Professor Matthew Hanser defines moral permissibility. According to **Hanser**[[1]](#footnote-1)

An agent’s reason for doing something purports to justify his doing of that for which it is a reason. We can represent the normative nature of this relation by thinking of actions as embodying practical inferences: when an agent fs for reason R, it is as if he reasons, “R; therefore let me f!” (I say it is as if he reasons this way because I mean to imply nothing about what thoughts, if any, must precede or accompany action. One certainly needn’t say to oneself, “R; therefore let me f!” in order for R to be one’s reason for fing.) But if actions embody inferences, then actions can be evaluated with respect to the quality of these inferences. That is the idea upon which the inferential account of permissibility seizes. As a preliminary formulation, we might say that according to the inferential account, an agent acts permissibly if and only if the practical inference embodied by his action is a good one—if and only if, that is, the premises of that inference justify, or provide adequate grounds for, the acceptance of its conclusion. But this cannot be quite right as an account of moral permissibility. An agent who has insufﬁcient reason for doing what he does need not on that account be acting morally impermissibly. So let us say that **an agent acts morally permissibly if** and only if **his action** embodies a practical inference whose premises’ justifying force, if any, **is not successfully undermined** or defeated **by any moral considerations**. Let us call such practical inferences “permissible.” An agent acts permissibly, then, if and only if his action embodies a permissible practical inference. 6 (For the sake of simplicity I shall sometimes, in what follows, revert to the preliminary formulation of the view, omitting the qualiﬁcation about moral considerations.)

Therefore, an action is permissible until a prohibition on the action can be proven.

The **value** is **morality** as implied by the resolution.

Morality must be grounded on a conception of absolute good.

Professor Patrick **Lee 08** writes[[2]](#footnote-2)

The basis of this point can be explained, at least in part, in the following way. When **one** chooses an **act[s]**ion, one chooses it for a reason, that is, **for the sake of some good** one thinks this action will help to realize. **That good may itself be a way of realizing some further good, and that good a means to another, and so on. But the chain of instrumental goods cannot be inﬁnite. So, there must** **be** some **ultimate reasons for one’s choices**, some goods which one recognizes as reasons for choosing which need no further support, **which are not mere means to some further good.**

The ultimate good is the value of humans as ends in themselves.

Thomas **Hill 91** writes[[3]](#footnote-3)

The second argument is roughly this: **Most valuable things have value only because valued by human beings.** Their value is derivative from the fact that they serve our interests and desires. **Even pleasure**, which we value for its own sake, **has only derivative value**, that is, value dependent on the **contingent [on the] fact that human beings want it.** Now **if valuers confer** derivative **value on things by their preferences** and choices, **those valuers must themselves have value**. In fact, they must have value **independent of, and superior to, the derivative values they create.** The guiding analogy is how we value ends. We value certain means because they serve certain intermediate ends, which in turn we value because they contribute finally to our ultimate ends, that is, what we value for its own sake. The value of the means and the intermediate ends is derivative from the value of the ultimate ends; unless we value the ultimate end, the means and intermediate ends would be worthless to us. So, it seems, the source of derivative value must itself be valuable for its own sake. **Since the ultimate source of the value of our contingent ends, such as health, wealth, and even pleasure, is their being valued by human beings, human beings**, as valuers, **must be valued for their own sakes.**

The right to self-defense respects human worth. Barbara **Herman 89** writes[[4]](#footnote-4)

**[In self-defense,] I am not acting to save my life (as such), but to resist the use of my** agency (**self**) **by another**. Acting to save my life (as something valuable to me) would be to act for just another purpose. The moral standing of my agency - what makes it the source of reasons for others to refrain from acting against me - is not the good (to me) of being alive. Acting to sustain the integrity of my agency is to act for a morally necessary end. Thus, since **my maxim of resistance is not a maxim of aggression** as a means, the original aggressor cannot renew his attack on morally superior grounds. I am not acting to preserve myself through violent means. **In stopping aggression with force I am asserting my status as a rational agent. It is an act of self-respect.**

Therefore the **criterion** is **respecting the right to self-defense.**

Self-defense is a right for 2 further reasons.

