[To Participants in the 2007 IVR: What follows is Chapter Six of a forthcoming book, *A Culpability-Based Theory of Criminal Law*, co-authored by Larry Alexander, Kimberly Ferzan, and Stephen Morse. In Chapter One, we situate our project within moderate retributivism, the view that negative desert is both a necessary and a sufficient condition of just punishment. Giving those who are deserving of punishment the punishment they deserve is one of many goods, valuable for its own sake, but capable of being traded off against other goods. But seeing that no one is (knowingly) punished more than he deserves is a deontological side-constraint of punishment, or so we assert.

In Chapter Two we analyze culpability, which we view as the measure of ill-deservingness. We argue that culpability consists, at its core, of consciously imposing risks to others' legally-protected interests for inadequate or bad reasons, a core that is currently represented by the mens rea of recklessness. The other legally significant mental states -- purpose and knowledge -- are, we contend, mere aspects of recklessness, the former representing a bad reason for imposing risks, the latter representing a very high estimate of the risk one is imposing.

In Chapter Three, we argue that inadvertent negligence is *not* culpable. In Chapter Four, we analyze justifications and excuses for risk-impositions. And in Chapter Five, we argue that whether or not harm results from culpable risk-impositions is immaterial to the actor's ill-desert.

Those are the chapters that precede this one. Following it, in Chapter Seven, we take up some miscellaneous issues: risky omissions; possession; and how to individuate culpable acts. We conclude, in Chapter Eight, with a discussion about how our theory might look if operationalized as criminal law.]