

Episode 178 - Dr. Devonya Havis: "Stand Your Ground" Legislation and Implications for State-Sponsored Racism

[00:00:08] Welcome to in social work the podcast series of the University of Buffalo School of Social Work at www.insocialwork.org. We're glad you could join us today. The purpose of social work is to engage practitioners and researchers and lifelong learning and to promote research to practice and practice research. We educate we connect. We care. We are in social work. I from Buffalo although we're on the waning end of the brilliance so far one of the most amazing places in western New York is still a place that you should know about. Letchworth State Park also referred to as the Grand Canyon of the east is drawing huge crowds to see the three waterfalls and the dramatic walls of the canyon with the Genesee River winding its way through the beauty of the changing leaves takes a beautiful spot and makes it even more spectacular. I'm Peter Sobota in this episode. Our guest Dr. Devonya Havis describes how so-called Stand Your Ground legislation intended to safeguard our society's vulnerable members has been utilized in ways that perpetuate and even exacerbate existing disparities experienced by persons of color. Through her lens as a philosopher she begins by discussing how philosophy can be used as a tool to question our underlying assumptions and beliefs. She introduces the notion of implicit bias and points out the bidirectional relationship between blackness and crime. Dr. Havis points out how this relationship fosters so-called reasonable belief and the impact on both individual behavior and the behavior and power abuses of our society's institutions and structures.

[00:01:59] Dr. Havis discusses the impact of this phenomenon on families and communities of color and concludes with thoughts about how recent events in Ferguson Missouri and other areas are consistent with this paradigm. She recommends that all advocates for social justice promote the examination of our social structures and systems that perpetuate and excuse the divisive impact of implicit bias. Devonye Havis is a Ph.D. is Associate Professor of Philosophy at pernicious college. Her areas of specialization include the philosophy of race African-American philosophy and continental philosophy. Dr. Havis was interviewed in July of 2015 by Steven Halady Ph.D. MSW Hello my name's Steven Halliday and I'm here with Dr. Devonye Havis who is a professor of philosophy at Confucius College in Buffalo New York and we're here today to talk a little bit about Stand Your Ground laws and their connections with systemic racism and state power. So Devonye this is a podcast that's whose primary audience is social workers and social workers tend to focus very much on concrete practical application. And so the connections that social work and philosophy have may not be as immediately obvious. So if you could share your thoughts on what exactly is it that philosophers do and how is that valuable to social workers and other activists who are working for racial justice. OK. I don't know if I can speak for all philosophers but I like to think that philosophers are significant in their role because they brought us to question our underlying assumptions many of which we are not necessarily consciously aware of and yet they are assumptions and practices that drive our behavior.

[00:04:03] And many of my colleagues feel similarly because they have certain commitments to social justice and we believe that if we maintain critical thinking and critical consciousness this will prompt people to experience certain kinds of transformation. So in a more direct sense the idea is that we are driven by our beliefs and our assumptions and our behavior is a result of those things so we need to be aware of what we think and believe in how we think through things and so the idea of philosophy in terms of method and this is fairly consistent regardless of what type of philosophy you're practicing is that you treat conclusions premises. What we might in everyday language discuss as assumptions we ferret those out and examine them to see whether or not they are sound whether or not they meet logical criteria. And I think that's beneficial to any. So I'd say I like to describe it as the take away skillset from philosophy that is cross disciplinary so I think because I'm

sure social workers solve problems a lot of the work is assisting people in thinking through the best ways to approach problems and a lot of that has to do with one's perspective. And a philosopher might say a perspective is a collection of underlying assumptions so getting at those whether they are held by individuals or whether they're systemic I think is to me the meat of what we do when we practice philosophy. Thank you and that's a really great connection to social work and as you're speaking it reminded me of one idea to come out of the history philosophy from the political theorist Hannah Arendt who in her book *Eichmann in Jerusalem* gave her report on one of the trials of Otto Adolf Eichmann who was one of the great architects of the Final Solution in Nazi Germany and she coined the term the banality of evil.

