*I negate: Resolved- It is morally permissible for victims to use deadly force as a deliberate response to repeated domestic violence.*

The value’s MORALITY.

Justifications for our moral beliefs must arise from social consensus as it is the only coherent way to resolve the infinite regress of asking for reasons for following rules. Moral rules are adapted links between society’s perceptions and its consequent judgments. Taylor:  
(Charles Taylor, “Bourdieu: Critical Perspectives”, 1993, pg. 46)

**The connections which form our background are** just de facto links, **not susceptible of any justification.** For instance, **justifications are simply imposed by our society; we are conditioned to make them.** They become “automatic,” which is why the question never arises. The view that society imposes these limits is the heart of Kripke’s interpretation of Wittgenstein. Or else they can perhaps be considered as “wired in.” **It’s just a fact about us that we react this way, as it is that we blink when something approaches our eyes, and no justification is in order**…It is his insistence that **as following rules is a social practice**. Granted, this also fits, perhaps, with Kripke’s version of the first view. But I think that, in reality, this connection of background with society reflections an alternative vision, which has jumped altogether outside the old monological outlook which dominates the epistemological tradition. Whatever Wittgenstein thought, this second view seems to me to be right. What the first cannot account for is the fact that **we do give explanations, that we can often articulate** reasons **when challenged. [For example] Following arrows towards the point is an arbitrarily imposed connection**; **it** that **makes sense, granted the way [society has decided] arrows move**. What we need to do is follow a hint from Wittgenstein and attempt to give an account of the background as understanding, **which [in turn] places [the arrow] in social space.**

Only legal norms can accomplish this unification of communal values. Unilateral assertions of rules disrupt the moral community and disrespect the formation of moral agreements. Actions classified as both public and private crimes must be responded to both publicly and privately. Failure to allow both responses destroys the relationship between subject and state. Ripstein:  
[Ripstein, Arthur. *Force and Freedom: Kant’s Legal and Political Philosophy.* Harvard University Press, Cambridge, Massachusetts. 2009. Pgs. 314-315.]

**The criminal is punished because he has** committed a crime. A crime, in turn, is a “**transgress[ed]**ion of **public law** that makes someone who commits it unfit to be a citizen.”20 In a footnote to his discussion of revolution, Kant explains that “any transgression of the law can and must be explained only as arising from the maxim of the criminal (to make such a crime his rule); for if it were to derive from a sensible impulse, he would not be committing it as a free being and it could not be imputed to him.”21 The criminal’s maxim is the rule on which he acts, and, like any maxim, must have the form “use these means in order to achieve this end.” **The wrongfulness [of violating public right] focuses on the means the criminal has used**, because external wrongdoing always consists in using prohibited means: **private wrongs** against person and property **involve either using means that belong to another or acting in ways that deprive another person of means to which he or she is entitled.** Kant’s use of the vocabulary of maxims to make this point might suggest that something more than means is at issue. But Kant’s elucidation of the concept of right in the Introduction to the Doctrine of Right makes it clear that “no account at all is taken of the matter of choice, that is, the end each has in mind with the object he wants.”22 Thus a crime is objectionable from the standpoint of right purely on the basis of the means that are used, regardless of the end pursued. Kant’s examples of crime all turn on the use of wrongful means: theft, murder, burglary, rape, and counterfeiting;23 in each case, the wrongfulness of the crime is identified through the means used rather than the end pursued. In each case, the criminal uses means that he knows to be prohibited. The criminal’s ends are ordinary, and might be pursued in other contexts through acceptable means. **The use of those prohibited means** (with the exception of some instances of counterfeiting)24 **also** typically **wrongs someone** in particular, **and the victims would also have a private right of action against the criminal. But the** distinctively **criminal aspect of the wrong is the use of publicly prohibited means.**

This means responses that preclude the state’s response to public crimes upset the system of equal freedom. Ripstein 2:

