

Testimony of Charlotte Cassel
University of Miami School of Law Human Rights Clinic
Inter-American Commission on Human Rights (IACHR)
Impact of “Stand Your Ground” on Minority Communities in the U.S.
March 25, 2014

Good morning distinguished commissioners and members of the US Delegation. My name is Charlotte Cassel and I am student attorney in the University of Miami Law School Human Rights Clinic. My colleagues and I would like to thank you for providing us with this opportunity to discuss the human rights implications of Stand Your Ground laws in the United States. I would like to begin by introducing our delegation. I am joined today by Sybrina Fulton, the mother of slain teenager Trayvon Martin, and Ron Davis, the father of slain teenager Jordan Davis. Ms. Fulton and Mr. Davis lost their children to gun violence that, we believe, was precipitated and condoned by stand your ground laws. Also with us are Professor Caroline Bettinger-Lopez, Ahmad Abuznaid from the Dream Defenders, Niaz Kasravi and Derek Turner from the National Association for the Advancement of Colored People (NAACP), Aleta Alston-Toure and Alisa Bierria from the Free Marissa Now Campaign, and Meena Jagannath from the Community Justice Project of Florida Legal Services.

Stand Your Ground laws have made headlines in the wake of the tragic deaths of Trayvon and Jordan, and the appalling prosecution of Marissa Alexander, a domestic violence victim. This month, however, marks the first time that these laws are coming under scrutiny of the international community as to their human rights implications. Just two weeks ago, the United Nations Human Rights Committee repeatedly expressed concern that Stand Your Ground laws in the United States are incompatible with the fundamental right to life.

We have seen important steps taken to address the devastating impact of stand your ground laws. For example, the U.S. Commission on Civil Rights has announced it will investigate the racial biases in these laws and members of Congress have held hearings on the laws that have pushed the public discourse. Additionally, a task force was convened in Florida to investigate the laws, but resulted in no substantial changes and in fact the Legislature is voting to expand the law. In other words, we have yet to see concrete results.

As my colleagues will explain in more detail, stand your ground laws violate the rights to life, equality, non-discrimination, family, freedom of movement, and the rights of the child. The United States Government has an obligation to ensure that these rights are respected and ensured at the local, state, and federal levels. We are hopeful that this hearing today will further the conversation. The rights and safety of all Americans – young and old, black, brown, and white, male and female – must be upheld.

Testimony of Niaz Kasravi
Criminal Justice Director, NAACP
Inter-American Commission on Human Rights (IACHR)
Impact of “Stand Your Ground” on Minority Communities in the U.S.
March 25, 2014

Good Morning, esteemed members of the Commission and the U.S. Delegation.

My name is Dr. Niaz Kasravi and I am the Director of the NAACP Criminal Justice Program. The NAACP is our nation’s largest, and most widely-recognized grassroots civil rights organization, with more than 2,200 membership units across all 50 states.

In recent years, few issues have caused as much angst and raised as much concerns among our members and the communities we serve than “Stand Your Ground Laws.” These laws and their application have impeded justice in the shooting deaths of innocent people who are doing nothing more than walking down the street.

Since Florida passed the first “Stand Your Ground Law” in 2005, 34 states in the U.S. have adopted some form of “Stand Your Ground” or “shoot first” laws, which give individuals the right to use deadly force to defend themselves without any requirement to evade or retreat from a dangerous situation.¹

Studies show that “Stand Your Ground” laws – much like the American criminal justice system as a whole – are carried out in a racially biased manner to the detriment of racial and ethnic minorities. A study by the Urban Institute determined that in “Stand Your Ground” states, when white shooters kill black victims, 34% of the resulting homicides are deemed justifiable. When black shooters kill white victims, only 3% of the deaths are ruled justifiable.²

Numerous studies have also shown that “Stand Your Ground” laws do not deter crime: to the contrary, “justifiable homicides” nearly doubled from 2000 to 2010 in states with “Stand Your Ground” laws, with a sharp increase after 2005, when Florida and 16 other states passed these immoral laws. The average number of so-called “justifiable” homicide cases per year increased

¹ Law Center to Prevent Gun Violence: <http://smartgunlaws.org/stand-your-ground-policy-summary/>

In addition to Florida, states with SYG laws include: Alabama, Alaska, Arizona, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nevada, New Hampshire, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, and West Virginia. Since 2005, four states have adopted similar laws, but they apply only when the shooter is in his or her car. They are: Missouri, North Dakota, Ohio, and Wisconsin. Seven additional states permit the use of deadly force in self-defense in public with no duty to retreat through a combination of statutes, judicial decisions, and/or jury instructions. They are: California, Idaho, Illinois, New Mexico, Oregon, Virginia, and Washington. These states are distinct from true “Florida-style” laws in several respects. Many of the shoot first protections established in these states may only be invoked during criminal trials, as opposed to the Florida law which enable a shooter to escape liability in a pretrial hearing. Additionally, these states do not have some of the especially onerous elements found in the Florida law, such as the provision preventing law enforcement from arresting a shooter without probable cause that the force used was unlawful. These seven states are: Lastly, Utah has had a “Stand Your Ground” type law on the books since 1994, but it strengthened and clarified its law to be more in line with the Florida law post-2005.

