

PERMISSIBLE KILLING

**The self-defence
justification
of homicide**

SUZANNE UNIACKE

**CAMBRIDGE STUDIES IN
PHILOSOPHY AND LAW**

Permissible Killing The Self Defence Justification Of Homicide

William Wilson



Permissible Killing The Self Defence Justification Of Homicide:

Permissible Killing Suzanne Uniacke, 1994 Do individuals have a positive right of self defence And if so what are the limits of this right Under what conditions if any does this use of force extend to the defence of others These are some of the issues explored by Dr Uniacke in this comprehensive philosophical discussion of the principles relevant to self defence as a moral and legal justification of homicide She establishes a unitary right of self defence and defence of others one which grounds the permissibility of the use of necessary and proportionate defensive force against culpable and non culpable active and passive unjust threats Particular topics discussed include the nature of moral and legal justification and excuse natural law justifications of homicide in self defence the Principle of Double Effect and the claim that homicide in self defence is justified as unintended killing and the question of self preferential killing This is a lucid and sophisticated account of the complex notion of justification revolving around a critical discussion of recent trends in the law of self defence **Killing in**

Self-defence Fiona Leverick, 2006 In what circumstances should we be allowed to kill an intruder who breaks into our home Should battered women be forgiven for killing their husbands This book analyses the questions raised by the argument of self defence and offers a theoretical framework for understanding the defence in the context of human rights norms **Killing**

in Self-Defence Fiona Leverick, 2006-12-07 This book is a comprehensive analysis of the criminal defence of self defence from a philosophical legal and human rights perspective The primary focus is on self defence as a defence to homicide as this is the most difficult type of self defensive force to justify Although not always recognised as such self defence is a contentious defence permitting as it does the victim of an attack to preserve her life at the expense of another If one holds that all human life is of equal value explaining why this is permissible poses something of a challenge It is particularly difficult to explain where the aggressor is for reasons of non age or insanity for example not responsible for her actions The first part of the book is devoted to identifying the proper theoretical basis of a claim of self defence It examines the classification of defences and the concepts of justification and excuse in particular and locates self defence within this classification It considers the relationship between self defence and the closely related defences of duress and necessity It then proceeds critically to analyse various philosophical explanations of why self defensive killing is justified before concluding that the most convincing account is one that draws on the right to life with an accompanying theory of forfeiture The book then proceeds to draw upon this analysis to examine various aspects of the law of self defence There is detailed analysis of the way in which on a human rights approach it is appropriate to treat the issues of retreat imminence of harm self generated self defence mistake and proportionality with a particular focus on whether lethal force is ever permissible in protecting property or in preventing rape The analysis draws on material from all of the major common law jurisdictions The book concludes with an examination of the implications that the European Convention on Human Rights might have for the law of self defence especially in the areas of mistaken belief and the degree of force permissible to protect property **Lethal Force, the Right to Life and**

the ECHR Stephen Skinner,2019-08-22 In its case law on the use of lethal and potentially lethal force the European Court of Human Rights declares a fundamental connection between the right to life in Article 2 of the European Convention on Human Rights and democratic society This book discusses how that connection can be understood by using narrative theory to explore Article 2 law s specificities and its deeper historical social and political significance Focusing on the domestic policing and law enforcement context the book draws on an extensive analysis of case law from 1995 to 2017 It shows how the connection with democratic society in Article 2 s substantive and procedural dimensions underlines the right to life s problematic duality as an expression of a basic value demanding a high level of protection and a contextually limited provision allowing states leeway in the use of force Emphasising the need to identify clear standards in the interpretation and application of the right to life the book argues that Article 2 law s narrative dimensions bring to light its core purposes and values These are to extract meaning from pain and death ground democratic society s foundational distinction between acceptable force and unacceptable violence and indicate democratic society s essential attributes as a restrained responsible and reflective system

