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Stand Your Ground: A Southern History Meets Modern Law

The evolution of centuries of racially-charged violence throughout the Southern United States speaks powerfully to the future of race relations and violence in this country. The Stand Your Ground laws carry special weight by serving as legal constructs that create a justification for this violence. The strong support for and use of these laws have shaped a number of recent cases in the United States, especially in the South. Examining these laws' development, support, and influence through a Southern lens reveals a dark future for American social justice, justice system, and race relations.

Self-defense has been a part of most states' legal codes since the country's founding. Taken from Old English law, the Castle Law allows individuals to use deadly force to protect themselves on their own private property. In 2005, Florida expanded this self-defense law beyond an individual's car or home into any property, public or private ("Statutes"). Furthermore, Florida's law revoked an individual's duty to retreat, a key tenet of any other self-defense law. Under the Stand Your Ground law, individuals have the right to use deadly force to defend themselves in any situation where they *feel* they are in imminent danger, with no legal obligation to flee ("Statutes"). Thus, from the Sunshine State, the first Stand Your Ground law was born.

Many states have instituted similar laws since Florida established the statute. According to the Nation Conference of State Legislatures, at least twenty-two states include self-defense

laws with no duty to retreat. Almost every state commonly considered Southern appears on that list: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and West Virginia. Six of those states' laws include explicit language of "stand his or her ground" ("Self"). Although some states in other parts of the country do have such statutes, the highest concentration of some form of the Stand Your Ground law is in the South.

These laws dominate homicide cases, most notably those of Trayvon Martin and Jordan Davis. Each case occurred in Florida, where an older, non-black man shot and killed a seventeen-year-old African-American teenager. The different outcomes of these two seemingly similar cases illustrate the power of Stand Your Ground. The case of Jordan Davis, who was killed by forty five-year-old white Michael Dunn after a verbal conflict, proves that only with absolutely concrete evidence will a shooter receive a guilty verdict, and only sometimes does the guilty verdict come through.¹ In order for the jury to find Dunn guilty of first-degree, pre-meditated murder, it needed evidence that he acted not out of fear for his life, but anger towards Davis's actions.² Without evidence of fear, Dunn received a life sentence; the Stand Your Ground law could not be applied to justify his shots fired at Davis's friends.

In the case of Trayvon Martin, the jury found his killer, neighborhood watch captain George Zimmerman, not guilty of either second-degree murder or manslaughter ("Trayvon"). In

¹ After Dunn fatally shot Davis, he continued to shoot after Davis's friends, even as they drove away. In his first trial, Michael Dunn was sentenced to prison for three counts of second-degree attempted murder and for shooting into an occupied vehicle ("Michael"). However, Dunn was only found guilty of murder after a *second* trial; the first trial that involved Davis's death went to mistrial based on the Stand Your Ground law.

² His statement that the boys had weapons in their vehicle, among other false claims, contributed to the guilty verdict (Alvarez). Had the defense been able to more effectively prove that Dunn had reason to believe his life was in imminent danger, Dunn's charges would have differed slightly.

explaining their decision, the jury cited fact that Zimmerman claimed fear for his life as a result of his verbal and later physical dispute with Martin. Given the many conflicting accounts and ambiguous nature of the events that transpired, Zimmerman's claims could not be proved false. The legal decisions of Stand Your Ground cases weigh more heavily on the prosecution's role than in other kinds of legal cases; the defense does not have to prove the defendants were justified, but rather the prosecution has to prove they were not. Anger over the nature of this law and its ruling increased dramatically when Zimmerman was found innocent.

Many Americans protested the George Zimmerman verdict, employing the slogan "I Am Trayvon." According to Tamara Lawson of the University of Florida Journal of Law and Public Policy, this campaign not only sought to humanize the victim, but also implied the question: "Are *Floridians* too quick to use deadly force?" (Lawson). Herein lies the quandary: Does a white Southerner's regional identity, fraught with cultural and historical elements of violence and racial conflict, affect how he or she responds to situations like the ones Dunn and Zimmerman faced? Does such a background change his or her interpretation of the Stand Your Ground law?

