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Futile Resistance as Protest

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Acts of futile resistance—harms against an aggressor which could not reasonably hope to avert the threat the aggressor poses—give rise to a puzzle: on the one hand, many such acts are intuitively permissible, yet on the other, these acts fail to meet the justificatory standards of defensive action. The most widely accepted solution to this puzzle is that victims in such cases permissibly defend against a secondary threat to their honor, dignity, or moral standing. I argue that this solution fails, because futile resistance is not plausibly regarded as *defensive* in the relevant sense. I propose instead that futile resistance is justified as a form of *protest*, where protest is analyzed as an expression of rejection of victims' wrongs. Such protest is justified, I argue, when and because it is the *fitting response* to the circumstances of futility.

1 Introduction

Here is a classic puzzle in defensive ethics: You (the victim) are being threatened with wrongful harm by me (the attacker). Because of my overwhelming strength, you could not hope to avert my threatened harm with a defensive act of your own. *Resistance is futile*. Nevertheless, you could (say) punch me in the gut or scratch my face as I carry out my attack. You could, that is, engage in futile resistance. May you?

On the one hand, there is a strong intuition that some acts of futile resistance are morally permitted. This intuition is strongest when we think of certain important cases. Interpersonally, think of rape and other serious assaults. Collectively, think of invasions of small countries by powerful aggressors, slave revolts, or ghetto uprisings. In many such cases, victims could not hope to successfully defend themselves. Yet surely victims in such cases may harm their attackers, even when these harms would be futile. On the other hand, according to widely accepted principles of defensive ethics, these acts fail to meet the justificatory standards of defensive action. According to the *effectiveness condition* (also called the *success condition*) on permissible defense, a defensive act must effectively (or successfully) avert a threatened or ongoing wrongful harm in order to be permissible. And according to the *necessity condition*, only those defensive acts which are necessary to avert a threatened or ongoing wrongful

harm are permissible.[1] But if an act is futile, it could not be effective, or succeed. And if an act could not succeed, it could not be necessary. If it could not be necessary, it must be gratuitous. And how could gratuitous harm be justified?

This is the puzzle of intuitively permissible yet apparently gratuitous harm—in brief, the *puzzle of futile resistance*. Since both sides of the puzzle represent, in their own ways, foundational commitments, we should hesitate to choose between them. But if we do not choose, we must find a way to resolve the conflict instead.

Some simple solutions have been proposed. Among these are the ideas that futile resistance might be wrong but blameless, that it might be justified as a deterrent, or that it might be justified because the harm it imposes is deserved. These simple solutions, however, are widely thought to fail.[2] We might instead revise the effectiveness and necessity principles so as to make an exception for futile harms. But this solution will not do either: such revised principles would be *ad hoc*; they would do nothing to explain why futile resistance is not gratuitous. A deeper solution, it seems, is called for.

The most influential solution offered thus far was first set out by Daniel Statman (2008), who proposes that victims in these cases permissibly defend their *honor* against their attackers. This solution finds support among a number of leading theorists in the defensive ethics literature. For instance, it has been endorsed by Jeff McMahan (2016) (who prefers talk of defense of *dignity*), and it has been developed and defended by Helen Frowe (2014, 2016) (who prefers talk of defense of *moral standing*). We can refer to this solution collectively as the *status defense view*.

While I think this solution points in the right direction, I do not think it succeeds. After describing the view, I'll offer several novel objections to it. These objections undermine the appeal of the view as a solution to the puzzle of futile resistance—and also thereby make space for alternatives. My own view, which I'll then set out, is that acts of futile resistance are best understood as a form of protest, where protest is understood as an expression of rejection of

[1] To be 'necessary' in this context is to be (roughly) *the least harmful effective means of defense* rather than, as it might otherwise seem, *causally necessary*. See Oberman (2020) and Lazar (2012) on defensive necessity generally. Necessity and effectiveness are usually taken to apply prospectively: an agent's defensive act is justified if she reasonably believes the act to be necessary and effective (see Uniacke 2014). My discussion in what follows is agnostic between so-called 'internalism' and 'externalism' about liability and necessity (see McMahan 2016; Firth and Quong 2012; Frowe 2014, ch. 4; Oberman 2020, §7).

[2] Statman (2008), 666-667; Frowe (2016), 159–161; though see Ferzan (2018) for a partial defense of a desert-based view. Øverland (2011) proposes a forfeiture-based account of the permissibility of futile resistance. I'll not rehearse objections to forfeiture views here except to note that the claim 'S lacks a right against my ϕ-ing' is not the same as the claim that my ϕ-ing is morally justified. My view is that imposing harm requires moral justification even when someone lacks a right against suffering it, and that not just any 'minor subjective benefit' (247) enjoyed by the one imposing the harm will do. See Benbaji and Statman (2021) for detailed criticism of Øverland's view. See also Oberman (2020, 456; citing Draper 2015, 67) and Quong (2020, 6; citing Fabre 2009), for a similar point about justification. See Renzo (2017) on forfeiture views generally.

wrongdoing; and that such protest is justified when and because it is fitting. Forceful acts of resistance, including violence, may be fitting when lesser, nonviolent acts would not be. This solution is attractive because it better captures our considered reflections about *what we do* when we engage in acts futile resistance, and because it provides a better account of the regulative principles of futile resistance.

2 Defending Your Honor

I should first describe the *status defense view*. According to Statman (2008, 668), when you are threatened by a wrongful attacker, you 'face two kinds of threat': not only are you threatened in the straightforward and *primary* sense that you may suffer a wrongful harm, you are also threatened in the further *secondary* sense that your attacker fails to give you your due as a member of the moral community. Victims become, in their attackers' eyes, 'just items to be used, mere objects', even 'literally debase[d]'—a way of being treated that Statman characterizes as an attack upon victims' *honor*. This secondary assault, he suggests, itself permits a defensive response. That is, even when a victim could not hope to defend herself against a primary attack, she may take defensive action against this secondary threat to her honor. Acts of *futile resistance* thereby become acts of *effective defense* against this other kind of attack. As acts of effective defense, they meet the effectiveness (or success) condition on defensive action, and they also thereby avoid the charge of gratuitousness.

This is the core of the view. Beyond this, important nuances arise depending on whether one takes *honor* to be the object of defense or something else, such as *dignity* or *moral standing*; whether the threat to that thing is its loss or some other sense of affront or undermining; whether the merited response is that thing's defense or (as Statman and others also sometimes say) its (re)affirmation, assertion, or vindication; as well as the proper relation of this response to the principles governing permissible defense: necessity, liability, and proportionality.