[00:06:22] And in talking about Eichmann and his work what was most striking to Iran was just how unremarkable he was. He was kind of this kind of boring middle management administrator and in his defense during his trial Eichmann basically said look I was just doing my job. I was just following orders and our rents looked at this claim and made the case that most of the evil in the world isn't committed by the Great Being bad evil it's committed by people acting thoughtlessly right in everyday situations. And she took a lot of heat for that which is interesting because I think it is the case that we want some big bad evil that comes in and does bad stuff it's far more difficult for us to become aware of our own complicity in structures that ultimately result evil. So I think the beauty of a rent position on the banality of evil is that she's talking about cumulative effects of mindless everyday actions and so in effect she's saying we don't have to be evil to perpetuate structural evil. And I think that's very important when we're talking about race because most people are good people. There are very few people I think who wake up in the morning and go gee what I really want to do is press a group of people and caused them suffering and economic deprivation. And so if we are primarily well-meaning people. How does it end up that we have such racial disparities in our country. And I think Rentz notion of the banality of evil points to the kind of everyday practices that lead us to these outcomes.

[00:08:17] And that's important because I'm going to guess much of what social work treats and helping people is how do you structure everyday practices so that you're living in ways that are beneficial and helpful and productive. Right. And one of the great values of philosophy is helping us to be more aware of ways that we might be contributing to the banality of evil at sort of the systemic institutional level. And one of the areas that you've been working on in your philosophical research is the ways that this works with Stand Your Ground legislation. Yes and hoping that you might be able to say a little bit more about what stand your ground laws are and how they work. Sure. So the time to stand your ground laws grew largely out of the highly publicized Trayvon Martin case. And I was asked to think philosophically about what this case meant in terms of critical philosophy of race. And it seemed to me that one of the crucial issues was the set of legislation stand your ground laws. And what's interesting is that these laws are implemented at the state level. They are not federal laws but there is a template for states to adopt Stand Your Ground laws and there are I think over 30 states that currently have some form of stand your ground laws in essentially what they do is they in legal terms expand the Castle Doctrine. So most people are aware that we have the right to protect our home if someone invades that if there are intruders. Our home is a private sphere that is by law protected. What stand your ground laws do is they allow that castle doctrine to be extended to public spaces.

[00:10:20] So in effect even though I'm not in my home I have a right to protect my person and property when I am occupying public space in particular when someone is engaged in a felony act I can intervene and I can use deadly force if I reasonably fear that my life is in danger. And under Florida's stand your ground laws which are the ones I looked at more closely because of the Trayvon Martin case I can also use force to prevent a felony offense from occurring or to interrupt a felony offense. And that's a major legal shift because usually we are under an imperative to flee rather than use force state sanctioned individuals are granted permission to use force which is why

they are policemen or soldiers or police women. And so this is really significant in that we are arming civilians who may or may not be trained and certain crime management techniques and we're giving them permission to use force when felony is committed. And when people quote reasonably fear that their life is in danger and so some of the questions about reasonable ness arise. It has a special meaning in the law but as you know and philosophy reason is a very significant notion of what constitutes reason. Our facility to reason as human and reason as something that makes us distinctly human even though we occupy the animal world. So that's kind of a broad overview of standard brain. And so why do people invoke stand your ground laws.

[00:12:16] The research which has gotten more substantial since I wrote my piece it's invoked for a variety of reasons but interestingly enough the arguments for stand or ground laws had much to do with the belief that these laws would protect persons who are subjected to intimate partner abuse people who just don't feel that in some ways government is taking care of them in the ways it should. And so the idea was that Stand Your Ground laws would be another tool in the arsenal of protections for people who feel under protected. The reality is that many people who have previously been convicted of crimes utilize Skander ram laws as a defense. And that's odd because a lot of the rhetoric around standard Graham laws is about getting rid of criminals or not being subjected or victimized by criminals. And yet in many ways it has contributed to higher rates of homicide. Some of the reports indicate that in places where there are homicide laws that homicides have increased by 8 percent. And in particular one study concludes that stand your ground laws don't deter crime and that quantitatively there was an additional 600 homicides per year which was for the place where the study was being done a statistically important factor. And so the Urban Institute has done research. The American lawyers groups and all of the groups have found that despite the reasons certain for invoking Stand Your Ground laws that they perpetuate existing racial disparities and in fact exacerbate them. So I'll stop there. So if you all have been listening to the news you have heard a number of vocation of stand your ground laws some of the more publicized ones are a young woman who had car trouble knocked on the door of a house near where her car stalled and the owner of the house shot her through the door.