The Antipodean Philosopher Graham Oppy,N. N. Trakakis,Lynda Burns,Steven Gardner,Fiona Leigh,2011-02-22 Philosophy in both Australia and New Zealand has been experiencing for some time now something of a golden age exercising an influence in the global arena that is disproportionate to the population of the two countries To capture the distinctive and internationally recognised contributions Australasian philosophers have made to their discipline a series of public talks by leading Australasian philosophers was convened at various literary events and festivals across Australia and New Zealand from 2006 to 2009 These engaging and often entertaining talks attracted large audiences and covered diverse themes ranging from local histories of philosophy in particular the fortunes of philosophy in Melbourne Sydney Brisbane Adelaide and New Zealand to discussions of specific topics including love free will religion ecology feminism and civilisation especially as these have featured in the Australasian philosophy and to examinations of the intellectual state of universities in Australasia at the beginning of the twenty first century These talks are now collected here for the first time to provide not only students and scholars but also the wider community with a deeper appreciation of the philosophical heritage of Australia and New Zealand

Self-Defence in Criminal Law Boaz Sango,2006-07-24 This book combines a careful philosophical discussion of the rationale justifying self defence with a detailed discussion of the range of statutory self defence requirements as well as discussions of numerous other relevant issues i e putative self defense excessive self defense earlier guilt and battered women The book argues that before formulating definitions for each aspect of self defence necessity proportionality retreat immediacy mental element etc it is imperative to determine the proper rationale for self defence and only then to derive the appropriate solutions The first part contains an in depth discussion of why society allows a justification for acts but does not excuse the actor from criminal liability and the author critically analyzes current theories culpability of the aggressor autonomy of the attacked person protection of the social legal order

balancing interests choice of the lesser evil and points out the weaknesses of each theory before proposing a new theory to explain the justification of self defence The new theory is that for the full justification of self defence a balance of interests must be struck between the expected physical injury to the attacked person and the expected physical injury to the aggressor as well as the relevant abstract factors the autonomy of the attacked person the culpability of the aggressor and the social legal order The author demonstrates how ignoring one or more of these factors leads to erroneous results and how the proposed rationale can be applied to develop solutions to the complex questions raised

The Philosophical Foundations of Extraterritorial Punishment Alejandro Chehtman, 2010-12-09

- 1 Rights Individuals and States
- 2 An Interest based Justification for the Right to Punish
- 3 Extraterritorial Jurisdiction over Municipal Crimes
- 4 A Theory of International Crimes
- 5 Extraterritorial Jurisdiction over International Crimes
- 6 Legitimate Authority and Extraterritorial Punishment
- 7 Conclusion

The Routledge Handbook of Criminal Justice Ethics Jonathan Jacobs, Jonathan Jackson, 2016-07-01 The enormous financial cost of criminal justice has motivated increased scrutiny and recognition of the need for constructive change but what of the ethical costs of current practices and policies Moreover if we seriously value the principles of liberal democracy then there is no question that the ethics of criminal justice are everybody's business concerns for the entire society The Routledge Handbook of Criminal Justice Ethics brings together international scholars to explore the most significant ethical issues throughout their many areas of expertise anchoring their discussions in the empirical realities of the issues faced rather than applying moral theory at a distance Contributions from philosophers legal scholars criminologists and psychologists bring a fresh and interdisciplinary approach to the field The Handbook is divided into three parts Part I addresses the core issues concerning criminal sanction the moral and political aspects of the justification of punishment and the relationship between law and morality Part II examines criminalization and criminal liability and the assumptions and attitudes shaping those aspects of contemporary criminal justice Part III evaluates current policies and practices of criminal procedure exploring the roles of police prosecutors judges and juries and suggesting directions for revising how criminal justice is achieved Throughout scholars seek pathways for change and suggest new solutions to address the central concerns of criminal justice ethics This book is an ideal resource for upper undergraduate and postgraduate students taking courses in criminal justice ethics criminology and criminal justice theory and also for students of philosophy interested in punishment law and society and law and ethics

Punishment and Freedom Alan Brudner, 2012-02-23 Presenting an original theory on the nature of criminal law this text provides an understanding of apparent contradictions and paradoxes within the field