Despite the view's wide acceptance, relatively little effort has been put into developing these details. Among proponents, Frowe's work has gone the furthest in this direction. In the criticisms that follow, therefore, I'll principally challenge Statman's and Frowe's stated views—as one where they agree, and individually where they differ. Because the view is underdeveloped, it may be possible to develop it in ways that meet the various challenges I describe. However, I doubt that this can be done consistently or in a way that makes the resulting view attractive. Most importantly, the challenges I raise point to deeper problems with the basic idea that acts of futile resistance are acts of defense at all.[3]

[3]Additional sustained challenges for the status defense view, and for Frowe in particular, are raised by Bowen (2016) and Ferzan (2018). Bowen pursues two principal lines of objection: (1) that Frowe cannot avoid licensing ex-post ('deferred') harms in defense of a victim's status, and (2) that her view has (to his mind; I am less sure) intuitively unacceptable implications regarding

3 Against Defense

3.1 Defense of what?

The view that acts of futile resistance are acts of successful defense immediately demands an answer to the question, 'Defense of what?', since what makes such cases *futile* is that they do not successfully defend life, limb, or property, the paradigmatic objects of defense.[4] The status defense view says that it is one of those things—honor, dignity, or standing—that is defended. But since honor, dignity, and standing are things very unlike life, limb, and property, justification of the extension of the principles of defensive ethics to those objects is needed.

I should acknowledge that we do often sensibly speak of defending a person's honor or dignity (if less so moral standing). But that we can sensibly speak of defense of these things does not show that we may act to defend them in the relevant sense. Consider: defendants defend themselves, or are defended, in courts of law; players of various games and sports defend their goals, championships, pieces, and so on; indeed, I am presently defending a series of claims. Yet in none of these cases may one engage in defensive action in the same way that one may defend oneself against a threat of physical harm. This is because when we ask whether one may violently defend some putative object of defense, we are not asking whether a permissible act of violence could be sensibly described as a defense of that thing; we are asking, rather, whether the principles of defensive ethics license such an act, or whether the object in question is a proper object of those principles. Since those principles have been developed mainly through consideration of cases of defense of life and limb, they are presumptively limited to those objects and those substantially similar to them (such as property). The more different in kind a putative object of defense is from those things, the less readily we should apply the principles of defensive ethics to it. We cannot assume that simply because the language of defense applies that the principles of defense do as well. This is particularly true for honor, dignity, and standing, since these things are very unlike life, limb, and property.[5]

Now, the familiar problem with Statman's proposal—that honor is what is defended—is that honor does not seem like the kind of value (if it is a value) whose protection clearly merits defense, nor especially violent defense. A com-

permitted counter-defense. Ferzan likewise believes Frowe has not successfully ruled out deferred harming, and argues that necessary refinements to Frowe's view—regarding the mechanics and moral nature of status attacks—point to the conclusion that acts of futile resistance are actually expressive rather than defensive—a point Bowen also notes, and a point with which I of course agree. The two objections I raise below for Statman and Frowe are distinct from those raised by Bowen and Ferzan, and my elaboration of a view that takes expression to be central to the justification of acts of futile resistance goes substantially beyond the suggestions offered by those authors.

[4]Discussions of the ethics of defense often explicitly limit their objects to these things. See Coons and Weber (2016) and the authors in that collection.

[5]All this is *pace* Steinhoff (2015), who appeals to ordinary language to justify a broad notion of defense as anything amounting to resistance. He does not, however, consider counterexamples such as those mentioned here.

mon claim, indeed, is that honor is not a moral value at all.[6] Moreover, many of the practices that honor and its defense have been central to—dueling, honor killing, retribution—are widely regarded as morally unjustifiable. Additionally, since one's honor can be lost, a perverse consequence is that those whose honor has been antecedently lost (those who are 'without honor') may not be permitted to engage in futile resistance, as they will have nothing to defend; and likewise, acts of futile resistance which undermine rather than defend one's honor (pathetic resistance, perhaps) will not be permitted, as they will fail to contribute to this defensive aim. These are difficult consequences to bear.[7]

For perhaps these reasons, McMahan prefers to talk of defense of *dignity*, and Frowe prefers to talk of defense of *moral standing*. As Statman anticipates, however, this move carries with it difficulties of its own (2008, 669). Dignity, and still more so moral standing, are thought to be things one cannot lose, even if they can be affronted, undermined, and so on. But how could one have permission to violently *defend* something one cannot lose? If defense is not loss preventive, then it must have other aims: (re)affirmation, assertion, vindication, and so on. But again, it is not clear that the principles of defensive ethics pertain to achievement of such aims. We do not ordinarily think, after all, that I am permitted to harm others in order to affirm, assert, or vindicate my beliefs. Why answer differently in the case of status values?

Similar remarks apply to the question of which acts merit a defensive response. Even if it is granted that honor, dignity, and standing are proper objects of defense, we need to know what *kinds* of attacks on them may be properly defended against. It is not clear—and again demands argument—that having one's honor threatened with affront, undermining, and so on, is the kind of threat whose prevention is governed by the principles of defensive ethics.[8]

Proponents of the status defense view owe a compelling argument that the principles of defensive ethics apply to the objects and modes of defense they propose characterize acts of futile resistance. Absent one, these challenges count as a strike against the view.

3.2 Proportionality and additivity

The concern about *whether* honor, dignity, and standing are proper objects of defense is compounded by implausible implications entailed *if* we so regard them, particularly with respect to matters of proportionality in defense.

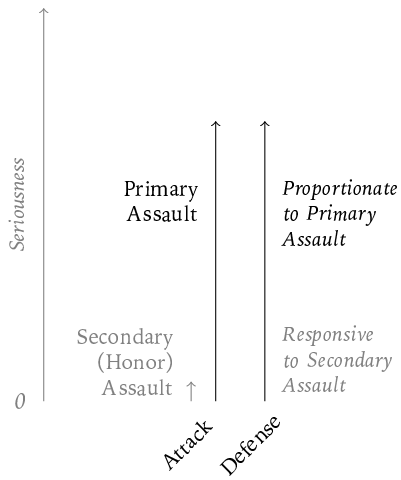
[6] Appiah (2010) says that honor is not 'part of morality' but is 'allied' with it. Kumar and Campbell (2016) analyze it as a 'moral attitude' having to do with respect that can 'hinder or aid moral progress'. Krause (2002) treats it as a political concept that sits uneasily astride liberal values and likewise can be used in service of moral or non-moral ends.

[7] Oberman (2020) raises an aligned concern for Statman's view: In many more cases than Statman allows, 'there is no reason to assume that a victim's honor needs defense' (451) since anyone with an 'ordinary sense of self' can be 'sufficiently secure in her own standing that [an] Attacker cannot threaten it' (n. 16).

[8] Bowen (2016, 90–91) makes a different burden-shifting argument against the status defense view. Ferzan (2018, 691–92) also wonders whether 'attacks on honor' are 'just culpability by another name' and offers some considerations in favor of that conclusion.

The *proportionality principle* in defensive ethics requires that defensive acts be proportionate in seriousness to that of the harm being defended against. A defensive act is *dis*proportionate if (and because) it is excessive with respect to the attack it averts.[9] On Statman's view, what is being defended is one's honor, so the proportionality principle straightforwardly requires that acts which defend one's honor be comparable in seriousness to that of the threat to one's honor against which they defend. This poses a problem because, on the one hand, threats to honor (or dignity or standing) are in many contexts not thought to be serious enough to license violent harms in response: think of grave insults, humiliating acts, and so on; yet on the other hand, rape and other serious assaults intuitively license quite seriously harmful acts of resistance. The status defense view thus faces a dilemma. Either such attacks on honor are much more serious than we might have thought, and so allow for much more serious responses, or else acts of futile resistance must be much less serious than we intuitively want, in many cases, to permit.

