The Trolley Problem

In the context of autonomous driving
The Trolley Problem

To be accepted:

- Braking impossible
- Can’t warn anybody
- People will die
The Trolley Problem - The Fat Man
Human morality

Philosophical
- Consequentialism / Utilitarianism
- Deontology

Result in both cases: One person dies, five survive.

Difference between killing and letting die?

Legal opinion

In either case people die.

By *action* or *omission*?

- Justification?
- Apology?
In case of omission:

- Manslaughter
- No Guarantor position
- Besides:

  In case two objects of legal protection of the same level collide
  (life vs life) -> duty to omit every action
In case of action:

- Illegality: Justification?

  § 34 StGB (Criminal Code)
  Action can be justified “if, upon weighing the conflicting interests (...), the protected interest substantially outweighs the one interfered with.”

  → Weighting of lives strictly prohibited!

- Fault: Emergency beyond law
With regard to autonomous driving

*Advanced Driver Assistance Systems designed to prevent collisions*

To be accepted:
- Too late to brake
- People will die
With regard to autonomous driving

Advanced Driver Assistance Systems designed to prevent collisions
- Suicide scenario -
Responsibility:
- Driver
- Manufacturer
  - Programmer
  - Company -> no corporate liability in Germany

Approach:
- “Allowed Risk”

Status quo:
- Legal dilemma
Thank you.

Jochen Feldle
University of Wuerzburg

jochen.feldle@jura.uni-wuerzburg.de