[00:14:43] There was I can't think of the gentleman's name but a group of teenagers playing loud music in their car and the gentleman just shot into the car and they said but I feared that my wife was in danger because of these unruly loud music playing youth. One of the overwhelming commonalities in the invocation of stand your ground laws at least those that are publicized are that the victims are those who are killed are overwhelmingly people of color. So I think we need to kind of look at. So even though the justifications that are given for stand your ground and even the language of stand your ground laws themselves appear to be racially neutral in fact they contribute to racial disparities in crime victimization and homicide. And so despite the somewhat neutral language they implicate are races implicated in stand your ground law. Right. And in fact statistically if the victim is black one is more likely to be acquitted based on Stand Your Ground laws. So I was looking at one statistic that says that a white shooter who kills a black victim is 350 percent more likely to be found to be justified than if the same white shooter killed another white. So I think it is important that we attend to the effect of the laws even if as you've indicated they appear racially neutral because we tend to think of law as something that is not biased in one way or another but that it is a mechanism for putting equal processes into play. And there are underlying things that I think as philosophers we attend to.

[00:16:45] And I think social workers experience more practical side of them but philosophers say hmm let's figure out why that's happening. At least the theoretical aspects and in your analysis the standard laws and sort of these underlying factors that make them racially significant. I mean you talk about some psychological studies on the implicit bias you share with us a little bit about that psychological research and how it connects to your understanding of Stand Your Ground laws and how they were racialized way. Yes. So studies on implicit bias have indicated that even when one is

not conscious of having a racial bias that in doing tests racial biases emerge. And in particular there is what Soden researchers have described as a bidirectional relationship between race and crime. And what that means on a practical level is that blackness is associated with crime and crime is associated with blackness. So in a setting where the underlying assumption is that criminals are black and that blacks are criminal. That to my mind creates certain problems with our conceptualization of what counts as reasonable. In addition Angela Davis has talked extensively about the relationship between punishment and race even though we talk about a relationship between punishment and crime. And I think we're beginning to see this in particular with President Obama's focus on revising criminal sentencing for nonviolent drug crimes. And he's saying well you know the punishment has been disproportionate to the offense against society. And even before Obama Angela Davis said to us if we take the same crime it is more likely that a person of color will be punished for committing that crime and that the punishment will be harsher and so that notion also aligns with the social scientist too who have been studying implicit bias.

[00:19:15] So the idea is if I am shown pictures fuzzy pictures let's say and I'm asked to identify a crime object namely a gun or a knife or a violent weapon most of the participants in the study more readily identified a weapon with people of color in particular black people. So even before it fully materialized they noticed that black people had weapons. Where is they identified weapons less readily when the person was not someone of color when they were white. And so the idea by directionality suggests that we have a hyper focus so to speak on racialized people and criminal acts so we're looking for them to commit criminal acts and if we're looking for them to commit criminal acts then we will find them committing criminal acts at a higher rate or even interpret non-criminal activity as a criminal act. And that has huge implications for both the decision to use deadly force under a standard ground law right as well as the legal level of the police judges and jury right how they're likely to interpret evidence for a crime when adjudicating those matters. Correct. And that is also enforced when we think about state sponsored responses to violence says. You know many people have been aware of what's been going on in Baltimore and Ferguson and Staten Island and the whole host of unnamed people who have suffered the adverse effects of state violence because of these underlying perceptions. And it's interesting that the Las Vegas police force in particular wanted to change its policing and they trained their officers in implicit bias and the reporting is that there were shifts in the way policing took place.