Figure 1: *Proportionate Status Defense (Statman)*



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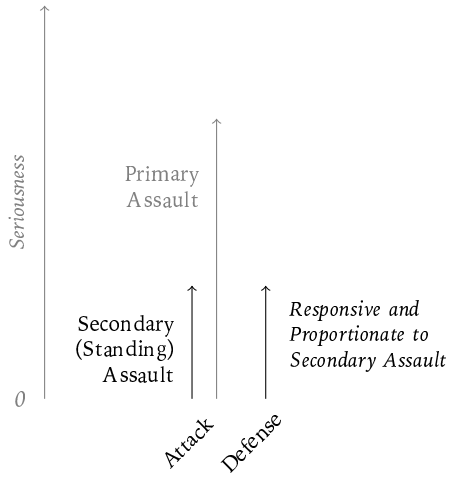
Statman takes the view that threats to honor *are* comparatively minor, and so his concern is with the implication that defense of one's honor may not justify the quite serious harms that are intuitively permitted in cases of futile

[9]For more on proportionality, see Uniacke (2011). Note that the proportionality principle is concerned only with excessiveness which arises in virtue of the comparison between the seriousness of the defensive act and the attack it averts. A defensive act can also be excessive in virtue of being unnecessary to the achievement of a defensive end. This is of course the concern of the necessity principle.

resistance. His solution to this difficulty is to suggest that while secondary threats to honor in the cases we are concerned with are not themselves seriously harmful, they are 'parasitical' upon their quite serious primary threats, such that the standard for proportionate defense of honor is actually the seriousness of the primary threat—though only in cases in which the primary threat cannot be defended against. That is, whether an act of defense is proportionate to a threat to honor is determined, in futile resistance cases only, not by the seriousness of *that* threat but by the seriousness of the primary threat it accompanies—even though the threat it *responds to* is the threat to honor. This is, as Statman (2008, 677–80) admits, an 'oddity' that is unmotivated, but he takes the theory to require such a move in order to match our intuitions about relevant cases. While this may be a compelling move if we are convinced that the status defense view is the right one, it is a strike against it if we are not.

Frowe instead argues that threats to (as she prefers to say) moral standing may simply be quite serious, so that proportionate defense against them may too be quite serious. For Frowe (2016, 166), secondary threats to standing *scale* in seriousness with the primary threats with which they are associated, and they *add* to those threats. This offers a plausible explanation for why threats to standing are insufficient to merit violent defense in most ordinary circumstances, yet why they are sufficient to do so in these serious cases. It also preserves the proportionality dependency between defensive acts and the threats to which they respond.

Figure 2: *Proportionate Status Defense (Frowe)*



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However, Frowe's solution carries difficulties of its own. An implication of Frowe's solution is that primary and secondary threats are *additive*, in the sense that the overall seriousness of a threat is an additive function of the seriousness of each of the primary and secondary threats. Thus, what is proportionate in response to an assault will almost always be more serious than the (primary) assault itself, since such assaults will typically be attended by an additional assault upon the victim's standing. For instance, when I threaten to punch you, or kill you, I (often) really threaten to punch-plus-dishonor you, or kill-plus-dishonor you, and the proportionality of your permitted response depends upon the seriousness of that compound attack. This deserves more careful consideration, since we normally think that the seriousness of a permissible defensive act depends upon only the seriousness of the primary threat to which it responds.[10]

Now, as Frowe points out, if a defender successfully averts an attack, then she may also be thought to successfully avert the attendant threat to her standing, since that secondary threat (plausibly) *depends* on the presence of the primary threat.[11] In cases in which a defender cannot avert the primary threat, the defensive harm she is able to muster will *ex hypothesi* be less than what would be proportionate to the primary threat. We might therefore think that in all actual cases, defensive harms are subject to a practical maximum, commensurate in seriousness to that of the primary threat, which renders the additivity challenge moot.

But this is not so; we can imagine cases in which this practical maximum is exceeded. Suppose an attacker wrongly threatens a victim with some quite serious assault A, which is accompanied by a corresponding quite serious threat to the victim's honor h. Imagine that the compound seriousness of these threats is comparable to the seriousness of death ($S_{A+h} \approx S_{death}$), though S_A and S_h individually are not. Now imagine that the victim's only options are to do nothing or to kill her attacker. In such a case, on Frowe's view, to kill me would be a proportionate and, all else equal, permitted defense against my mere assault.[12]

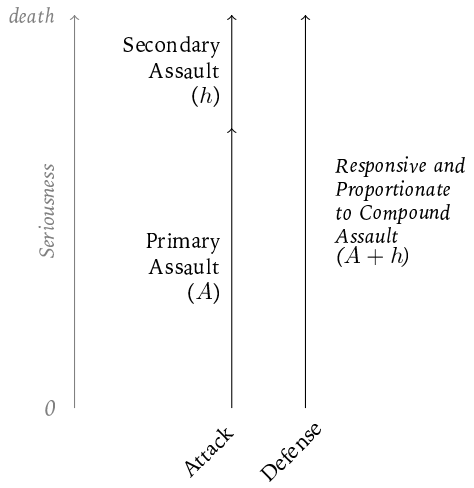
[10] *Must* Frowe take these threats to be additive? After all, they threaten quite different objects. But ordinary (physical) threats do combine, and I can see no reason for denying that these threats, as proper objects of defensive action, combine as well. The challenge may be posed as a dilemma: either these threats combine, in which case Frowe faces the proportionality objection I raise in this section, or the threats do not combine in virtue of their different objects, in which case the need for Frowe to explain why these objects are both proper objects of defensive action is even more acute. I thank a referee for pressing this point.

[11] Frowe (2016, 167) writes, 'If ... the moral standing-based justification for harming supervenes upon the existence of the primary threat, this entails that once the primary, physical threat is over, the threat to moral standing (notice: not the harm to moral standing) is also over'. Of course, this dependency claim might be doubted with respect to *all* relevant cases, for it seems plausible that one's honor, dignity, or moral standing could continue to be threatened even when a corresponding primary threat fails or is defeated. (See Bowen 2016, 86–87, for criticism of Frowe's supervenience argument in this vein; and see Ferzan 2018, 692–93, for a similar objection.) I shall argue that Frowe's view faces serious objections whether or not we grant this dependency claim.

[12] Intuitions about proportionality vary widely, and assigning precise proportionality weights to imagined cases can sometimes seem ridiculous. To help see the force of the objection, however, imagine the following case:

Note, importantly, that this result is not attributable merely to the constrained choice you face. If it were, we should expect a moral remainder with respect to the gap between the seriousness of my assault and the seriousness of your defensive act. But this cannot be, since your defensive act is proportionate to my compound attack; it is *justified*, on Frowe's view, by the principles of defense.