If every **crime is wrong**ful **because of its incompatibility with** the form of **public lawgiving, [so] it can only be hindered through a response that upholds the form of public lawgiving.** In the case of the particular wrong against some victim, it is up to the victim who has been wronged to decide whether to claim a private remedy—whether, that is, to stand on his or her rights. **The wrong against** the form of **lawgiving requires a** different **public** and mandatory **response, rather than a** discretionary **private one.** A civil union enables people to give themselves coercive laws together. The only way they can do so, however, is by giving laws to themselves externally. In characterizing the executive power of the state as “irresistible,” Kant is making a conceptual claim about the nature of executive power. Anything you do contrary to sovereignty is without legal effect. If you wrongfully take something from another person, it does not become yours, and damages restore it to its original possessor. **The state prevents you from exempting yourself from the law by providing you with a contrary incentive; if you ignore the incentive, the state restores its own authority by hindering your hindrance of** the system of **equal freedom** by removing the legal effect of your exemption. Normatively, the law remains supreme even in the face of violation. Kant’s technical vocabulary places norms in the noumenal realm, in the sense that they are outside of space and time. His claim that the law necessarily survives its violation noumenally does not rest on any assumptions about some other, parallel world in which all laws are always obeyed. Instead, it is an application of the more general feature of norms: they govern what ought to happen rather than what does happen. You have a right to your pen, even if I take it out of your possession, and the state has the right to prohibit theft, even if I steal it. Just as your right to your pen— your entitlement that my conduct be restricted by your normative claim— survives its violation, so too does the state’s right to tell me what to do—its entitlement to restrict my conduct by its normative claims. Empirically, however, a hindrance to freedom can be hindered by an equal and opposite force. Punishment hinders the juridical effect of wrongdoing by up- holding the aspect of right from which the criminal sought to exempt himself. The analysis of upholding the supremacy of law in the face of exemption works most straightforwardly in Kant’s example of theft. The thief exempts herself from public law by exempting herself from the law’s claim to regulate property. The way to make it the case that the crime did not change the law is to turn the criminal’s own maxim against her. Having sought to exempt herself from the rule of law as realized in the law of property, the criminal finds herself excluded from the system of property, prohibited from having any external objects subject to her choice. If the nature of crime needs to be understood formally rather than materially, so does Kant’s retributive claim that “whatever undeserved evil you inflict on another within the people, that you inflict upon yourself.” As a result, **the** thief **[criminal] must be understood not merely to have deprived some** particular **person of** some particular piece of **property**, nor even simply to have acted contrary to the system of property. **Instead, she has acted contrary to the people’s power to give themselves laws.** She made self-exemption her rule by making the violation of a particular public law her rule; her act must be made into an act of self-exclusion from that aspect of the system of public law from which she exempted herself.

*Criticizing the law would be asserting one’s superiority unilaterally over the omnilateral will, which creates a regress; thus criticism would be self-defeating. Ripstein 3:  
Ripstein II (Ripstein, Arthur, University of Toronto Law Professor. Kant on Law and Justice)*

*Kant argues that* ***no one can sit in judgment of the sovereign, on the grounds that the person who could do so would be the sovereign****, and so, either the real sovereign, or subject to having still others sit in judgment,* ***generating a regress****. This argument strikes many readers as too legalistic to be of much interest, but it is worth noting that it is a generalization from Kant’s earlier discussion of the traditional legal problem of recovery of a stolen object. Suppose somebody steals my horse, and you, in good faith and in a public market "regulated by police ordinances," purchase it from the thief.32 I then see you with the horse, and accuse you of theft. You show me all the paperwork. We have both been cheated by a single rogue, who has dropped out of sight. Who gets to keep the horse? Kant notes that as a matter of natural right, it seems clear that I do, because a right in property is not extinguished just because the owner is no longer in physical possession of the thing. Nonetheless, he argues that a court can make no such decision and must instead allow the purchaser to keep it. His reasoning is instructive: the original owner's title is only as good as the rightful condition that initially secured it. It is impossible to trace the history back to ensure no wrong had occurred in all of the transactions relevant to my title in the horse (including the transaction through various people acquired things they used in those transactions.) Going back to my earlier acquisition faces exactly the same problem as your more recent one: the most I could ever show is that I acquired it in a legitimate and publicly rightful way. My claim to the horse is on all fours with yours, but you have a more recent, and so superior, ratification of your title.33 Kant's point about the impossibility of judging the sovereign has exactly the same structure:* ***the only thing that qualifies the sovereign to rule is the Constitution that empowers the sovereign to rule. There is no rightful claim to property outside of a rightful condition****, only a series of potentially competing provisional claims, none of which generate a coercive right in relation to any other. There is also no rightful claim to rule outside of a rightful condition, only potentially competing provisional claims. Those provisional claims may be better or worse on the basis of moral argument,* ***but nobody has standing to adjudicate between them or enforce any of them, because they are merely unilateral****.*

Thus, the standard is CONSISTENCY WITH COMMUNAL LEGAL CONSTRUCTS.

I contend the use of deadly force is both a public and private crime.