First is the golden rule. Self-defense does not disrespect the abuser because he is treated in the same way that he treats others. Jeffrey **Reiman** writes[[5]](#footnote-5)

Since reason (like justice) is no respecter of the sheer difference between individuals, **when a rational being decides to act in a certain way toward his fellows, he implicitly authorizes similar action by his fellows toward him.** A version of the golden rule, then, is a requirement of reason: acting rationally, one always acts as he would have others act toward him. **Consequently, to act toward a person as he has acted toward others is to treat him as a rational being, that is, as if his act were the product of a rational decision.** From this, it may be concluded that **[thus] we have a duty to do to offenders what they have done, since this** amounts to **accord[s] them the respect due rational beings.**

Second is the forced choice. Abuse puts the victim in a kill-or-be-killed situation, leaving no option but self-defense. Professor of Philosophy Cheney **Ryan 83** writes[[6]](#footnote-6)

This case helps us put the self-defense situation in perspective, since Victim’s position seems to be analogous to the mayor’s. **When Aggressor threatens Victim, his actions have created a situation in which someone’s life will be lost** (he hopes Victim’s) **Victim is not responsible for this situation**, it is merely presented to him. **But given it, Victim can determine whose life is lost**, and in choosing to defend himself Victim determines that it will be Aggressor’s life. In this sense the **true responsibility for the taking of life rests not with Victim, for Aggressor’s actions have made this inevitable.** In pointing this out, **the appeal to self-defense shows that the real blame for Aggressor’s losing his life rests with Aggressor himself.** We must still explain why Victim is justified in choosing to save his own life over Aggressor’s, but first let me consider some respects in which this approach to self-defense is illuminating. It reveals, I think, the true asymmetry of the self-defense situation. Victim decides which life is lost, and while he may decide incorrectly, his crime in doing so is infinitely less than the malicious Aggressor’s. Interestingly enough, it is a mistake on this view to speak of a right to self-defense, for if the appeal to self-defense serves to absolve one of the responsibility for taking human life, as I have suggested, it cannot at the same time give one the right to take another’s life (except, perhaps, in the weaker Hohfeldian sense of liberty). This approach also reconfirms earlier intuitions about the relevance, or rather irrelevance, of Aggressor’s right to life. Think of it this way: when the mayor is asked to account for the killing of the resistance fighter he chose to kill, must he show that that person forfeited his right to life? Perhaps his choice would be easier if this could be shown, but the propriety of his action does not rest on it. In this same sense, the propriety of Victim’s actions need not presume any forfeit on Aggressor’s part.

**Contention 1** is **Physical Abuse**

Abusers frequently use death threats and severe abuse to control battered women. Victims are put in a situation where they perceive a legitimate threat to their life.

Gerard **Chan 08** writes[[7]](#footnote-7)

**Victims of domestic abuse** generally **believe that** they are responsible for their batterer's violent behavior, and they believe **their abusers are** both capable of and **likely to kill them. They feel there is no escape** not only **because they may be found and** be **hurt more seriously if they try, but also because they** **often lack the financial resources to survive on their own. Lastly, victims will often not tell their friends and family or seek help**, either **because they fear** it will further enrage **their abuser**, or because they are embarrassed or discouraged by societal and familial pressures to make the relationship "work."

Empirical studies confirm that battered women who kill have suffered the most severe abuse. David **Faigman 86** writes[[8]](#footnote-8)

There are differences between the merely battered and the battered killers. “Professor Browne recently conducted **a study comparing battered women who** have **killed** their batterers **with battered women who have not**. She **found several factors that distinguished women in the "homicide group," including "severity of** the woman's **injuries,** the man's drug use and frequency of intoxication, the **frequency [of abuse]** with which abusive incidents occured, forced or threatened sexual acts by the man, the woman's suicide threats, **and the man's threats to kill.**" Browne, Family Homicide: When Victimized Women Kill, in Handbook of Family Violence (forthcoming).”

Therefore, abuse victims have every reason to believe that their lives are in danger.

Further studies show that women believe they are acting in self-defense.

Daniel **Saunders 86** writes[[9]](#footnote-9)

A controversy exists regarding the nature of violence committed by women against their intimate partners. When battered women are violent it is not known if the violence should be labeled “mutual combat,” “husband abuse,” or “self-defense.” Following a review of studies comparing the extent of husbands’ and wives’ victimization and some conceptual issues regarding self-defense, **data are presented from 52** battered **women** on their motives for using violence against their partners. **The most frequent reason for violence** reported by the women **was** for **self-defense.** Only one woman reported initiating an attack with severe violence in more than half of her violent acts. **Only eight percent** of the women reported that nonsevere violence was **used [violence] to initiate an attack more than half of the time.** The concepts of "self-defense" and “fighting back” were significantly and positively correlated, that is, many women saw them as being the same. The women’s self-reports are discussed in the context of the need to collect data on relevant explanatory variables in family violence research and the application of a feminist perspective to reduce bias in such research.