Figure 3: *Proportionate Defense Against Compound Assaults (Frowe)*



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This amounts to a serious revisionism about proportionality in defense *quite generally*. Most ordinary assaults are also accompanied by an attendant attack upon victims' standing—cases of futile resistance are not importantly different from ordinary defense cases in this respect. Frowe's view implies that we have been systematically underestimating the seriousness of what are in fact compound attacks in all of these ordinary cases.[13] Yet this does not seem to be so:

> An attacker, motivated by feelings of hatred, violently beats a helpless victim—a physical attack commensurate in seriousness to injury requiring long-term use of a wheelchair. The manner of this attack also represents an attack on the victim's status that is very serious—40% as bad as the physical assault itself—commensurate in seriousness to significant long-term pain.

Let's stipulate that neither attack alone is proportionate to death, but that taken together they are. Frowe is committed to the view that while neither attack alone is sufficient to license deadly defense, together they are—such that were killing possible, it would be permitted. It is difficult to understand this commitment other than as a serious revision to ordinary proportionality judgments.

[13]Alternatively, Frowe might argue that it is not our overall judgments about proportionate force

a proportionate defense against (say) the threat of a broken arm is thought to be, roughly, equivalent to a broken arm in return—not a broken arm *and then some* in proportion to the attendant threat to one's standing.[14]

Now, this might not be troubling if the seriousness of status assaults were relatively minor, so that the difference between the seriousness of such an assault and death were not so significant. But this too cannot be, since the point of the status defense view is to justify quite serious harms against attackers. (Frowe herself suggests that a broken limb, for instance, is plausibly proportionate to the status assault involved in rape.) Put in terms of the case presented above, there must be significant space between S_A and S_{A+h}.

Frowe's revisionism might ultimately reflect the truth of the matter. Perhaps we should revise our proportionality judgments when we consider the many attacks on victims' honor, dignity, or standing that attend assaults on ordinary defense and futile resistance cases alike. But without independent grounds for thinking this is so, we should hesitate to accept this implication of her view. The status defense view thus leaves Statman and Frowe stuck on alternative horns of an uncomfortable dilemma—between accepting Frowe's revisionist conclusion or Statman's *ad hoc* one. Put another way, we must choose between taking status threats to be quite serious, in which case we must accept Frowe's proportionality revisionism, or we must allow that status threats are not quite so serious, in which case they will not license harm in cases of futile resistance. Neither option is a good one.

Much of the status defense view's appeal lies, I believe, in its being the best solution we have to the puzzle of futile resistance.[15] This is compelling,

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that must be revised but our view of those judgments' components. We have not noticed, she might say, that in many ordinary cases, proportionality depends on a compound of what would be proportionate in response to both primary and secondary (status) threats. But if this were so, we should notice clear intuitive differences in what would be a proportionate response to otherwise similar attacks with differing status components—being beaten by someone who rains down slurs and yells 'you are a cockroach!' versus someone who beats you simply in order to take your money, for example. But such differences are not intuitively apparent (to me, anyway). Moreover, rather than being a significant revision to proportionality *judgments*, this would instead be a significant discovery about the *nature* of proportionality. This too would demand greater justification than Frowe provides. My thanks to a referee for encouraging me to clarify this point.

[14]To be clear, few think that proportionality requires anything like simple equivalence between the seriousness of a defensive harm and the attack it responds to, and that is not my suggestion here. However, the thought that it requires, in light of various relevant deontic considerations, a rough commensurability between the two is common. (See e.g. Rodin (2011, 80); McMahan (2017, 131).)

Others hold the view that a proportionate defense may be much more serious than the threat it responds to. For instance, Quong suggests at one point that a defensive harm *four times as serious* as the threat it averts could be proportionate. His view is that proportionality is determined by the 'stringency' of the right a threat would violate, i.e. what it would take to justify imposing equivalent harm on an innocent bystander (Quong 2020, 109). However, if status threats themselves violate defensible rights, then a version of the objection I have made here will still arise. (Frowe's own view of what proportionality substantively permits is far less permissive than Quong's (see Frowe 2016, 166–67).)

[15]Frowe (2016, 162) says as much: 'The moral standing-based justification for harming is appealing because it captures our sense that victims need not be passive in the face of attacks that they cannot avert'.

because we need a solution to this puzzle. But if this is so, the view's appeal would be importantly undermined by the availability of a suitable alternative. In the remainder of this paper, I shall outline such an alternative.

4 Protest

The alternative view I wish to propose is this: Those engaged in acts of futile resistance are not engaged in defense at all; instead, they are *protesting* their treatment at the hands of their attackers by *expressing rejection* of the wrong done to them. Futile resistance is a way of saying 'no'—which in some circumstances may be only *adequately* said with an act: a kick, a scratch, a punch, and so on.

The idea that acts of futile resistance carry an important expressive dimension is not a wholly novel one. What is new in my proposal is the claim that these expressions of protest are justified and regulated by considerations of *fit*, and that it is these acts' fit that explains why the harms they involve are permissible. Acts of futile resistance are justified, I claim, when and because they are fitting expressions of rejection of a threatened wrong.

Before discussing the features of the *protest view* (as I'll call it), however, it is worth pausing to motivate it as an independently attractive solution to the puzzle of futile resistance.

4.1 Expression

When victims resist superior attackers, what are they doing? Are they defending themselves, or are they engaging in futile resistance? No doubt in many real-life cases, the answer is not clear. What begins as an act of attempted defense may become an act of futile resistance, for it may only later become clear that one is hopelessly outmatched. Even when this fact seems clear from the start, one may feel nonetheless that one ought to *try*, because one might just succeed. David, after all, slew Goliath. Moreover, some acts may be both defensive and futile: one may successfully defend against a particular act (this assault) while futilely resisting a wider condition of which that act is partly constituent (slavery).

Yet while real-life resistance may rarely be clearly futile or defensive, we can imagine clear cases of futile resistance in the abstract. We can also imagine not knowing whether one's resistance will be successful or futile while committing oneself to it anyway—not because one might just succeed, but assuming one will not. As an instance of the latter kind, consider Frederick Douglass's famous recollection of his confrontation with the 'slave breaker' Covey. Douglass reports that

> … the cowardly tyrant asked if I 'meant to persist in my resistance'. I told him 'I *did mean to resist, come what might*'; that I had been by him treated like a *brute*, during the last six months; and that I should stand it *no longer*. (Douglass 1855, 244, emphasis in the original)

Implied in Covey's question is the threat of reprisal should Douglass persist in his resistance, as well as the certitude that, eventually, Covey would win—Douglass was after all a slave in an entrenched and brutal system of chattel slavery. Nevertheless, Douglass fought back. As a matter of fact, Covey's threat was empty, and Douglass successfully defended himself: Covey failed to beat Douglass on this occasion, and he never harmed him again. But this might not have been the case, as Douglass acknowledges. Covey might have punished, persecuted, or even killed him. Yet Douglass planned to resist 'come what might'—in defense or futility—and his justification for this was that he had been gravely wronged and that he would permit such wrongs 'no longer'.

Douglass's declaration to Covey is, beneath all else, a *refusal*. By promising to fight back, and then by doing so, Douglass said 'no' to Covey's treatment of him. This expression of rejection, in words and deed, was called for regardless of the success of Douglass's resistance to Covey.

