

Fall 2004

## Fear, Irrationality, and Risk Perception

Henry L. Chambers Jr.

Follow this and additional works at: <https://scholarship.law.missouri.edu/mlr>



Part of the [Law Commons](#)

---

### Recommended Citation

Henry L. Chambers Jr., *Fear, Irrationality, and Risk Perception*, 69 Mo. L. REV. (2004)  
Available at: <https://scholarship.law.missouri.edu/mlr/vol69/iss4/9>

This Conference is brought to you for free and open access by the Law Journals at University of Missouri School of Law Scholarship Repository. It has been accepted for inclusion in Missouri Law Review by an authorized editor of University of Missouri School of Law Scholarship Repository. For more information, please contact [bassettcw@missouri.edu](mailto:bassettcw@missouri.edu).

# Fear, Irrationality, and Risk Perception

*Henry L. Chambers, Jr.\**

This brief commentary makes two points.<sup>1</sup> The first is that fear can play multiple roles in any decision-making process. The second is that accurately determining whether reactions to fear are irrational is a complex task. Though neither point necessarily requires that symposium participants abandon their positions, together they suggest that extreme care is necessary in developing policy prescriptions based on the claim that fear can trigger irrationality.

## I. FORMS OF FEAR

Many papers in this symposium treat fear as a precursor to irrational risk perception.<sup>2</sup> If fear is only defined in that manner, its effect may appear limited to distorting thought processes and decision making. However, if fear is considered to be related more generally to thrill, danger, and uncertainty about the unknown, its effects can be neutral or positive.<sup>3</sup> When viewed broadly, fear can serve at least three different functions. Fear can be a commodity, fear can focus thoughts, or fear can trigger action.

### *A. Fear as Commodity*

In carefully packaged forms, fear can be bought and sold like a commodity.<sup>4</sup> For example, people will pay to ride roller coasters and other “thrill rides” that are supposed to evoke fear. However, it is unclear why a roller coaster should trigger fear. Surely the fear does not stem from the belief that the rider might be injured as a result of the roller coaster’s crash or malfunction. If that were a real concern, few likely would ride. Though some have

---

\* Professor of Law, University of Richmond; formerly James S. Rollins Professor of Law, University of Missouri-Columbia.

1. This commentary is adapted from remarks given on a panel at the Fear and Risk in Times of Democratic Crisis conference at the University of Missouri-Columbia School of Law on February 20, 2004.

2. See, e.g., Neal Feigenson et al., *Perceptions of Terrorism and Disease Risks: A Cross-national Comparison*, 69 MO. L. REV. 991 (2004); Paul Slovic, *What's Fear Got to Do with It? It's Affect We Need to Worry About*, 69 MO. L. REV. 971 (2004) (suggesting that in some situations fear may impede common sense and straightforward analysis).

3. See Rachel F. Moran, *Fear: A Story in Three Parts*, 69 MO. L. REV. 1013 (2004) (providing various explanations of fear’s effects).

4. Indeed, fear is currently bought and sold in some television shows. See, e.g., *Fear Factor* (NBC television broadcasts, 2003-04 broadcast season). *Fear Factor* contestants must overcome their fears to win money.

died riding roller coasters,<sup>5</sup> such accidents are unexpected and not the realization of an accepted risk in riding. Nonetheless, the greater the fear or thrill generated, the more some want to ride.

Even when fear itself is not sold, it can be instrumental in selling other products. For example, life insurance purchases may stem from fear. Though life insurance does not eliminate the fear of death, it minimizes the fear that one's family will be destitute as a result of one's death. Given the relatively low risk of early death among the young and healthy, and the concomitant low risk that one's family will face the early death of a member and become destitute as a result, life insurance for the young and healthy would appear to be an irrational expenditure of money.<sup>6</sup> However, there is nothing irrational about spending even a significant amount of money to lower the risk of a relatively unlikely occurrence if the pain that would accompany the unlikely occurrence is quite high. One might still overpay for insurance, but such overpayment reflects insufficient market information—i.e., that the insurance could have been purchased more cheaply elsewhere—rather than irrational risk perception. Simply, that fear is a part of the decision to buy life insurance does not make the purchase irrational. Indeed, when fear is packaged as a commodity or has an effect on the purchase of a commodity, it can be—though is not always—assessed or valued in a highly rational way.

