

# Example of research paper on the stand your ground law

[Experience](#), [Belief](#)



The United States of America continues to grapple with insecurity. The position, since the 9/11 attacks, has been that of a cautious approach to matters of security. Interestingly, the threats of security are not limited to terrorism only. Criminal activities have increased with cases of violence, rape and assaults, among others on the rise. It is on that premise that the nation has had to address the security issues and undertake measures aimed at protecting the citizenry. At the federal level, legislations relating to terrorism and gun control (Patriot Act, among others) have been adopted. In the same light, states have taken measures to contain insecurity within their jurisdiction. One such measure has received a statutory footing in over twenty states. This is the Stand Your Ground Law. The law is premised on the need to facilitate the attacked persons' defence. In that vein, the law essentially affords the attacked person the opportunity to counterattack if and where necessary. While the place of self defence has often been appreciated in the larger American jurisdiction and indeed in any jurisdiction in the world, the new approach availed in the Stand Your Ground Law appears to have extended the privileges too much. In the process, many have observed that the law has emphasized mainly on the rights of the attacked without giving due attention to what could perhaps be more important. The latter refers to the right to life. A plain reading of the law appears to suggest that the right to life can be compromised as and when necessary. Ultimately, the law provides the parties with few options. It suggests that at the end of the day, one party has to go and the other has to survive. This paper shall examine the complexities around the Stand Your Ground Law. From the onset, it should be appreciated that the paper

opposes the Stand Your Ground Law and supports attempts to have the wording of the statutes across the states changed to be less permissive and confrontational.

The law should first be appreciated in the context of two doctrines it has introduced. These are the castle doctrine and the self defence doctrine.

Closely connected to the castle doctrine is the formerly practiced doctrine of retreat. Under retreat, it was necessary that one avoids the confrontation with the attacker to the best extent possible. Indeed, the need to retreat was informed by the judicial requirement for parties not to take the law into their own hands. Under the same, the attacked party was required to avoid confrontation. Indeed the retreat concept still finds relevance despite the Stand Your Ground Laws' options. It is often advisable that one avoids using fire or any weaponry where possible. The use of fire should come as a last resort. In addition, it is the recommended practice that one avoids the incident unless he has his back to the wall. The exception is informed by the fact that with one's back on the wall, defending oneself could be difficult. However, the castle doctrine introduced in the Stand Your Ground Law affords the attacked person a chance to contain the attackers. It is argued that when one is in his castle, it is impossible to seek refuge in another different place. In addition, it has been argued that the villain who attacks one in his own castle is surely on the offensive and does not deserve any chance whatsoever. It is on that premise that the attacked person is required to stand his ground. By standing one's ground, one is entitled to some self defence. One is entitled to attempt to wrestle down including killing the attacker. This approach appears to promote the shoot first, ask later

mentality. The castle doctrine has been adopted in many of the stand your ground laws. However, it is instructive to note the expansion of this doctrine. A plain reading of the provisions suggests that the stand your ground is now not limited within the castle. It has in fact been extended to general defence.

This in substance leads to the second doctrine, the self defence doctrine. Under the self defence doctrine, the law affords the attacked party an opportunity to act in any way that is justifiable in his own defence. It has been argued that the law cannot advantage one party over the other. In that vein, for cases where a party is under reasonable fear of either death or grievous bodily harm, he is afforded an opportunity to defend himself. The concept essentially supports the fact that one should be afforded an opportunity out of danger through the application of every measure possible. However, it is instructive to appreciate the fact that the party has to apply force that is commensurate to the force applied by the attacker. In that strain, one cannot apply fire where the attacker does not have fire. However, it is equally important to note that the self defence has not been defined clearly and what the law anticipates is the consideration of the situation and the totality of the circumstances. The loophole in this approach lies in the fact that it promotes the controversial shoot first, ask later mentality. A good example of the seeming disagreement can be seen in the Trayvon Martin case in which the jury found the accused not guilty despite the overwhelming evidence that the accused misused the Stand Your Ground provisions. The Stand Your Ground Law requires that self-defense be invoked only upon reasonable fear of death and or grievous harm. However, the

people have not been able to use it well. The Trayvon case cited above is a good example of the citizenry's misuse of the law. It was anticipated by progressives that the jury in the said case would find the accused guilty and apply the law to correct the misuse. Unfortunately, in that case, the jury chose to look the other way.

Lastly the Stand Your Ground Law equally grants immunity to select persons. It provides that some persons meeting some conditions are immune and as a consequence cannot be found guilty of the offence. The insane persons are included in the "immune persons' category". While this approach may be necessary, it equally provides a leeway for misapplication of the law. The nature of the provision requires the police to conduct investigations as to whether the persons involved in a case qualified are persons in the immune category. However, the same provisions fall short of giving elaborate procedures for this application by the police. In addition, the immunity granted to these persons cannot be rebutted. This is to say that the prosecution cannot purport to challenge the qualification of such persons. This approach, in the paper's opinion, tends to give premium to the attacked persons and allows them to exploit the law and misuse weapons. In the long run such an approach tends to distort the equality position of the law. It can that be argued that the immunity provision and the fact that it cannot be rebutted is unconstitutional and, therefore, needs to be amended.

The paper hence takes an antagonist view of the Stand Your Ground Law. It is the paper's postulation that as the laws stand, they are unconstitutional and or inconsistent with the equality premise of the law. Instead of the law providing avenues that would solve the cases of insecurity, it in fact worsens

the situation by affording the citizenry a chance to take the law into their own hands. This approach of the law is thus unacceptable and ought to be rejected. While the paper appreciates the need to defend one's life and property, it is essential that this defence be applied with reasonable force commensurate to the force visited from the other end. In addition, the state should continue discharging its role of provision of security. From a social contract perspective, the purpose of governors and the government is to provide to the citizenry services such as security. It is, therefore, retrogressive and unexpected for the same government to enact laws requiring the citizenry to provide their own security. In other words, the solution the government provides through the law is a confirmation of its own incompetence in respect to its roles in society. At the end of the day, the right to life must be protected to the best extent possible.

## **Works Cited**

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