In moments of circumspection, Statman and Frowe make gestural remarks that approach this view. Both, that is, characterize acts of futile resistance as expressive acts which express refusal to an attacker. Here is Statman:

> Concrete acts of resistance are needed in order to communicate to the aggressor, to ourselves, and to an actual or potential audience that we are not just passive objects to be trodden upon. (Statman 2008, 669)

And Frowe:

> When we think about what it is that such [futile] harms try to convey—a refusal to be passive, a refusal to be complicit, a means of asserting oneself as a person worthy of better treatment—it seems that … to manifest such an attitude … is what constitutes the defense of one's moral standing. (Frowe 2016, 167)

Both recognize, that is, the important expressive function of futile resistance, and both draw a connection between that and the purpose they take it to serve: insistence upon one's honor, dignity, or standing.[16]

Crucially, however, these considerations bear no philosophical weight in the accounts Frowe and Statman offer about what justifies acts of futile resistance. For them, it is the right to self-defense, rather than the importance of any expression of one's humanity, that permits harms against one's attacker.[17]

[16] Ferzan (2018, 693–94), reflecting on Frowe, makes the suggestion explicit: 'perhaps defending honor is more expressive than defensive … 'fighting back' has intrinsic expressive value'. Similarly, Bowen (2016, 90), reflecting on Statman, writes that 'I think … there is expressive value realised when victims defend themselves, even when they know that this defence is not going to avert the physical threat they face'. Neither, however, develops the proposal substantially beyond this suggestion. (Nor, in my view, do we need to appeal to the murky idea of intrinsic expressive value.)

[17] Although it may seem tempting, the two thoughts cannot be simply combined into the view that expression of status values *is* defense and that therefore the right to self-defense covers such expression. If defense of one's status *just is* ('constitutes') manifestation of an attitude of refusal,

Although it has gone unremarked upon in the defensive ethics literature, this idea echoes a long tradition of writing about protest as a form of resistance to the overwhelming edifice of racial oppression, particularly under circumstances in which it cannot be defeated. Here are some signal examples: W. E. B Du Bois (1904, 523) writes that 'whenever we submit to humiliation and oppression it is because of superior brute force; and even when bending to the inevitable we bend with unabated protest'. Bernard Boxill (1976, 62) writes that 'people do protest their wrongs, even when it is clear that this will bring no respite and, instead, cause them further injury' and that such protest is not only justifiable but required. For Thomas Hill (1979, 97), 'what makes symbolic protest commendable'—that is, protest when there is 'no reasonable hope' of averting an injustice, or indeed of bringing about any beneficial consequences—'is not intended results but the underlying values expressed'. And Tommie Shelby (2018, 272–73) writes that 'symbolic impure dissent can be a valuable public act of protest … But its value is easily missed if we fail to recognize that the political morality of dissent includes noninstrumental elements that are purely expressive'.

What unites these remarks is the idea that protest is the appropriate response to wrongs that can be neither accepted nor defeated. We should take these remarks seriously when we think about the puzzle of futile resistance. My suggestion is that when people engage in futile resistance, they protest their wrongs. To protest one's wrongs is to express rejection of one's treatment at the hands of another—to say 'no', that one should 'stand it no longer'. This is not defense. It is, rather, what one does when defense seems sure to fail.

4.2 Fitting expression

If an expressive act of protest is not justified as a form of defense, then by what *is* it justified? Other discussions of this idea have adopted the strategy of identifying a value that symbolic protest realizes, then arguing that the importance of that value, or the duty to realize it, is what justifies any harm involved.[18] These strategies, however, are vulnerable to counter-productivity objections as well as to the concern that they could not capture enough instances of intuitively permissible futile resistance.

By contrast, I do not claim that protest is justified in virtue of the value it realizes or a duty it satisfies. Instead, I propose that protest, understood as an expression of rejection, is justified when and because it is the *fitting response* to circumstances of futility. In other words, it is what is correct, appropriate,

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then no 'concrete acts of resistance' would be necessary to accomplish this defense: merely saying 'no' would be enough. Moreover, if we appeal to the morality of expression in order to explain why expressive acts are permitted, we gain nothing by *adding* that these acts 'constitute[] the defense of one's moral standing'; we should instead appeal directly to the norms governing expression, as I suggest we do. My thanks to a referee for encouraging me to address this point.

[18]For instance, Boxill argues that protest serves evidentiary value, to oneself, of one's own self-respect, and Hill argues that protesting injustice satisfies a duty to dissociate from evil.

proper, apt, and called for when facing a threat of wrongdoing one cannot overcome.

I take the fitting to be a basic normative category[19]—one which is, in virtue of this fact, not amenable to deeper explanation or analysis. However, like other basic pieces of normative machinery, it can be helpfully described in other terms. Much as the reason relation is commonly described, though not analyzed, as the relation of *counting in favor* between a fact and an action, we can describe the fit relation as one of *matching* or *suiting* between two objects. More precisely, fit (of the variety that is of interest here) is the relation that stands between an object and a response to that object when, as Howard (2018; following Brandt 1946 and others) puts it, 'the object merits—or is *worthy of*—that response'. As I use the term, whenever we say that something is the 'fitting' response, we can equivalently say that it is 'correct', 'appropriate', and other synonyms. For example, gratitude is the *correct* response to kindness, and blame is the *appropriate* response to what is blameworthy.

Fitting responses are, normatively speaking, *called for* or *demanded*, and so yield a *pro tanto* reason in favor of so responding. But they also appear to bear a distinctive normative status. This status is distinctive at least inasmuch as it seems to be stronger than mere permission (one is not merely *permitted* to respond to a kindness with gratitude) but also clearly weaker than requirement, duty, or obligation (one is not *required* to blame the blameworthy). The fitting, in other words, is not merely a form of value, nor is it a form of duty.[20]

The question of what range of things can *be* fitting responses—(emotions? attitudes? acts?)—has been given many answers, and it remains controversial how fitting responses relate to moral judgment and to reasons for action.[21] These are deep waters which, however, can be largely avoided here. For in many contexts, particularly within the domain of interpersonal morality, expression is itself understood to be directly subject to standards of appropriateness, or fit.[22] In response to a kindness, for example, not merely the attitude of gratitude but its expression is what is called for. It is appropriate to *give* thanks, usually by saying 'thank you'. To put the point another way, even if one feels grateful—that is, possesses the emotion *gratitude*—to fail to express one's thanks is a way of failing to meet the normative standard to which gratitude is subject. This is the kind of claim I make when I claim that protest is the fitting response to the circumstances of futility. Protest is expressive. Such an expression is itself called for, I believe, over and above any further claims we might make about the fitting attitudes or emotions that may underly or be

[19]See Berker (2022); Howard (2019). It is worth emphasizing, however, that my argument here does not depend on any particular view about the relationship between the category of the fitting and other basic normative categories or concepts.

[20]For more on this topic, see again Berker (2022, especially §4).

[21]D'Arms and Jacobson (2000) and Shoemaker (2017) make important recent contributions regarding this question. On the question of whether acts can be directly fitting, Howard (2018, n. 2) offers some brief remarks and historical references.