### *B. Fear as Focuser*

Fear can also make one focus on what really matters and how much or how little something is valued. Indeed, fear may initiate a thought process that would never have occurred otherwise.<sup>7</sup> For example, I have had a number of discussions with various law professor colleagues about keeping office doors open or closed when speaking with students. Some colleagues have told me that they always keep their doors open because they are afraid that untrue allegations of harassment or misconduct could accompany closed-door student meetings. Convinced that such unfounded allegations could ruin their careers, they have reached their decisions after thinking (often for the first time) about the costs and benefits of requiring that all student meetings be open-door. Usually, their consideration includes why professors meet with

---

5. See, e.g., Gary Gentile, *Coroner Says Disneyland Coaster Rider Bled To Death*, *CONTRA COSTA TIMES* (Walnut Creek, Cal.), Sept. 11, 2003, at 4; Connie Page, *Six Flags Ride Reopens, A Month After Fatal Fall*, *BOSTON GLOBE*, May 30, 2004, at B4; see also Kimberly Atkins & Bob Fredericks, *Girl Killed on Playland Ride*, *JOURNAL NEWS* (Westchester County, N.Y.), May 23, 2004, at 1A.

6. The likelihood that one's family would become destitute if the family's primary breadwinner died might be high. However, the probability that both the primary breadwinner will die and the family would become destitute as a result of the death is necessarily lower than the mere probability that the primary breadwinner will die.

7. In this way, fear can be likened to a campaign contribution that causes a politician to focus on one issue rather than another.

students, whether such meetings should occur if they cannot be conducted in an open-door setting, and the general nature of relationships between students and professors. However one feels about the open-door/closed-door issue, the discussion—certainly fueled or triggered by fear which itself may be irrationally assessed—is a fruitful one that may force professors to rethink and strengthen their relationships with students.

### *C. Fear as Trigger*

As a number of this symposium's contributors suggest, fear can appear to trigger seemingly irrational actions from citizens, courts, and legislatures alike.<sup>8</sup> Indeed, particularly well-designed experiments may appear to prove that irrational thought processes accompany fear.<sup>9</sup> However, this effect may be similar to the effect that any overemphasized factor may have in a thought process. For example, love, joy, pain, and retribution can all trigger seemingly irrational thought processes. However, what appears irrational from one perspective may be highly rational from another perspective.

For example, many may deem the purchase of an expensive engagement ring to be a highly irrational act. At best, an engagement ring is a symbol of love, not love itself. A significant expenditure of money on a symbol of love by an impecunious but deeply loving couple may appear to be irrational. Nonetheless, the purchase and gift of an engagement ring may be considered highly rational. First, it arguably demonstrates the kind of seemingly irrational spending that supposedly accompanies love, thereby confirming the existence of love. Second, one might never convince one's putative spouse to get married until an engagement ring has been purchased. Like love, fear may trigger irrational actions or rational actions that simply appear irrational.

The comments above note three forms that fear can take. Rather than suggest that fear necessarily leads to rational decision making, these comments suggest that a one-size-fits-all vision of fear as invariably a trigger of irrational risk perception is too narrow. As importantly, they suggest that fear may be unexceptional, as it may affect thought processes no differently than other factors or emotions.

## II. THE TRANSFORMATIVE POWER OF FEAR

Though fear can have the same effect on decision making as other emotions, it may have a greater capacity to change us and, in the process, convert acts that seemed irrational in the past into those that appear rational today. Simply, fear can transform us in ways that fundamentally alter how we perceive our world. *There's A Nightmare in My Closet*, a wonderful children's

---

8. See, e.g., Slovic, *supra* note 2, at 984-89.

9. See, e.g., Feigenson, et al., *supra* note 2, at 995-99.

book, provides insight on the transformative power of fear.<sup>10</sup> In the book, a child plans to vanquish the nightmare that lives in his closet. In the process of facing and embracing his fear/nightmare, he realizes that his fear was not so scary after all. Indeed, literally embracing the nightmare gives the child an opportunity to be nurturing and caring toward that which had scared him. Once he faces his first nightmare, the other nightmares in his closet are no longer scary. They are merely problems to be managed. The book suggests that facing and overcoming fear literally changes how the little boy looks at his surroundings. This lesson is well worth learning or relearning at any age.

Of course, the events of September 11, 2001, may have had a transformative effect on us as a society. The fears triggered and faced on that day literally changed many of us. The result may be that our definition of rationality has changed as well. Indeed, many scenarios that may have seemed irrational before September 11th are now routinely contemplated. Similarly, courses of action that may never have been taken before September 11th have been or may yet be taken.<sup>11</sup> What qualifies as rational is different today than what qualified as rational before September 11th. Though the reactions of those first transformed by fear may have seemed irrational to the majority at first glance, those reactions may come to define rationality if society as a whole is ultimately transformed by the same fears.