[00:21:24] So I do think that is not only significant from the standpoint of policing but as we open talking about the banality of evil it also calls us to be more attentive to our everyday practices that we find to be neutral or in line with beliefs that we've been taught. So we owe ourselves a critical evaluation of even positions that we think are quite generous and neutral. Yeah I think that's especially important for me not just as a social worker but as a visible white man. I think that hits on a really important point of my own privilege as a white man that I can look at these laws and I have the luxury and the privilege of being able to look at them and say well there's nothing racial that's built into the language of the law. Therefore it's it's just an equal and can go about my day and because I'm a white man I'm much less likely to suffer negative effects. And so being aware of that is the role that implicit bias can play in terms of what's interpreted as a reasonable leave of danger. That's hugely important for me in terms of recognizing my own privilege in working to to change the system and promote racial justice as right as you know and being aware of the ways that you can use your privilege to alter structures I mean privilege brings access which is useful when one has a mind to open up things. And I know I often get students who feel guilty about having privilege and you can't not have privilege. It's not going to go away.

[00:23:08] Given how society is structured so I think the more pertinent question is how are you going to use your privilege in that to me is important. And so perhaps on the flip side of that of the privilege question What are some of the impacts that things like stand your ground laws and implicit bias have on families and communities of color who are disproportionately affected and

very serious in negative ways by these factors. Right. And in varying degrees depending upon their class and gender status. So one of the things I've been looking at of late is the fact that we focus very much on state sponsored violence against black men and boys and their crisis which is not to be dismissed. There is a crisis but I'd like to say as many others have there is a crisis for the black community and not in a way that says oh they are responsible for their own plight. But to say wow these kinds of implicit bias sees coupled with systemic disinvestment and loss of advantage have created a crisis where if you have black children and if you were black you were more subject to violence in general and more subject to state sponsored violence as well which causes me pause. I was out at a department store with my younger daughter and we came out of the department store and I got into my car and I was driving away and I saw this blue light in the back and I pulled over because thinking you know they go around like why would they be stopping me. I was just in the department store and I get pulled over and the officer says well can I see your license. Now mind you I'm still in the parking lot of the store and I'm like why do you need to see my license.

[00:25:14] And he's like well we got a call. I'm like OK. About what. Two people were shoplifting and I'm like that's vague. And you know I showed him my license because when you're in that position you're vulnerable and the police officer proceeded to question me and then he looked at my daughter and he asked her Well did you take anything and she said no. And rather than accepting that as a legitimate response he began to interrogate her. It's ok you can be honest if you took something and I'm like as a parent she didn't take anything you can except her word on it. We didn't buy anything in the store we went in. We looked around there wasn't anything we wanted and we left and the only reason that I can determine that we got pulled over as the possible shoplifters is because we're black and so it prompted a conversation with my daughter about how you handle those circumstances because imagine how frightening that would be if she as a young teenager was there without me intervening. And I have a fair amount of social capital as a philosophy professor as contentious. You know I sound like I've been educated even though I'm black and that gives me some privilege. And that makes a difference so imagine if she was alone. And I think a lot of families worry not only about the police but I just worry about the vulnerability of their children. Because as parents we want to protect our children as adults we want to believe that we work hard to create a safe environment for our children and yet despite our best efforts we are perpetually thwarted.

[00:27:19] And I think that is a kind of vulnerability that has always historically been present. If you have been a racialized person in the United States and I say racialized person because at various points the idea of who counts as being of color has shifted. And so it seems to be a simpler way to say if you were believed to have a race any sort your treatment is desperate. I mean you typically suffer gaps and credulity people assume that you were up to things that you may not be up to and more pointedly. People often assume that you don't belong where you are. I've been talking off and on with my colleagues about my experiences even on campus and I've been on faculty at Confucius for about seven years and it never fails that if I go into a setting where people don't know me after hours they presume that I must be a student or that I don't really have a good reason to be on campus. And you know most others would say Oh that's a reasonable mistake. But I know as a person of color that much of it is because I don't meet the expectation of what a person of color is either. I must be a student or the parent of a student but I couldn't possibly be a faculty member. And I think that kind of repeated stress is even before you get into the economic disadvantages is a very high burden. And I notice you used the word that's problematic and stand around laws reasonable belief. Yes.