[22]Elizabeth Anderson is an important standard-bearer of the tradition that recognizes fit applies *directly* to expression, even if this is taken to be ultimately *in virtue of* the way expression outwardly manifests fitting attitudes (see Anderson 1995; Anderson and Pildes 2000, 1506–8).

reflected in it.

Importantly, such expression is not limited to expression in the form of speech. Just as we can do things with words, we can say things with acts. Indeed, engaging in expressive acts can be an important way of *adequately* expressing oneself. In response to some deep acts of kindness, for example, acts of thanks may be needed in order to adequately express the depth of one's gratitude—a thoughtful gift or a deep bow, say—because merely saying 'thank you' may not be enough. In this way, certain expressive acts may be *called for* as a matter of adequacy, which is to say as a dimension of fit.

My claim is that justified acts of futile resistance are like this. They are expressive acts that are fitting and adequate to the circumstances they respond to; and because they are fitting, they are, normatively speaking, called for. When Douglass stands up to Covey's tyranny, saying—with his words but also with his fists—that he has been 'by him treated like a brute' and that he will 'stand it no longer', he correctly responds to Covey's treatment of him. This response is what is adequate to and called for in the circumstances. This is, I claim, what justifies Douglass's decision to fight back, 'come what might'.

This idea is, I think, plausible enough on its own. In what remains here, however, I shall attempt to substantiate it, first by describing and discussing some of the necessary conditions for fitting protest, then by making some remarks about what may make acts of futile resistance fitting in these cases.

4.3 Necessary conditions

To see what is distinctive about the protest view, it will help to compare it with the status defense view.

As I have said, my claim is that permissible acts of futile resistance, understood as expressive acts of protest, are justified when and because they are *fitting*. By contrast, the principles of defensive ethics require that defensive acts be *necessary*, *proportionate*, and *correctly directed* (i.e. meeting constraints of liability). While these standards are different, there is less difference here than these formulations might initially suggest.

For one thing, an act of protest can likewise be fitting only if it is proportionate to what is protested.[23] It would not fit, for example, to protest some social slight with disproportionate reprisal. For another, an act of protest can be fitting only if it is correctly directed. It would not fit to protest one's wrongs against one who is not liable for them.[24] In this way, the protest view in-

[23]That proportionality is a necessary condition for fit is also noted by (among others) D'Arms & Jacobson (D'Arms and Jacobson 2000, 74) and Srinivasan (2018, 130).

Is the protest view is vulnerable to the same additivity objection leveled at the status defense view in §3.2? For when one could successfully defend oneself (by doing ϕ), might one not *also* permissibly protest one's wrongs (by doing ψ), thereby doing additional permitted harm to one's aggressor ($\phi + \psi$)? But because defense and protest are different kinds of response to wrongdoing, regulated by different principles, defensive acts and acts of protest do not straightforwardly combine. (On the non-additive nature of fitingness facts, see also Maguire (2018).)

[24]For example, it was important that the actions taken in Detroit's Uprising of 1967 targeted shops and buildings in *Detroit* rather than just across the river in Windsor, Ontario.

cludes corresponding principles of proportionality and liability as necessary conditions for fit.

Indeed, I take expressive acts of protest to be fitting only when they are directed *by* the person who protests *at* the person, or collective, who is responsible for what is protested against. Shouting into the void is not fitting protest, even if it may be other things (such as cathartic or poetic).[25] Protesting against wrongs committed by S (the police) by directing one's protest at P (one's fellow citizens) is appropriate only when the latter bear some liability for the wrongs committed by the former.[26]

The matter of necessity is more complex. Recall that according to the *necessity condition* on defensive action, only those acts which are necessary to avert a threatened or ongoing wrongful harm—those which represent the least harmful effective means—are permissible. There are, as I have suggested previously, really two issues of independent concern here. The first has to do with the successful avoidance or mitigation of a wrongful threat or attack. This is simply about the achievement of the goal towards which defensive action is basically oriented. An act which cannot achieve S cannot be necessary to achieve S. The second issue has to do with ensuring that the least harmful means of defense is chosen from among available effective alternatives; in other words, it has to do with the avoidance of gratuitous harm. If two acts could achieve S, then necessity licenses only the act which is least harmful.

Notice that if this same standard were applied directly to acts of protest, very little would be permitted. This is because very little is needed to successfully express rejection of a wrong. To utter 'no', for instance, will often suffice. Even raising one's voice, and *a fortiori* most expressive acts, would therefore be gratuitous.

But this train of thought misunderstands necessity as applied to protest,

[25] If fitting protest is (as I have suggested) normally directed *at* a wrongdoer, what if the wrongdoer refuses to listen, or communication otherwise fails? Directed expression can be appropriate, I believe, even when 'robust' communication is not achieved. To say something to someone does not require that they listen, and if they do not listen, it is not the same as having said something to no one, or as having said nothing. Indeed, it may be that what matters is just that the target of one's expression *could* listen. Think here of expressive theories of punishment: if an offender *refuses to hear* their punishment's insistence that they have done wrong, it seems no less worth saying. But if the offender *could not hear* the message, then what would be the point? (I set aside, of course, views on which the expressive aim is to say something to the victim or to society.)

[26] One might also worry that the protest view cannot account for the apparent permissibility, in some cases, of *killing* in protest. If fitting protest must be directed, how could one express anything to someone whom one kills? But the protest view does not (normally) license killing. When one has the ability to kill, one also has the ability to defend oneself. Protest is, I have suggested, the fitting response to wrongs one can neither permit nor overcome. When threatened wrongs *can* be overcome, expressive acts no longer seem clearly demanded.

Not all cases are like this, however. Suppose one is under the heel of an oppressive machine that one cannot topple, but that one could dismantle some small part of the machine in protest, perhaps by killing one of its agents. Surely even lethal resistance may be called for in some such cases? The answer depends on whether one can express something to someone whom one kills, or else (say) to a collective agent of which they are a part. It also depends, in the latter case, on complex questions of individual liability for collective wrongs. If these conditions are met, then the protest view might indeed license killing. If not, then killing could not be fitting—but this strikes me as a natural limit to the protest view. I thank a referee for pressing this point.

because it misunderstands the basic aim of expression. The basic aim of fitting expression is not the achievement of successful expression. Rather, it is the achievement of *adequate* expression. As Anderson writes,

> The basic form of an expressive norm is: act so as to adequately express attitude B toward Z. (Anderson 1995, 33)

When we say that it is fitting to express one's gratitude, not just any words of thanks will do; we mean that *adequate* thanks are demanded. Likewise, when we say that an apology is called for, we mean that an *adequate* expression of regret is called for. In this way, for an act of protest to be fitting, *more* than what is strictly necessary to express rejection will often be demanded. An act of protest can be fitting only if it *adequately* expresses rejection of the wrong in question.

This is because adequacy is in many contexts a central dimension of fit. Here are some further examples of what I have in mind. Sympathetic members of dominant groups are often said to inadequately protest the treatment of subjugated groups. The meek are sometimes said to fail to adequately protest their own downtroddenness. And again, in other contexts, we may fail to adequately express our thanks, our regret, our love, and many other things besides. In all of these cases, the charge of a failure of adequacy is that one has not done *enough* to express oneself, or otherwise not done so *properly*, where 'enough' and 'properly' can be analyzed here only in terms of fit between the expression and its object (between an act of protest and the thing protested).