Wonder Woman and Philosophy Jacob M. Held, 2017-02-21 Wonder Woman and Philosophy The Amazonian Mystique explores a wide range of philosophical questions surrounding the most popular female superhero of all time from her creation as feminist propaganda during World War II up to the first female lead in the blockbuster DC movie franchise The first book dedicated to the philosophical questions raised by the complex and enduringly iconic super heroine Fighting

fascism with feminism since 1941 considers the power of Wonder Woman as an exploration of gender identity and also that of the human condition what limits us and what we can overcome Confronts the ambiguities of Wonder Woman from her roles as a feminist cause and fully empowered woman to her objectification as sexual fantasy Topics explored include origin stories and identity propaganda and art altruism and the ethics of care Amazonians as transhumanists eroticism and graphic novels the crafting of a heroine domination relationships the ethics of killing and torture and many more *Violence and*

Democracy John Keane, 2004-06-24 In this provocative book John Keane calls for a fresh understanding of the vexed relationship between democracy and violence Taking issue with the common sense view that human nature is violent Keane shows why mature democracies do not wage war upon each other and why they are unusually sensitive to violence He argues that we need to think more discriminatingly about the origins of violence its consequences its uses and remedies He probes the disputed meanings of the term violence and asks why violence is the greatest enemy of democracy and why today's global triangle of violence is tempting politicians to invoke undemocratic emergency powers Throughout Keane gives prominence to ethical questions such as the circumstances in which violence can be justified and argues that violent behaviour and means of violence can and should be democratised made publicly accountable to others so encouraging efforts to erase surplus violence from the world *Criminal Law* William Wilson, 2020 Enhance understanding of criminal Law and clarify complex issues Criminal Law Longman Law series 7th Edition by William Wilson combines coverage of the core legal principles with discussion of the theories and academic debates that underpin the subject Enhance your understanding of criminal law and make use of the reading references t

Criminal Law Theory Stephen Shute, A. P. Simester, 2002 Concentrating upon those doctrines that make up the general part of the criminal law this collection of essays by leading American and British legal experts sheds theoretical light on key issues of contemporary relevance **The Right to Life and Conflicting Interests**

Elizabeth Wicks, 2010 The right to life is a core human right which has not yet received the detailed legal analysis that it requires This book provides detailed critical analysis of the controversial human right to life and in particular assesses the weight of conflicting interests which could and or should serve to override the right This contemporary study of the right to life focuses on the legal as well as ethical issues raised by the value of life in modern day society It seeks to analyse the development meaning and value of the fundamental human right to life in the context of its conflicts with other competing interests The book begins with an overview of the right to life in which the concept of life itself is first analysed before both the right and its legal protection and enforcement are subjected to historical philosophical and comparative analysis The remainder of the book identifies and assesses the merits of various competing interests These comprise armed conflict prevention of crime rights of others autonomy quality of life and finite resources The right to life is unusual in having potential application to so many of today's ethically controversial questions This new work investigates specific topics of current political legal and ethical concern such as the right to life during international conflicts the role of lethal force in law

enforcement the death penalty the right to life of a foetus in the context of legalised abortion and the significance of quality of life and autonomy issues in respect of euthanasia and assisted suicide **Rethinking Self-Defence** T Markus

Funk,2021-01-14 Self defence the ancient right has never been more relevant than in the present era of widespread calls for criminal justice reform The book substantially advances the patinaed discussion by introducing for the first time a comprehensive value centric approach to thinking about the defence s deeper rationale It tackles core issues such as the relative importance of the State s claimed monopoly on force procedural justice and the need to shore up the justice system s legitimacy and creditworthiness everyone s presumptive right to life and the importance of ensuring equal standing between citizens And in so doing the book breaks ground by addressing public perceptions of just and right outcomes as well as the emphasis legal systems place and should place on State power **Force Short of War in Modern Conflict** Galliot Jai