[00:29:10] That you encounter head think that it is a reasonable belief to assume that because you're a black woman you therefore cannot be a professor. That strikes them as as reasonable. Yes. I think that's a really great example of how implicit bias works not just at the level of policy but on our day to day interaction with individuals. And I would guess most of the people I encountered wouldn't

say they have any issues with people of color. They would classify themselves as good people and they probably are. But it's these underlying assumptions that remain unquestioned that pose significant challenges because they are affecting the everyday behavior. And again I go back to our opening question. I think philosophy is potentially revolutionary and quite useful in helping us critically examine those kinds of positions that we take without fully realizing we've taken them. And it is in fact again what Hannah Arendt encourages us to do to avoid the banality of evil. And you know thinking about sort of our philosophical underpinnings and those approaches that we take in your own work looking at systemic power structures and systemic racism you use the work of the French philosopher Michel Foucault. And there are a couple of concepts from his work that you use to help make sense of how things like stand your ground laws operate in order to produce what you called state sponsored racism. Can you say a little bit about some of those concepts and how they can help us as social workers and activists to better promote racial justice. Sure it's interesting. I use Falco's language state sponsored racism's but it is the case that I rarely invoke the notion of racism.

[00:31:06] I mean that is not to say that I don't talk about the phenomena that sort of contribute to racism but I find that as a black woman who teaches in a setting that is predominantly white talking of racism quickly shuts down conversations and puts people on edge and makes them uncomfortable. So again when we talk about privilege I think understanding how best and how most effectively to get people to approach certain topics is something that we have to be aware of. And I find that the French philosopher Michel fuko even though he's criticized for not really treating race that much I find that he gives us useful comments and if we follow FICOs talk about his own work he says Look I'm giving you a kind of roadmap and what you do with it that's up to you. I'm not prescribing action. I'm merely giving you a set of tools to better understand the phenomenon your surroundings and so the two concepts you mentioned biopower and disciplinary power are fairly sexy topics for fuko these days. Biopower far more than disciplinary power think disciplinary power is kind of gone out of folk. But fuko would argue that you need disciplinary were in place in order for bio power to effectively work and in shorthand I would describe what fuko means by those concepts in the following ways disciplinary power is largely about management of individual bodies. So if you think of prisons the military even school settings. The aim is to train people to behave in a particular way not by force. But you want them to internalize a particular kind of management of themselves in order to be productive citizens in those settings and fuko says this is disciplinary power.

[00:33:18] And to me the important aspect of this is his conception of disciplinary power pushes us to think about power not only as something that prohibits us from doing things but also as something that conditions us to desire in certain ways and to be inclined to act in certain ways you know as I say to my students. If you look around all of you had come to class with paper and a pen or some means of taking notes. That's because you've been disciplined to do that. You would be considered a bad student if you didn't. Now you're not made to do that. There is no penalty if you don't. But the real sort of internal penalty is how they'll be perceived by those who are observing their peers. And so disciplinary power really takes control of power out of the hands of some single central authority and says Well isn't the more dramatic aspect of modern power the fact that we police ourselves. And I'm reminded of the story told about the encounter with a police officer involving your daughter. And I think there's sort of two different levels of discipline power there of the police officer as a state sponsored individual exercising that and working on certain assumptions about who you are and how you should behave much. Draw us into the way that biopower plays upon disciplinary power so you have this idea of managing individual bodies and biopower brings into conception the idea of managing populations that we determine through statistical analysis and data. And you know what do states do they manage population. They pursue public safety and in order to maintain public safety fuko would say they require a kind of public hygiene.

[00:35:21] We have to get dangerous people out of the public arena and in order to maintain public

safety. And so I need to be able to effectively manage certain populations to save public safety and fuko goes even further he says. And states also determine that some populations are more worthy of saving and others must be forced to die in order to foster the continued well functioning of those chosen so to speak populations. And just to clarify he doesn't endorse this idea that spotlit is correct. He's not a murderer. He's merely being descriptive. He's arguing that we really need to take a look at this in order to understand the effect of our systems. And I guess if my perception of fuko is that he is a philosopher not simply of theory but also of a fact he wants to know what are everyday practices are producing regardless of what we're saying about them. And so he utilizes these analyses of power and he does quite detailed analysis of particular institutional structures to kind of determine what's really going on there. And I think from method in this respect is instructive for us as individuals that a lot of what we participate in in the everyday it doesn't always meet with what it claims or purports to do. And so we need to be critical and by critical I don't mean we have to criticize but we need to be conscious and honest about the effects our institutions are having. The role we're playing in those institutions and what kinds of commitments we might have to change those effects.