First and foremost, it is clear that race influences these kinds of conflicts and the jury decisions that come from them. A study by John Roman of the Urban Institute determined that the presence of a Stand Your Ground law changes the rate at which shootings are ruled justified, and along racial lines. His study, which analyzed FBI data from Supplemental Homicide Reports, found that in states with Stand Your Ground laws, the rate at which juries justified shootings with a black victim by a white shooter is notably higher than states without. Furthermore, shootings with a black shooter and a white victim are far less likely to be ruled

justified than a white-on-black shooting, and even less likely in states with Stand Your Ground laws (Roman).³

Not only does race influence verdicts in cases, but it also affects an individual's (particularly a white individual's) perception of threat. A study conducted at the University of California Irvine analyzed the interpretation of physical contact in a conflict. Researchers asked subjects (undergraduate students at UC Irvine) to watch people in a verbal argument that resulted in one shoving the other, then rate the behavior of the shover. The study found a societal tendency to see African Americans as more violent:

Duncan found that when the person shoving was a Black person and the person being shoved was White, 75% of the subjects thought the shove constituted "violent" behavior, while only 6% characterized the shove as "playing around." When subjects observed the same events with a White person as the shover and a Black person as the victim, only 17% characterized the White person's shove as "violent," while 42% described the White person's shove as "playing around" (Lee).

This social tendency poses a problem in how people interpret a Stand Your Ground law when confronted with such situations, as racial bias vastly skews behavior around such conflicts.

Cultural perception such as this is key to the Stand Your Ground law and both aforementioned cases. The law's logic justifies lethal force when the shooter "is presumed to have held a reasonable fear of imminent peril" ("Statutes"). Thus, the power of the law lies in the feelings and perceptions of the shooter during the conflict. For this reason, it is crucial to look

³ A *Tampa Bay Times* article confirms this for the state of Florida. The *Times* created a page dedicated to tracking nearly all Stand Your Ground cases in the state; its findings concur with those of Roman (Cameron).

into the cultural tendencies towards perceptions of African Americans as violent. Although racism and its effects plague the entire country, the focus here is how it may be more distinct in this particular region, given the South's history and its important role in developing these kinds of prejudices.

The Civil War and Reconstruction help explain these modern-day and regional characteristics. As Southerners of the Civil War Trust attest, the fight for states' rights was a prominent cause for the war itself ("States"). Defense of state, home, and self is highly valued in Southern culture, fostering resentment towards government. In fact, Northern efforts to aid African Americans even contributed to the increase in white Southern prejudice. The Reconstruction Era exemplifies this phenomenon: Southern whites' desire to reassert their superiority over newly-freed blacks grew in response to the northern army, Freedmen's Bureau, and federal laws of the Reconstruction Era. Elected by newly-enfranchised blacks, Republicans established militias that banned former Confederate soldiers but armed freed slaves. White Southerners feared insurrections by black men, sometimes their former slaves, who received aid from the federal government. This fear sparked creation of many organizations, started exclusively by white men, that sought to suppress blacks' freedoms (Hadden 203).

First came the Agricultural and Police Club, created by white planters, which worked to restrict the selling of farmland to freedmen and established a white police force to enforce such regulations. Other voluntary, militia-like clubs such as the "mutual aid club" in Virginia and rifle clubs in South Carolina expanded the movement of organizations that acted for the state. The Klu Klux Klan constitutes the third and most extreme form: white vigilante groups. With Civil War veterans able to provide military training, the KKK became a powerful group that drew on the fears of all classes of white Southerners who watched their political power dwindle (Hadden

203-205). The KKK terrified freedmen with violence and fear tactics. As described by observer Carl Schurz, “[a]rmed bands of white men patrolled the country roads to drive back the Negroes wandering about” (Hadden 206). This dynamic, one in which the white man feels the need to protect himself from the threatening black man and even the federal government through violence, has carried over into the modern-day cultural beliefs of many white Southerners. The KKK and other aforementioned organizations used violence to reestablish their order; the use of guns (and later the emphasis on gun rights), modern-day Southern elements, only cultivated this violent mindset.

Honor plays a key role in both the Southern culture and the prevalence of racial violence and hostility, particularly among white men. This emphasis on honor connects powerfully with white male Southerners’ inclination to have racial prejudices and tendencies towards violence. A study conducted in 1991 by Mark Peffley and Jon Hurwitz for *Perception and Prejudice* found that Southern respondents were the most likely to describe blacks as “lazy” and “violent” of any region within the United States (Hurwitz 68). Furthermore, this tendency is intensified by gender. Within the white Southern demographic, “men and women differed by a ratio of seven to one in their hostility towards black people” (Hurwitz 48). This pattern, which indicates white Southern men are most likely racially prejudiced against blacks, has dangerous implications when paired with a Southern inclination towards violence. A fascinating series of studies, published in an article by Dov Cohen and Richard Nisbett, examines “a culture of honor” as the historical explanation for white Southern men’s violence. Their research started by looking at the herding economy of the frontier South, a time in the region’s history when borders and any form of the law were not yet developed. Here, the culture of violence as a means of obtaining honor first emerged; a shepherd had to establish his reputation as a strong force not to be reckoned