² *Do Stand Your Ground Laws Worsen Racial Disparities?* John Roman: <http://blog.metrotrends.org/2012/08/stand-ground-laws-worsen-racial-disparities/>

by more than 50% in the decade's latter half³. Another national study by Texas A &M University revealed that homicide rates actually increased by 7 – 9% in states that have passed some form of “Stand Your Ground” Laws⁴.

The NAACP is staunchly opposed to “Stand Your Ground” laws. They are applied in a racially biased manner, they do not deter crime, and the bottom line is -- as we saw in numerous cases in FL -- they make it easier for people to murder other human beings and not face any legal consequence.

Therefore the NAACP strongly encourages the repeal of all state “Stand Your Ground” laws and the restoration of sane and sensible policies of self defense that do not rely on antiquated and barbaric codes of the old west, to shoot first and ask questions later.

Thank you.

³ *Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Expansions to Castle Doctrine* Cheng Cheng and Mark Hoekstra, Texas A & M University,

⁴ Ibid

Testimony of Ahmad Nabil Abuznaid
Legal & Policy Director Dream Defenders Inc.
Inter-American Commission on Human Rights (IACHR)
Impact of “Stand Your Ground” on Minority Communities in the U.S.
March 25, 2014

Good afternoon, my name is Ahmad Nabil Abuznaid, representing the Dream Defenders, a youth based human rights organization.

A national and now international dialogue has been brewing around the harmfulness of “Stand Your Ground” laws, also called “shoot first” laws, and their implications for the rights to life, non-discrimination and equality before the law. These laws have in a sense legalized the devaluing and dehumanizing of minority lives. We have recently heard from members of the UN HRC that SYG laws are “incompatible with the right to life”. It is imperative that the federal government ensures that state and local governments do not promulgate laws that violate rights as fundamental as the right to life and equality before the law.

SYG laws amount to state complicity in the perpetuation of violence. Research has shown that SYG laws are dangerous in terms of increasing levels of homicide and are discriminatory in their application as to race and gender. Even worse, blanket immunity and broad discretion to law enforcement offered by Florida-type SYG laws infringe on victims’ access to courts and their right to a remedy. The most recent case involving the murder of Jordan Davis and the jury’s deadlock on his murder count exposed just how much confusion SYG have introduced into the criminal process.

As you may know, the three high profile tragedies we have witnessed regarding SYG laws occurred in Florida. Florida was also the first state to enact such a law and so should be the first to repeal such a law. The federal government must support such a repeal.

On the ground in Florida, groups like the Dream Defenders, the NAACP, and others have been rallying around the communities concerned about the protection of life, which stand your ground stands in the way of. Unfortunately the people’s call for a repeal has been ignored by the Florida legislature. Not only that, but more legislation is being sent down the pipelines to gun us down, including a so-called “warning shot” bill whose advocates are pushing it under the guise of support for Marissa Alexander. These lawmakers have shown that they don’t care about Marissa, or our communities. Florida and other states are currently looking at laws that would arm schoolteachers with guns, and I would postulate that it would not be long before one of our teachers stands their ground against one of our kids. We are not safe in our streets, neighborhoods, gas stations, movie theaters, and yes, schools.

Testimony of Aleta Alston-Toure
Free Marissa Now Mobilization Campaign
Inter-American Commission on Human Rights (IACHR)
Impact of “Stand Your Ground” on Minority Communities in the U.S.
March 25, 2014

Good morning. My name is Aleta Alston-Toure, I am from Jacksonville, FL, and I am a co-lead of Free Marissa Now, a national campaign organizing to free Marissa Alexander. Marissa Alexander, also from Jacksonville, FL, is an African American mother of three, a loving daughter and sister, and she’s a survivor of domestic violence. In August 2010, nine days after giving birth to her youngest daughter, Ms. Alexander was attacked by her abusive estranged husband, who assaulted her, strangled her, and threatened to kill her. She was able to retrieve her firearm and fired a single warning shot upwards into a wall to halt the attack. She caused no injuries with this shot and, fortunately, her husband left the home.