### III. FEAR AND DEMOCRATIC CRISIS

Given that this symposium focuses on Fear and Risk in Times of Democratic Crisis, I would be remiss if I did not very briefly mention race, risk perception, perceived irrationality, and democracy. Some who suggest that fear results in inaccurate or irrational risk perception seem to believe that individuals overestimate known or knowable risks and act irrationally based on those overestimations. However, whether a risk has been misperceived or overstated may depend on how a risk is defined. For example, the risks I face as a black man differ from those faced by others who are not black men. My fears stem from risks I face and derive in part from incidents in which I or my friends have been involved; they are likely different than the fears of those who are not black men.<sup>12</sup> If my experiences are deemed exceptional (and they are somewhat exceptional or atypical because they are experiences of a black

---

10. See MERCER MAYER, *THERE'S A NIGHTMARE IN MY CLOSET* (1968).

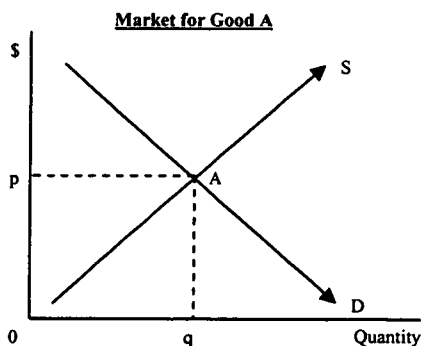
11. Certain interrogation strategies approved in the wake of the War on Terrorism may fall into this category. See Edward Epstein, *Interrogating POWs Defended—Rumsfeld Says Rules Meet Geneva Pact*, S.F. CHRONICLE, May 13, 2004, at A15 (noting methods of interrogation that apparently have been approved by U.S. government officials); Amanda Ripley, *The Rules of Interrogation: It's a Murky Business, But Some Methods Work Better Than Others*, TIME, May 17, 2004, at 44 (same).

12. Indeed, the notion that different people, even those who appear similar, may have different fears and experiences is captured in the title and flavor of a popular novel. See BEBE MOORE CAMPBELL, *YOUR BLUES AIN'T LIKE MINE* (1995).

man in a predominantly non-black land), my reaction to them may be deemed to be based on irrational or inaccurate risk perception. Many in the minority community and some in the majority community will deem my fears and the precautions I take against bad outcomes rational because they may share the same fears or appreciate them. However, if the majority of my fellow citizens deem my fears to be irrational or based on faulty risk perception, legislators may have little incentive to act on my fears. Because the fears of minorities may be deemed exceptional or non-representative and therefore easily dismissed by the majority, minorities arguably always live “in times of democratic crisis.”<sup>13</sup>

### CONCLUSION

Fear may not always be rational and may in fact lead to irrational behavior. However, we must be vigilant when labeling fear and actions triggered by fear as irrational. Improperly deriding fear as anti-rational may stem from a lack of recognition that competing value systems or desires may yield different outcomes. For example, consider what a standard downward-sloping demand curve tells us about people:



The upper left portion of the demand curve (D) represents a small number of people who are willing to pay a substantial amount for Good A, for which most people would only pay far less. The people in the upper left portion of the demand curve may be irrational, but they cannot be deemed irrational

---

13. Indeed, the ethnicity of who complains may affect whether the complaints are taken seriously. See PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* 152 (1991) (“It may be different when someone white is describing need. Shorn of the hypnotic rhythmicity that blacks are said to bring to their woe, white statements of black needs suddenly acquire the sort of stark statistical authority that lawmakers can listen to and politicians hear. But from blacks, stark statistical statements of need are heard as strident, discordant, and unharmonious. Heard not as political but only against the backdrop of their erstwhile musicality, they are again abstracted to mood and angry sounds.”).

merely because they are willing to pay far more for Good A than most. They may have different sets of desires or values vis-à-vis Good A than most (or substantially larger bank accounts than most). Even if fear pushed those consumers to the upper left portion of the demand curve for Good A, e.g., flight insurance or gas masks, it is unclear that they are necessarily any less rational than those on other segments of the demand curve for Good A or than consumers who occupy the upper left portion of any demand curve.

That a person acts outside of the mainstream in assessing or reacting to fear does not make him irrational. Fear may drive one person to take one action and drive another person to take another more drastic action. If both actions are rational, fear has not triggered irrationality, though the temptation is to deem the more drastic action irrationally driven by fear. If the different responses are based on the different values or preferences of the two people, ascribing irrationality to one person's action may be inappropriate.

One must be careful in labeling fear or reactions to fear as irrational even when evaluating a person's reactions only by reference to the person's internal value system. That a person is willing to pay a significant amount to eliminate a small risk but seems unwilling to pay a smaller amount to eliminate a significantly larger risk may not necessarily make him irrational, depending on how the person processes the risk or whether contemplating the risk transforms the person and how he rationally evaluates the risk. A truly irrational response to fear occurs when an individual judges a fear or its risk reasonably, then takes an irrational action to meet the judgment. That is, in order for a response to be irrational, fear must deform a rational thought process into an irrational one rather than transform one rational thought process into a different rational thought process. Though fear can presumably transform a rational thought process into an irrational one, this may occur in far fewer circumstances than suggested at this symposium.