**Contention 2** is **Psychological Abuse**

Constant psychological abuse relegates battered women to a fate often worse than death. They are left with no other option but lethal self defense. Charles **Ewing 90** writes[[10]](#footnote-10)

In large measure, each of these rules, which seem to protect distinctly psy­chological values even at the expense of human life, may be viewed as expres­sions of the principle of autonomy: "The right to resist aggression broadly to cover threats to the personality of the victim . . . the moral claim of the person to autonomy over his life." Implicit in these rules-as well as in the proposed doctrine of psychological self-defense-is the well-grounded recognition that **the value of human life lies not in mere physical existence but rather in the capacity to experience that existence in a psychologically meaningful and rewarding fash­ion. When**, as in the experience of some battered women, **victimization becomes so severe that the capacity to function as an autonomous** (psychologically inte­grated and self-directed) **individual is lost,** severely impaired, or threatened with loss or severe impairment, **physical existence** ("life") **loses** much if not most of **its meaning and value. To justify taking a life to prevent** such **loss** or severe impairment **of one's essential selfhood in no way denigrates respect for life. Indeed, such justification expresses a respect for human life even greater than that implicit in current self­-defense doctrine.** Unlike current self-defense law, which generally gives priority only to mere physical existence, the proposed doctrine of psychological self­-defense would give equal priority to those vital aspects of human functioning that give meaning and value to such existence-in other words, those psychological attributes that make life worth living.

Further, the abuser’s psychological hold over the victim prevents the victim from seeking help. 3 reasons:

**A.** Abusers threaten the victims with violence if they try to seek help. These constant threats empirically prevent victims from taking the abuse to court.

Andrew **Klein 2009** of the U.S. Department of Justice reports[[11]](#footnote-11)

**A study** of five jurisdictions in three states **found that** victims across all sites reported that **fear of** defendant **retaliation was the**ir **most common barrier to participation with prosecutors.** [103] Even in a Chicago study where the majority of Chicago victims wanted their abusers prosecuted, fear was the biggest factor for those who opposed prosecution. **A quarter** of victims opposing prosecution **reported being specifically threatened** by their abusers **against prosecution. Others expressed fear that their abusers would become more violent.** In addition to fear, almost half who wanted the prosecution to be dropped thought it wouldn't make any difference. About a third of the victims opposed prosecution because they depended on their abusers for housing. [107] In addition to fear of the abuser, an Ohio study found that more victims were actually more afraid of testifying in court than they were of the defendant or compromising their relationship with the defendant. Specifically, victims expressed fear that the prosecutors would not prepare them adequately to testify. They were also concerned that the defendant might not be found guilty.

**B.** When victims do approach the law, the legal system does not help them.

Mary **Wimberly 07** writes[[12]](#footnote-12)

Empirical, historical, and sociological evidence should be used by experts to show that the necessity of a battered woman’s actions in self-defense is in large part created by societal pressures that demand that women stay in the home, and submit to the domination of men. For instance, an expert could demonstrate how the assumptions of the law and subsequently of law enforcement officials reflect the social norms that compel women to silently and privately cope with domestic abuse. As Caroline Forell and Donna Matthews wrote, “[T]he law is often ineffectual. For example, **in a U.S. Department of Justice study**, Marianne Zawitz estimated that nearly **90 percent of women killed by intimates had previously called the police**, and that **half of these had called five or more times**.” 78 **Professor Raeder similarly found**, “The statistics produced from myriad sources are disconcerting, even with some discounting for methodological objections. Each year nearly 1500 women are killed by their batterers. Approximately **ninety percent of women killed by husbands or boyfriends were stalked and had previously called the police.**

**C.** When victims try to leave, the abuse only escalates.

Rikki King 11 of the Herald[[13]](#footnote-13)

Nearly half of the [murder] victims were killed after leaving or trying to leave the abusive relationship. When a victim reaches out for help, the abuser begins to lose control. The shift in power can trigger an explosive reaction.

**Contention 3** is **Imminent danger.**

Empirics confirm that most women who kill do so during violent confrontations.

Attorney Joan Krause 07 writes[[14]](#footnote-14)

As an initial matter, it is useful to understand just how rarely this issue arises. In reality, few battered women kill their abusers, and fewer still do so in nonconfrontational situations. While it is difficult to identify all such homicides, a comprehensive study of appellate cases **from 1902 to 1991** in which female defendants claimed to have killed their abusive domestic partners in self-defense estimated that 20% of such killings (roughly 45 cases) were nonconfrontational,with 8% (roughly 18 cases) involving sleeping victims.7 These figures areroughly consistent with a more recent study of self-defense cases between 1979 **and 1999** in which imminence was at issue, which found that approximately 9**% of such killings were** committed by battered women innonconfrontationalsettings.8 While Dressler suggests that these numbers may be underinclusive,9 the available research indicates that most battered women who kill do so in the midst of a confrontation.