with. Honor and pride also functioned to clarify social standing, as they allowed for more admirable men to rise in the ranks of this very unsophisticated hierarchy (Cohen). Nisbett and Cohen proved that honor, even honor through violence, was an integral part of even the earliest Southern society.

Their research noted a myriad of modern-day social patterns, all supporting the assertion that white male Southerners have more violent tendencies. Upon closer examination of their findings, these trends become especially relevant to the Stand Your Ground laws: views of violence only showed regional differences when researchers asked subjects about self-defense, as white male Southerners indicated consistently higher support for violence in situations of self-protection. This group of respondents also expressed more support for violent actions when dealing with characters described as “hoodlums,” student disturbances, and big city riots, among many others.⁴ Honor and manhood, two fundamental Southern values, heighten a social obligation to defend oneself. Southerners were more likely to agree that a hypothetical “Fred” would be “not much of a man” if he did not respond to a personal affront by *shooting* the person who offended him (Cohen).

This specific example aligns perfectly with the Michael Dunn case. Dunn said he was in fear of his life at the time of the shooting, a claim deemed illegitimate by the jury. Many perceptions of Dunn’s actions support the findings of these aforementioned studies, like a comment found on a Southern news station’s Facebook post about the ruling: “Just finding out

⁴ The “hoodlum” phrase relates closely to the Martin case. Many criticize Zimmerman for his fast suspicion towards an African-American teenager wearing a black hoodie. Uproar ensued when the transcript of Zimmerman’s 911 call was released, especially because he expressed judgments of Martin based mostly on his appearance: “This guy looks like he’s up to no good or he’s on drugs or something...these *sshholes always get away” (“Audio”). Protesters wore black hoodies to highlight the prejudice faced by those who wear this kind of clothing, notably African American teenagers in urban settings. Many commentators described this clothing as “thug wear” during the national discussion of Martin’s killing (Fung).

they did have a gun in the car, my take is you pull a gun on me you better use it because I'm shooting to kill point blank" (WJXT4). This commenter shows signs of supporting the cultural expectation to protect individual honor, an idea many people used to deny the accusation that Dunn acted out of violent anger for the disrespect Davis and his friends showed towards him. Another element of the Cohen and Nisbett findings comes into play here: the use of violence as a means to "protect and restore order when that order has been violated" (Cohen). This kind of violent rage harkens back to the aforementioned organizations who took on the responsibility of enforcing some form of social law and order, be they slave codes before the Civil War, or Jim Crow laws after Reconstruction. It appears that Michael Dunn is a modern manifestation of that kind of enforcement. His actions and approach to the teenagers indicate that not all of his violence was out of pure self-defense. In his case, he used his gun to regain power and authority over the black teenagers that did not recognize it. He wanted the "rap crap" to shut off, but Davis and his friend showed no sign of obliging (Alvarez). His authority undermined and pride wounded, Dunn responded with violence.

It appears that Zimmerman interpreted his role differently than in the typical pride and honor sense of Michael Dunn. A neighborhood watch captain, Zimmerman's actions initially fell under the "every man should be the sheriff on his own hearth" of the North Carolinian proverb (Cohen). From his SUV, Zimmerman called 911 to report a "suspicious person." He was instructed by the dispatcher not to get out of his car, but did so anyway ("Trayvon"). Zimmerman's belief that it was his duty to protect his neighborhood and that the orders of the dispatcher were not worth obeying follow the Southern pattern of disregard towards higher authority and the decision to take matters into one's own hands.

But in a modern era where the United States is rapidly growing more diverse, Zimmerman's Hispanic identity is one that cannot be ignored in an analysis of his actions. Zimmerman's identity makes important implications about the future of American race relations, for he represents the trend of more non-white males in the United States, as Census data is predicting a dramatic rise in ethnic diversity (Cooper). In a country where there will soon be no white majority, there will be more people with backgrounds like Zimmerman's. A broader variety of historical context and cultural experiences should indicate hope for change in the South and America as a whole, but with a Hispanic man demonstrating an association with white Southern values, hopeful indications dwindle.