[00:37:18] And so I find fuko useful as an analytical tool and I think you know thinking about what you're saying and describing these two different forms of power I think that's their crucial concepts for social workers to think about. So the way that we're we're socialized into the profession through graduate study and professional training and supervision is a form of disciplinary. Yes. And being aware that we're being taught to think a certain way we're taught to interact a certain way and to encourage the people we serve whether that's individuals whether that's families or groups communities we in a sense exercise that power and turn over those we serve to get them to behave in certain ways which we hope are ethical and helpful and promote well-being. But we need to be awake to the question. Yes and thinking again about Viall power how we as a profession as a whole exercise this. We are hopefully promoting life but that's not something that we can just assume. That's correct. Of Evil comes in. So fuko really gives the profession a set of tools that we can use to evaluate ourselves and to make sure we're doing what we're doing and not just say hey I was just following what my supervisor told me I was just I read the code of ethics once and this is what it says. Therefore I'm doing the right thing. We can really stop and ask ourselves Am I really being true to the mission and the goals and the values of that profession. And what is the effect that the ways that our agency structures the ways that our policy structures and legislation are those effects. Right.

[00:38:58] And I think we are often in institutions that have a variety of affects all of which we are not necessarily proud of. And I think when you talk about well how does fuko help us as activists. I like the fact that fuko is a philosopher who also was an activist and as an activist he was always cautious about becoming dogmatic because he believed that once we become dogmatic once we commit to the truth of thinking and only one way we begin to not be as critical of what we're doing. And so one of his ongoing he would protest with one group one day and then go to the opposite group the other day. And that was his practical although kind of bizarre way of interrupting dogmatic behavior. But I also think it's instructive that we develop a kind of conservative ism of view regardless of what political orientation we have. That often makes us presume that the effects of what we're doing are good and I think we need to always always always question that and that's what I mean when I talk about critique that it is in the spirit of ongoing critical examination of our beliefs are some options and are everyday practices. So what comes next. Is there any sort of final thoughts or thoughts moving forward as to how we can take these ideas in this discussion and move forward. Well I've been looking a lot at Ferguson of late and I think in many ways even though we're not talking about Stand Your Ground laws I think we are talking again about bio power and perceptions of quote unquote dangerous individuals which is also something fuko treats. And I strongly believe that we have come to see these and passes as exceptions to the rule rather than the rule.

[00:41:11] And the more I look at it and the more I think about it through the lens of bio power it is the case that Ferguson Baltimore Staten Island they're not exceptions there's just something that has transpired that's made us attend more to this phenomenon. I mean if you think about it hip hop artists were talking about this in the 90s people were subject to very subjective laws during Jim Crow in the south. So state sponsored violence against racialized people in our country is not new. It's always been extremely harsh. And so I think we have to begin to look at our structures and our systems that perpetuate an excuse. And we have to ask ourselves about our complicity in that structure. And that's sort of where I'm at in terms of intellectual work. And what I think one of my roles as a teacher as an instructor to help students become aware of those things that they have not been attuned to seeing or hearing. And hopefully that work will be promoted as part podcast so I want to thank you for your time and your contributions. Any other final thoughts that you love to close. Well thank you for inviting me. It's always fun to prove that philosophers don't sit in ivory towers reading only esoteric books that have no relationship to the world in which we live. So I appreciate the opportunity and I hope that it will be useful to social workers and training and in practice and others who hear it. You have been listening to Dr. Devonye Havis discuss Stand Your Ground laws and state sponsored racism in social work.

[00:43:12] Hi I'm Nancy Smyth professor and dean of the University of Buffalo School of Social Work. Thanks for listening to our podcast. We look forward to your continued support of the series. For more information about who we are as a school our history our online and on the ground degree and continuing education programs we invite you to visit our website at www.socialwork.buffalo.edu and while you're there check out our technology and social work research center you'll find it under the Community Resources menu.