First, acts of lethal self-defense by battered women fall outside traditional self-defense law. Leonard:  
Elizabeth Ann Dermody Leonard, Convicted Survivors The Imprisonment of Battered Women Who Kill, December 1997

Almost without fail, **battered women who kill are charged with murder** or manslaughter and plead self-defense (Ewing 1990). Ewing’s (1990, p. 580) data on 100 cases in which battered women caused the death of their partners revealed, **Despite** generally abundant **evidence** that **they were** severely **abused by the men they killed**, many if not **most of these women are convicted because the circumstances** surrounding their homicidal acts **do not meet the requirements of** current **self-defense law**….” Moreover, Walker (1992, p. 329) notes, Those who were Black and killed Black or White partners still were twice as likely to have been convicted of murder and sentenced to longer periods in prison than those who were Caucasian or from other minority groups. Women who were poor and less educated also appeared to have a similar bias against them in the courts. In Mann’s (1992) random sample of 114 female-perpetrated spousal homicides, over half of the offenders received prison sentences, with an average of 16 years to serve. Of the women in Browne’s (1987) study, 56 percent argued their cases on the basis of self-defense, 8 percent entered a diminished capacity or insanity plea, and 33 percent pled guilty to a lesser charge in return for leniency in sentencing, and in one case, the charges were dropped; the most common plea arrangement was voluntary manslaughter with reduced jail sentence, or several years probation. Osthoff (1991) reports that the vast majority **of women accused of killing their abusive partners** (72 percent to **80 percent**) **are convicted** or accept a plea, **and** many **receive** long, **harsh sentences.**

Second, the state constructs legal norms to handle cases of domestic violence, i.e. police reports, protective orders, etc., meaning legal agreements grant the state exclusive jurisdiction over the use of deadly force. Victims act outside of these norms by disregarding legal constraints on executive authority and preclude the possibility of due process. Only the state is capable of objectively determining if deadly force is permitted since it has more resources, available information, and time to reason out the victim’s rationale.

Third, case law requires a reasonability check on self-defense.Dressler**:**Dressler 2010, Joshua. “Feminist (or “Feminist”) Reform of Self-Defense Law: Some Critical Reflections. Dec 1, 2010 [Prof. of Law, Ohio State University, Michael E. Moritz College of Law],

One of the few cases to authorize a self-defense claim **in** an unambiguous, nonconfrontational case is **State v. Leidholm**, 334 N.W.2d 811 (N.D. 1982). The battered woman in Leidholm stabbed to death her abusive husband as he slept. The court held that the defendant was entitled to raise a self-defense claim. In so ruling, **the court approved** a highly subjective version of **the “reasonable person” standard**, stating, id. at 818, that**: [A]** correct **statement of the law of self-defense is one in which the court directs the jury to assume the** physical and **psychological properties** peculiar **to the accused,** viz., to place itself as best it can in the shoes of the accused, **and then decide whether** or not **the** particular **circumstances** surrounding the accused at the time he used force **were sufficient to create** in his mind **a** sincere and **reasonable belief that** the use of **force was necessary** to protect himself from imminent and unlawful harm.

Dressler 2 furthers:

**How can** we say that **a belief** is **[be] reasonable when we are judging** the reasonableness **from the perspective of someone who**, by definition, **is experiencing** a set of **symptoms** that **render[ing] her state of mind abnormal?** As Professor Anne Coughlin has observed, **the battered woman defense “defines** the woman as a collection of mental symptoms, motivational deficits, and behavioral abnormalities; indeed, the fundamental premise of the defense is **that women lack the psychological capacity to choose lawful means to extricate themselves** from abusive mates.”14 **It makes no sense**, therefore, **to describe a belief in “imminent deadly force” as reasonable**—to say that killing a sleeping person is justified to prevent an imminent death—**if the only reason for describing the situation this way is that the person suffers from** emotional paralysis, learned helplessness, or is the victim of any other **[a] behavioral syndrome.**

FW Expansion- AT Gauthier

And, going to the state is better from a contractarian perspective because it minimizes biases between persons. One wouldn't want one's actions interpreted as a violent action and end up getting killed by someone claiming "self-defense."

**Gauthier [3]** SELF-DEFENSE AND RELATIONS OF DOMINATION: MORAL AND LEGAL PERSPECTIVES ON BATTERED WOMEN WHO KILL: SELF-DEFENSE AND THE REQUIREMENT OF IMMINENCE: COMMENTS ON GEORGE FLETCHER'S DOMINATION IN THE THEORY OF JUSTIFICATION AND EXCUSE

The person who makes himself the object of self-defensive violence has, we might want to say, only himself to blame. But **there is always the possibility of mistake-the possibility that one's actions may be misunderstood by another.** And indeed, **because the claims of mistake and misunderstanding are themselves contestable, law undertakes the task of replacing the independent, subjective, private interpretations that each individual places on the actions of her fellows, and that in its** [\*618] **silence would determine her responses to those actions, with a single, authorized public interpretation and response.**