Using nonlethal force in such confrontations is only likely to increase the abuse.

Elizabeth **Ayyildiz 95** of the Chicago-Kent School of Law writes[[15]](#footnote-15)

To some, the death of the abuser may seem an inappropriate or excessive way for the battered woman vigilante to punish her abuser and repair the social order. Deadly force on the part of the battered woman, however, may be justified in several ways. First, death may be necessary because **lesser degrees of force may be insufficient**. The battered woman may not be able to confront the batterer without a deadly weapon **because of disparities in size, strength or emotional control.** The lower degree of force a woman typically exerts upon a man may have little or no impact on a physically stronger abuser. Indeed, **a** woman's **lesser degree of force may only incite a vicious retaliation** by the abuser. In addition to believing that a lesser degree of force will be insufficient, many women may believe that leaving is not possible.' Those that do attempt to leave report that their abusers follow them, continuing the harassment and violence. Thus, if one accepts the premise advanced by BWS that battered women are, for a variety of reasons, unable to leave the batterer, and are often weaker than their abusers, then death may be the only means by which battered women can escape the abuse.

Self-defense is justified even if the abuse is not imminent.

Laurie **Dore 95** writes[[16]](#footnote-16)

At a minimum, syndrome evidence persuades many courts to expand ‘imminence’ beyond immediacy in order to capture ‘the build-up of terror and fear . . . systematically created over a long period of time’ in battering relationships. The battered woman defense might also persuade a court to stretch ‘imminence’ beyond its inherent temporal borders. Experts in these cases, for instance, frequently testify that the learned helplessness experienced by the battered woman, as well as the dangers facing her if she attempts to escape the relationship, make her a virtual prisoner of her controlling batterer. **Like the** hostage or **prisoner of war, the battered woman** is said to **experience[s] a** ‘single and **continuing’ ‘state of siege’ characterized by** ‘constant’ or **‘ever present’ terror of death or serious** bodily **injury. As viewed by one court, the battered woman experiences ‘no let-up of** tension or **fear, no moment . . . of release from impending serious harm,** even while the decedent sleeps . . . **From the [woman’s] perspective** of the battered woman, **danger is constantly “immediate.”**

The requirement of imminent danger ignores the unique nature of domestic violence.

Attorney Joan **Krause 94** writes[[17]](#footnote-17)

Second, self-defense may be invoked only when the actor reasonably believes that the threatened harm is imminent. This requirement poses the greatest problem if the defendant acts when the abuser is not an immediate threat, such as when he is sleeping (i.e., so-called "nonconfrontational" situations). **To require a** battered **woman to wait until the attack begins,** however, **may ignore her experience in the relationship**. For example, **the woman may be aware of pre-assault symbols, such as heavy drinking, that would not signify imminent danger to outsiders.** In fact, the battered woman faces almost the exact opposite of the traditional sudden attack: "the question is not whether he will beat her up again but when, and not whether he will injure her but how badly or whether he will kill her this time." A court that allows the jury to consider past events as part of the circumstances of the killing, rather than focusing solely on the moment of the killing, will be more open to battered women's self-defense claims.

Only deadly force reduces domestic violence long-term.

Professor Benjamin **Zipursky 96** gives 4 warrants[[18]](#footnote-18)

A similar argument applies with regard to the possibility of more pervasive physical and psychological forms of domination. What is at stake, in this regard, is not only physical security, but, as Jane Cohen has pointed out, liberty of thought, speech, movement, and sexuality. Physical domination is an instrument for the elimination of these forms of liberty, and for the elimination of psychological independence and well-being. And one particularly important enhancement of the physical domination is the elimination of the dominated woman's access to outside help. n38 **If use of deadly force** in no-access situations **were permitted, then** it would arguably be the case that: **(1)** she **[the victim] would increase her ability to avert death or injury in** thesortof "**no-access**" **case[s]** that does frequently arise in these scenarios; **(2)** to the extent that her sense of lack of liberty and helplessness were based on her actual condition, she **[the victim] might experience a greater sense of liberty because,** if access has truly been cut off, **she will still have the right to defend herself;** and **(3) the assailant could no longer** count on being able to **rape and terrorize her** by cutting off access and engaging in brutal conduct **without facing the risk of defensive homicide** (a risk that would presumably increase substantially if such defensive homicide were legal). Perhaps this fact would diminish the terrorizing conduct and the cutting off of access. With regard to both forms of domination I have considered, it might also be added that society might change so that access for women to alternative paths of relief were more available than it now is. **[4] If the cost to society** of no-access scenarios **were women killing men** without criminal liability, **the state might be more motivated to provide alternative avenues of relief.** This provision of access would arguably enhance women's security.

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