Furthermore, consider social patterns Southerners have demonstrated that have been examined throughout this research. As recently as the late 1990s, trends still arose in prejudice and an inclination towards violence, and this trend seems to be showing no signs of arrest. For example, consider the most foreboding of Cohen and Nisbett's series of studies, which explored white male Southerners' expectations for their sons. The study found that most see honor and violence the same way, even when considering their children. When presented with a situation in which their ten-year-old son is bullied in front of a crowd or robbed of their lunch money, 40% of respondents said they would expect their son to fight their attacker. The study also noted that Southerners more frequently resort to spanking to control a child (Cohen). These strategies for conflict management (spanking, fighting, and later gun violence) perpetuate the cultural behaviors of Southerners from one generation to the next. Of course it is impossible to argue that Southerners have made no racial progress. But the power of history, the continued prevalence of violence and bigotry, and the changing ethnic composition of this country all indicate a resistance towards change. America has undoubtedly come far since the times of slavery and

plantation farms, but in the age of Trayvon Martin and Jordan Davis, it has simply not come far enough.

Works Cited

- Alvarez, Lizette. "Man Faces Second Trial in Killing of Teenager." *New York Times* 26 Sept. 2014: A19(L). Infotrac Newsstand. Web. 1 Dec. 2014.
- "Audio: Calls from Zimmerman, Neighbor Capture Last Minutes of Martin's Life." *Washington Post National*. The Washington Post, 20 May 2012. Web. 05 Dec. 2014.
- Cameron, Darla, and William M. Higgins. "Florida Stand Your Ground Law Cases." *Florida's Stand Your Ground Law*. Tampa Bay Times, 1 Oct. 2014. Web. 05 Dec. 2014.
- Cohen, Dov, and Richard E. Nisbett. "Self-Protection and the Culture of Honor: Explaining Southern Violence." *Personality and Social Psychology Bulletin* 20.5 (1994): 551-67. *LexisNexis*. Web. 1 Dec. 2014.
- Cooper, Michael. "Census Officials, Citing Increasing Diversity, Say U.S. Will Be a 'Plurality Nation'." *The New York Times: U.S.* The New York Times, 12 Dec. 2012. Web. 05 Dec. 2014.
- Fung, Katherine. "Geraldo Rivera: Trayvon Martin Surveillance Tape Shows 'He's Dressed In Thug Wear'" *Huff Post Media*. The Huffington Post, 20 May 2012. Web. 05 Dec. 2014.
- Hadden, Sally E. *Slave Patrols: Law and Violence in Virginia and the Carolinas*. Cambridge, MA: Harvard UP, 2001. Print.
- Hurwitz, Jon, and Mark Peffley, eds. *Perception and Prejudice: Race and Politics in the United States*. New Haven: Yale UP, 1998. Print.
- Lawson, Tamara F. "A Fresh Cut in an Old Wound - a Critical Analysis of the Trayvon Martin Killing: The Public Outcry, the Prosecutors' Discretion, and the Stand Your Ground Law." *University of Florida Journal of Law and Public Policy* 23.3 (2012).

Lee, Cynthia Kwei Yung. "Race and Self-Defense Toward a Normative Conception of Reasonableness." *Minnesota Law Review* 81.2 (1996): 367.

"Michael Dunn Sentenced to Life Without Parole." *NBC News*. N.p., n.d. Web. 24 Nov. 2014.

Roman, John. "Stand Your Ground Laws and Racial Bias." *MetroTrends Blog*. Urban Institute, 5 June 2013. Web. 26 Nov. 2014.

"Self Defense and 'Stand Your Ground'" *National Conference of State Legislators*. N.p., 30 Aug. 2013. Web. 24 Nov. 2014.

"States' Rights: The Rallying Cry of Secession." *Civil War Trust*. Council on Foreign Relations, n.d. Web. 23 Nov. 2014.

"Statutes & Constitution." *Online Sunshine: Official Internet Site of the Florida Legislature*. N.p., 2014. Web. 26 Nov. 2014.

"Trayvon Martin Shooting Fast Facts." *CNN U.S.* Cable News Network, 22 Feb. 2014. Web. 23 Nov. 2014.

WJXT4 The Local Station. "Juror dismissed in the #MichaelDunn trial over an article published in a newspaper." Facebook. 27 Sept. 2014. Web. 05 Dec. 2014.