Galliot,2019-03-21 Jai Galliot explores the overarching phenomenon of how force short of war is being used in modern conflict and how it impacts just war theory He shows that we need to bring the rules of war into alignment with increasingly digital means of conducting kinetic warfare through the force short of war paradigm The use of force short of war is now commonplace in large part owing to casualty averseness and the explosion of emerging technologies most notably drones autonomous robotics and cyberwarfare It often involves the selective or limited use of military force to achieve political objectives and assumes many forms These include targeted killing assassination special forces raids limited duration bombing campaigns or missile strikes and low intensity counterterrorism and counterinsurgency operations *Violence And Police Culture* Tony Coady,Steven James,2013-05-24 Violence and policing are inevitably associated Criminals use violence not only against innocent members of the public but also against the police themselves For our own protection and theirs we have given police a licence to use force sometimes with lethal consequences But the exercise of this licence is fraught with risk to the community The disturbing record of police shootings in Victoria and irresponsible police violence elsewhere in recent years vividly illustrate this risk The public outcry against such events is understandable To find a solution we need to analyse the contexts and the cultural background of the use of police violence and to think hard about its causes and proper limits In *Violence and Police Culture* eminent contributors offer valuable insights and experience to the growing debate While Australian in origin and emphasis the book addresses a public issue that resonates as far afield as London New York Tokyo and Belfast *Violence and Police Culture* argues that there are features of police culture which foster abuse of the right to use violence The book makes positive suggestions about institutional changes that might alleviate the problems bedevilling what the philosopher Thomas Hobbes called the right of the sword Self-Defence in International and Criminal Law Onder Bakircioglu,2011-05-11 Drawing from scholarship across law history politics and philosophy *Self Defence in International and Criminal Law* provides a broad and interdisciplinary approach to the doctrine of self defence in both domestic criminal and international law It focuses on the requirement of imminence which deals with the question of when individuals or States

may legitimately resort to defensive force against a serious danger or harm In both national and international law the imminence requirement if strictly applied renders any defensive measure taken in anticipation of a would be attack illegal Recently however attempts have been made to relax the temporal requirement of the self defence doctrine imminence with a view to allowing individuals or States to employ deadly force to arrest an anticipated threat when they believe that using pre-emptive lethal force would be the only way to thwart an expected harm In domestic criminal law it has been argued that it is necessary to relax the rule of imminence in domestic violence cases where women employ lethal force against their abusive partners when there is no imminent threat to justify defensive force At the international level while there has long been controversy as to the justifiability of pre-emptive force in non-confrontational settings following the September 11 attacks the Bush Administration's war on terror policy radically shifted the focus from the notion of anticipation to that of prevention making it clear that if necessary it would invoke unilateral force against emerging threats before they are fully formed The book surveys the roots, role, rationale and objectives of self defence and questions whether the requirement of imminence should be removed from the traditional contours of the self defence doctrine in national and international law

The Oxford Handbook of Philosophy of Criminal Law John Deigh, David Dolinko, 2011-09-22 This title contains 17 original essays by leading thinkers in the field and covers the field's major topics including limits to criminalization, obscenity and hate speech, blackmail, the law of rape, attempts, accomplice liability, causation, responsibility, justification and excuse, duress and more

Offences and Defences John Gardner, 2007-11-08 John Gardner's writings on the theory of criminal law have had a significant impact on the way that this subject is understood by legal scholars and philosophers This book collects together a selection of his best known and most provocative pieces John Gardner tackles persistent and troublesome questions about the philosophical foundations of the criminal law Which wrongs are suitable to be crimes and why? What are the conditions of criminal responsibility and how do they relate to the conditions of moral responsibility? What does it take to be complicit in another's wrongdoing? Should crimes ever be excused and if so on what basis? How if at all should the criminal law adapt to conditions of social and cultural diversity? The issues raised in these essays have a significance extending beyond the law What does it mean to be a responsible agent and why does it matter? Is my moral character only or mostly my own business? Is there a difference between being reasonable and being rational? These and many other moral problems lurk in the background of the criminal law and the pieces in this book bring them into the foreground Theoretical writings on the criminal law have often been dominated by a preoccupation with the justification of criminal punishment This work is different Although it discusses the legitimacy of criminal punishment it proceeds on the footing that the criminal law does many important things apart from punishing people In particular Gardner argues that the criminal law provides an important forum for people to explain themselves Such a forum would be important argues Gardner even if criminal punishment were to be abolished

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