Despite the fact that Florida’s self-defense law includes the right for domestic violence victims to “Stand Their Ground” in their own homes, Ms. Alexander was arrested by Jacksonville police and charged with aggravated assault. After **12 minutes** of deliberation, Ms. Alexander was convicted and sentenced to 20 years in prison due to the state’s mandatory minimum sentencing laws.

Ms. Alexander successfully appealed the verdict in September 2013 and her new trial is scheduled for July 28th. Florida State Prosecutor Angela Corey recently announced that she now intends to pursue a **60 year** sentence against Ms. Alexander.

The crucial connection between the devastating losses of Trayvon Martin and Jordan Davis, and the State's alarming punishment of Marissa Alexander, is that **the application of Stand Your Ground routinely fails to value the defense of black life**. The reason given for why Ms. Alexander was not granted Stand Your Ground immunity is that the judge decided she did not feel **genuine fear**. This is absurd, but **not surprising** because research shows that courts often don't perceive black women victims as sympathetic and credible. Instead black women are characterized as aggressive, emasculating, and incapable of being victimized. Ms. Alexander herself has noted [quote], “You tell me that I can bear arms. You tell me that I can go to class and get a permit to carry. And you tell me everything that I need to do to get on the right side of the law... **And then you try to dictate to me my level of fear.**” [end quote] Astonishingly, in her Stand Your Ground hearing, Ms. Alexander's experience of being physically assaulted and threatened with death was discounted, while what she **felt** became the criterion for determining whether her self-defense action was protected. Indeed, instead of supporting Ms. Alexander as a victim of violence, the state’s attorney ultimately **reinforced** the domestic violence she experienced by punishing her for saving her own life.

Black women and all women have the right to self-defense. Facing the possibility of 60 years in prison for defending your life from an abusive husband reflects a crisis in the law and the criminal justice system as a whole. Ms. Alexander's legal team recently filed a motion requesting a new Stand Your Ground hearing, arguing that the evidence allowed to be presented at her first hearing was "at best, grossly incomplete" and the judge failed to evaluate her case

under the "correct legal standard" within the statute. We very much hope that Ms. Alexander is granted a new, fair hearing and given the immunity from prosecution that she should have been granted years ago. In the meantime, **we must immediately reform this law** to undo the ways in which structural racism and ignored sexism drive how it is applied. For example, we must take seriously how race determines the evaluation of subjective criteria within Stand Your Ground, such as whether the defendant experienced "**genuine fear**." Also, we must examine if domestic violence victims, especially black women, are able to invoke Stand Your Ground in a justice system that commonly blames and punishes victims who struggle to navigate and survive the conditions of violence in their lives.

We strongly urge the commission to compel the United States to review and reform Stand Your Ground statutes in order to unravel the racial and gender bias woven into the law's application.

Thank you.

Testimony of Meena Jagannath
Community Justice Project of Florida Legal Services
Inter-American Commission on Human Rights (IACHR)
Impact of “Stand Your Ground” on Minority Communities in the U.S.
March 25, 2014

Good morning distinguished members of the Commission and the U.S. delegation members. My name is Meena Jagannath from the Community Justice Project of Florida Legal Services.

It is clear that the federal government has a role to play in evaluating both the public safety implications and the uneven application of these laws that send a message that certain people's lives matter less than others'. Clear evidence and guidance provided by the federal government through a thorough investigation is necessary in order to provide states with the data they need to properly evaluate the impact of these laws. As is illustrated by the FL Legislature's present swift path towards expanding its SYG law (with the blessings of the National Rifle Association), this has to be done at the federal level. A state by state, piecemeal process of evaluating the laws would ignore the greater, nationwide concerns these laws pose as to the right to life, equality before the law and victims' access to a remedy. In addition, the federal government, if it has the political will, has the ability to take action at the federal level in a number of ways: it can enact commonsense gun control laws that increase the criteria for background checks and ban access to certain types of arms and ammunition. Another solution could include conditioning federal funding to local law enforcement and other such programs on the inclusion of certain minimum protections within states' self-defense laws (for example, the elimination of SYG provisions that expand the justification of use of deadly force outside of the home without imposing a duty to retreat) or revising mandatory minimum sentencing laws. Attorney General Eric Holder has taken an important first step on rolling back mandatory minimum sentencing laws by declaring them “draconian” and the cause of “shameful” racial disparities, as well as announcing a change in the Dept of Justice's position on sentencing for certain nonviolent offenses. States should follow suit.

Finally, the federal government plays a key role in fixing the structural inequities within the criminal justice system, and dealing with problems like racial stereotyping and sexism that produce unjust results.

The U.S. Government cannot hide behind federalism as a way to ignore its obligations under international human rights law. It is critically important to come up with solutions that challenge the federalism problem by using tools available to the federal government to help ensure that states' policies do not violate fundamental human rights.