In this way, the requirement of adequacy places a lower bound on fitting action, whereas necessity places an upper bound on defensive action. Adequacy too, then, is a necessary condition on fittingness.

Now, if adequacy sets a lower bound on fitting acts of protest, are acts of protest which do less than this (those which are *inadequate*) impermissible? This may seem perverse in many of the cases that motivate the puzzle of futile resistance. Surely rape victims are not *required* to protest their wrongs by engaging in futile resistance, and surely the politically oppressed are *permitted* to opt for the restrained but strategically optimal course.

While the protest view does imply that in such circumstances, adequate protest is *called for*, this falls short of the further implication that milder forms of protest are *impermissible*.

For one thing, this is because (as mentioned already) there is not a straightforward relationship between the deontic categories of the permitted and the required and the normative category of the fitting. Fitting acts are more than merely permitted, but they are less than required. (It is *called for*, and of course permitted, but not required that one praise the praiseworthy.)

For another thing, victims in the circumstances of futility may have a prerogative to do less than would adequately protest their wrongs. It is often only victims themselves (if anyone) who would be wronged by such a failure, so they may plausibly waive any complaint against themselves for not doing more.[27]

[27] In *some* cases, victims may owe it to themselves to do more and may be open to criticism for

This answer also squares with the intuition that when protesting on another's behalf, one really can fail to do enough, since the duty in such cases is other-directed.

Furthermore, if the adequacy condition does partly ground a duty to resist, it is surely one that interacts with and may be overridden by other moral and prudential considerations. Since futile resistance often carries with it risk of further wrongs, victims may permissibly choose not to protest their wrongs in order to avoid compounding them.

A related concern is that even if it is admitted that violent protest is a fitting response to wrongs one cannot overcome, it mightn't be the only fitting response. King's Selma-to-Montgomery marches, for example, like Gandhi's earlier Salt March, were powerful *non-violent* expressions of protest against conditions of severe oppression. To use violence in such circumstances, according to this objection, remains gratuitous.[28]

It is worth emphasizing that acts of non-violent resistance are often extremely costly to those who participate in them, as the histories of Indian independence and the American civil rights movement demonstrate. Many were severely beaten or died in service of these ends (see Miller 1937; Eckelmann 2008). But the costs are not only physical. As Gandhi writes, non-violence is 'an intensely active, ... inward force' that is 'rooted in internal strength' and 'must be consciously exercised' (Gandhi 1942, Volume I:68); 'it means the pitting of one's whole soul against the will of the tyrant' (Gandhi [1920] 1999, 135).[29] In other words, the internal strength involved in non-violent protest is another kind of substantial cost, over and above the costs imposed by the attacker. In this way, non-violence is often *more costly or difficult* than violent resistance to the same wrong. Victims are not morally required to bear these costs in order to prevent harm to their attackers.

In some cases, however, non-violent resistance might be no more or less costly to victims than violent resistance, yet it may be thought to do just as well as an apt expression of protest. In such cases, why is violence not gratuitous?

The answer, I believe, involves complex issues concerning the fittingness of non-violent protest which I can only partly enter into here. My suggestion, in brief, is that non-violence is actually *not* a fitting response in such cases. As I explain in detail in the next section, I take the fittingness of protest to be grounded in the way that it correctly responds to the moral attitudes conveyed by a wrongdoer, along lines first suggested by Strawson (1962). The justification of violent resistance lies, I claim, in its being the *merited reaction* in such cases. Non-violent resistance, by contrast, is most often characterized as a way of directing a gracious attitude of love towards one's attacker[30]—an

failing to do so. Think of charges like 'I really should have stood up for myself'.

[28]I thank a referee for pressing this objection.

[29]King makes similar claims, e.g.: '[Nonviolence] is ultimately the way of the strong man. ... The method is passive physically, but strongly active spiritually' (King 1958, 90). See also King (1963).

[30]See e.g. King (1958, ch. 6). King there recasts Gandhi's metaphysical notion of *satyagraha* using the Christian language of love, but the ideas are much the same.

attitude that, strictly speaking, they *do not merit*. Indeed, part of the power of non-violence may be in the way that it 'turns the other cheek' *rather than* does what is fitting.[31] If this is right, then the availability of a gracious response, like the availability of self-sacrificing responses, does not render the fitting resort to violent resistance gratuitous.[32]

To say that an act of protest is fitting is, on my view, to say that it is proportionate, correctly directed, and adequate to the wrong protested. This explains why victims engaged in futile resistance may do more than say 'no' or 'stop' to their aggressors. Sometimes, when a wrong is severe enough, words may not be enough, and only an act—and a forceful one at that—will do to adequately protest it. This also helps explain why some feel they must resist even when doing so may make them worse off. On the protest view we can also claim, with Statman and Frowe as with Boxill and Hill, that by engaging in futile resistance victims affirm their dignity, while not also claiming that these are acts which *defend* one's dignity in Statman's and Frowe's sense. This is because, as Boxill (1976, 61) writes, 'when a person protests his wrongs, he expresses a righteous and self-respecting concern for himself'. One can, that is, *affirm* one's dignity by *protesting* one's wrongs—without thereby engaging in self-defense.

4.4 Fit-making

Since my claim is that justified acts of futile resistance are fitting acts of protest, a further question is what *makes* these acts fitting. I'll explore one answer to this question now.

The question of what makes the fitting fit turns not only on this question's most general form (a question about the metaphysics of fit) but also substantially on questions about the nature of fit's objects. Just as we can learn about what makes thanks or blame fitting by attending to the nature of gratitude and moral appraisal, we can attend to basic features of the interaction between attacker and victim in cases of futile resistance in order to discover what may make acts of futile resistance fitting in those cases.

This strategy is supported by the observation that *fit* and the idea of *fitting response* appear closely linked to a central aspect of interpersonal morality. To see

[31] If non-violence is not a fitting response to certain wrongs—wrongs which, on my view, *call for* forceful expressions of protest—is it (even *pro tanto*) wrong to respond with non-violence? This too may seem deeply counterintuitive. My view is that on the contrary, in such cases it is permissible to choose non-violence for the same sort of reason that it's permissible not to blame even when blame is called for, or to let go of one's anger even when anger is appropriate. These are, as it were, permissible acts of *grace*, and a general account of the moral dynamics of grace will explain their permissibility in these cases. (See e.g. Pettigrove (2012).)

[32] One might also opt, all things considered, for non-violence for strategic reasons (Sharp 1973), for religious reasons (e.g. Gandhi 1951), or as a method of moral repair (Zheng 2021). But these are independent considerations which do not bear on the gratuitousness of violence as a fitting form of protest.

what I have in mind in saying this, it will help to consider the view presented in Strawson's 'Freedom and Resentment' (1962).

Strawson's central notion there is, famously, that of a 'reactive attitude', an attitude of moral appraisal—'resentment, gratitude, forgiveness' and so on (194)—that we take towards someone in response to the attitudes their behavior manifests towards us. They are reactions which we judge by whether they are appropriate or inappropriate to the circumstances—or in other words by standards of fit.[33] Strawson claims, for example, that resentment is the appropriate response to 'contempt, indifference, or malevolence', gratitude the appropriate response to 'goodwill, affection, or esteem', and forgiveness the appropriate response to contrition (191).

These attitudes are also united in that they 'belong to involvement or participation with others in interpersonal human relationships' (194) and centrally 'involve, or express, a certain sort of demand for interpersonal regard' (201). It is our *participation* in interpersonal relationships that makes the normative standard of appropriateness and inappropriateness apply. This is, if you like, Strawson's claim about what makes the reactive attitudes fitting.

The counterpart to the 'participant attitude' is what Strawson calls the 'objective attitude,' the attitude we take towards towards someone or something that is not morally appraisable. Strawson primarily discusses occasions on which we might *rightly* take the objective attitude towards someone: when they are, due to age or mental incapacity, not 'fully responsible agents' (193). But if there are occasions on which one may *rightly* regard another with the objective attitude, there must also be occasions on which one might *wrongly* doing so.

The cases of futile resistance we have been discussing are plausibly of this kind. That is, they may be particularly serious cases of wrongly taking the objective attitude towards someone who, on the contrary, merits interpersonal regard. The harms involved in rape, slavery, and other severe wrongs are bad enough. But to act in such cases so as to leave one's victim with only one prudentially rational option—*submit*—all while ignoring the clear and urgent claims she has that you treat her differently, is to commit an additional, very deep wrong. It is to refuse, through one's actions, to regard her as a member of the moral community owed interpersonal regard.

This expressed attitude has a fitting response, as perhaps all directed attitudes do. It is, I believe, *rejection* of the attacker's refusal of regard. When someone says (including through their acts), 'you are not owed interpersonal regard' or 'you are not a co-member of the moral community', the fitting response is to insist on the truth that you *are*. There may, in various cases, be various ways of expressing this truth.[34] As I have argued, however, in the

[33]Strawson's view is a *locus classicus* of modern work on fittingness in the moral domain. Scanlon (1986, 2008), Smith (2012, 2015), and Darwall (2006), among others, all develop Strawson in this direction. Shoemaker (2017) explicitly presents a fittingness interpretation.

[34]It might be thought that, even if rejection of this attitude is the fitting response to it, an *inner attitude* of rejection might suffice. As argued earlier, however, in many paradigm cases of interpersonal response, a merely fitting attitude would be inadequate. When one owes thanks or

most severe cases, to adequately reject one's subjection to the circumstances of futility may require forceful expression. Indeed, one's words may simply be inadequate, and an expressive act, including perhaps a violent act, may be demanded instead.

These reflections offer a further clue about the difference between the status defense view and the protest view that is worth highlighting.

Strawson includes among the class of circumstances in which the objective attitude is rightly adopted towards another those in which someone is to be taken 'precautionary account of' (194), or in which 'reasons of policy or self-protection' (197) centrally bear. The suggestion, I take it, is that we might understand cases of self-defense as cases in which a victim permissibly adopts the objective attitude towards an attacker. I think this suggestion is correct; if it is, I also think it points to something important about what distinguishes defense from protest.

To adopt the objective attitude towards people is, Strawson says, to treat them as something 'to be managed or … avoided' (194) or 'as creatures to be handled' (197). Importantly, this is compatible with their being seen as objects of moral concern and indeed as holders of rights, as the archetypal examples of children and the mentally infirm demonstrate. To engage with someone from the standpoint of this attitude is, however, to engage with them instrumentally: they become, through our acts, instruments of 'our own interest, or our side's, or society's—or even theirs' (*ibid.*).

Put differently,

> If your attitude towards someone is wholly objective, then though you may fight him, you cannot quarrel with him, and though you may talk to him, even negotiate with him, you cannot reason with him. (195)

In this way, for example, throwing a grenade to forestall an attacker is not fundamentally different from throwing a grenade to derail a runaway railcar. Though there are moral constraints governing injury to humans that do not apply to damage to railcars, the attitude—objective versus participant—adopted by the defender towards the attacker and the railcar is the same: their (or its) destruction is not a form of engagement, it is a means to the prevention of harm.

By contrast, protest, like expressions of blame and gratitude, is a way of interpersonally engaging—talking, quarreling—with the person to whom the

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apology, it is not enough to *feel* thankful or apologetic, one must *express* one's feeling to the person towards whom it is felt. To fail to say thank you, or sorry, is in an important way to fail to give thanks, or apologize, at all. Very serious wrongs are no different in this respect. When we say that it is fitting to insist on the truth that you are owed interpersonal regard, this also means that it is fitting to *say so* to the person who would deny you it. My thanks to a referee for pressing this point.

protest is directed, a way of making an interpersonal moral claim. This contrast is telling, even granting proponents of the status defense view their position. If harming someone is a way to defend one's dignity or standing, then these harms should be instruments to that end, and their ability to serve this end should be what justifies them. But if this is so, then it cannot be claimed, as Statman claims, that acts of resistance 'are needed in order to communicate to the aggressor ... that we are not just passive objects to be trodden upon'; nor, as Frowe claims, that to 'convey' refusal and dignity through futile harms 'is what constitutes the defense of one's moral standing'. For expressing these things through one's acts of resistance is a way of expressing reactive attitudes towards one's attacker, or in other words of taking up the participant attitude toward them. This is at odds with the attitude we take towards attackers as means to defensive ends. If defense involves taking the objective attitude towards one's attacker, then these forms of expression cannot be more than incidentally related to the defensive justification of acts of resistance.[35]

Statman and Frowe might reply that engaging interpersonally with one's attacker by communicating one's dignity to them *is how* one defends one's honor, or standing, and that the distinction between the objective and reactive attitudes does not apply here. If fitting expression *is* defense, however, and defense *is* affirming one's dignity, then one wonders whether defense as such is doing any real justificatory work at all, or why we should appeal to it. We can instead appeal to the appropriateness of this kind of expression directly.

5 Conclusion

I have argued that victims engaged in acts of futile resistance are engaged in a form of protest, including when their protest takes the form of violent acts. I have also argued that such protest is justified when (and because) it is the fitting response to the circumstances of futility and the wrongs involved therein. If I am right, then the solution to the puzzle of futile resistance lies not in the ethics of defense but in the ethics of protest.

I have argued this point narrowly—by claiming that the puzzle of futile resistance demands a solution, that extant solutions are inadequate, and that the protest view succeeds where others fail—but it points the way toward larger conclusions. The view suggests that protest generally, including therefore political protest, is regulated by considerations of fit. When we judge acts of protest, then, it may often be wrong to focus on the ends achieved (or achievable). It may also be wrong to think, as many do, that violence is always to be condemned. Rather, it may be the only response adequate to the circumstances.[36]

[35] One might take the objective attitude towards an attacker while *also* trying to appeal to them on moral grounds, or take a not-fully-objective attitude towards them (as we do with children). But the possibility of mixed cases does not undermine the general point that the basic orientation of defense is (as we might say) 'objective' whereas protest is 'participant oriented'.

[36] Many people have helped me with the ideas presented in this paper. I am especially grateful to

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