**Down to the Struts**

Season 3, Episode 3: Intersectionality and Algorithmic Bias

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**Introduction**

[jazzy piano chords, bass strumming with smooth R&B]

Qudsiya Naqui:

Hi, this is Qudsiya Naqui, and welcome to another episode of Down to the Struts, the podcast about disability design and intersectionality. Before we get started, I wanted to let you know that Down to the Struts is now on Patreon, a platform where you can support content creators, and help them continue to create the content you love. I'll share some more details later in the episode, but if you're interested, you can follow the link in the episode description, or just go to patreon.com/downtothestruts. Today, we'll listen in on my conversation with Lydia X. Z. Brown. Lydia is Policy Counsel for the Center for Democracy and Technology; Director of Policy, Advocacy, and External Affairs for the Autistic Women and Non-Binary Network; and adjunct faculty at American and Georgetown Universities in Washington, DC. Lydia and I discussed intersectionality, disability, and algorithmic bias, and how to sustainably approach advocacy and activism. Lydia is a powerhouse and I hope you learn as much from this episode as I did. Okay, let's get down to it.

Thank you so much, Lydia, for joining me on the podcast today. I'm really delighted to have you.

Lydia X. Z. Brown:

Thank you so much for inviting me, it is a pleasure to be here.

Qudsiya Naqui:

I wanted to start off by asking you to just share a little bit about your background and what led you to your work as a lawyer and activist and advocate and someone who's worked in the realm of Disability Justice?

Lydia X. Z. Brown:

You know, that's a really hard question to answer for a number of reasons, one of which is that I never actually set out to become a lawyer, that was not part of my plan. And it wasn't really what I was thinking about when I was back in high school or younger, or really, even when I was in college, it wasn't I wasn't one of those people who was thinking I have a dream of being a lawyer and decided to do it. But I have been involved in some form or another in doing activism, advocacy, or organizing work for a very long time. And that comes from a belief that I've held throughout my entire life, that every single one of us has a moral obligation to do everything we possibly can to fight, challenge, an end injustice, oppression, and violence in every form. That is to use whatever resources we have available to us to challenge oppression. Now, that recognizes, of course, that what resources an individual person has are very different from person to person. And a person's resources can fluctuate from moment to moment, or different points in a person's life, and what those resources are is sometimes more tangible than not sometimes they are resources like money, or time access to physical space. And sometimes they're less tangible, like emotional energy, mental capacity to do work right clarity at a particular time, as opposed to having a period of a few weeks of brain fog. Someone who has the ability to know how to do a certain thing, somebody has a skill of how to do a certain thing. Those are all different aspects of our types of resources that a person might have. For all of us, our abilities. And our capacities are always fluctuating at any given moment. And of course, that's part of what Disability Justice work is, is recognizing that our capacities fluctuate constantly that the ways in which we need support, and the ways in which we can offer support at both the person to person level, and when addressing systemic issues vary considerably. But I've had that belief, basically for as long as I can remember. And while I don't pretend to be perfect, or the holder of the most knowledge or anything, I certainly have tried my best to live up to the ideal that I espouse, which is that whatever resources I may have at my disposal, past what I need to basically live and live a relatively comfortable and at least basically surviving life, that those resources need to go toward ending oppression. And that is a commitment that I share, at least I hope I share with many other people in the same communities that I'm part of

Qudsiya Naqui:

that's really compelling. And I really identify with this idea of trying to find what resources skills that one has and how to leverage them. So is that kind of what ultimately over time led you to being a lawyer is a sort of deciding, these are the skills I can lend to this overarching cause that I am committed to.

Lydia X. Z. Brown:

I have the particular and peculiar privilege of being able to work across many different spaces and communities. Just to be clear about that. I don't mean to say that I'm the only person that can do that. I'm one of many people who work in that way, who work bridging different communities, different organizations, different spaces that might be using different tactics and different strategies. But because that's one of my strengths, that I'm a person who is able to operate more or less fluidly in a variety of spaces. I knew that when it became relevant to my life, that going to law school was an option for me, not one that is an option for everybody, especially because of ableism and classism, and racism and so many other forms of oppression. But it was an option for me at least to consider. I had the ability to do it to succeed to come out on the other side of it. And I thought that it would be a way that I could at the very least add another set of tools to my toolbox. I don't believe that the law will lead to liberation, I don't believe the law will free us, I don't believe that the law will somehow end ableism However, I do believe that the law can be a powerful tool to use in service of and supporting movements that are working toward justice and toward liberation. I believe the law is an important and vital tool to use for harm reduction. I believe it's a vital tool to use to disrupt existing systems and structures of oppression, and to demand at least in the short term, non reformist reforms, while at the same time we are demanding radical transformation of the society in which we live.

Qudsiya Naqui:

That's really helpful. And we've talked a lot about the law on this podcast and how it can or cannot make transformational change. And I think you've summed it up really, really beautifully in terms of the limitations of what the law can and can't do. And then the possibility of the direction with changing the law and using the law for change can take us. Also on this podcast--so the the sort of tagline of it is that it is about disability design and intersectionality and I've had the privilege of hearing you speak really eloquently on this topic. So can you describe for us what intersectionality what that term means to you and how that relates to the movement for Disability Justice,

Lydia X. Z. Brown:

the word intersectionality first came to public consciousness from the work of Kimberle Williams Crenshaw, who is one of the leading scholars and pioneers of the field of critical race theory, much maligned by racist white people recently. And the theory of intersectionality is a way of analyzing, framing and understanding the ways in which systems of oppression collide, and compound to produce particular and peculiar forms of oppression. At the intersections of more than one experience of marginalization. Professor Crenshaw first used the term in her paper exploring forms of discrimination against black women who were unable to have their claims recognized under our existing non discrimination laws, because the ways in which they experienced discrimination couldn’t be understood as only racism because of their blackness, or only sexism, because of their femininity or their womanhood, but rather as the result of the combined experience of being both black and woman, and experienced that later scholars and organizers, like Moya Bailey and Trudy described as misogynoir, that is oppression specific to black womanhood. And to understand what happens to those of us who live at the intersections of any forms of oppression that collide requires us to understand that oppression does not happen in isolation. Even for a person who might move through the world experiencing multiple forms of privilege. oppression still does not happen in isolation, because systems and structures of oppression operate to enable and perpetuate one another. And this is very core to understanding Disability Justice. The first principle of Disability Justice as articulated by its co creators and by leaders in Disability Justice organizing, like Patricia Byrne and Aurora Evans Morales. The first principle is intersectionality because Disability Justice understands that ableism operates by incorporating capitalist definitions of our worth based on our productivity or our labor, or our output, and likewise, that other forms of oppression depend upon ableism white supremacy depends upon ableism by positing That people of color are necessarily inferior to white people, that our body minds exist only to be extracted from and exploited for the benefit of whiteness and for racialized capitalism. And so understanding intersectionality is both about understanding our individual positionality how each of us moves through the world affected by many systems that play out in our everyday interactions, how we see each other and how we are seen and perceived by others. And structurally, how systems and structures and patterns of oppression operate on the macro level societally, culturally and politically.

Qudsiya Naqui:

That's a really helpful clear, cogent definition. And what would be interesting is to delve into applications of what you just described, both on an individual and systemic level as related to your work around algorithmic bias. I think this this is a really great illustration of a lot of the concepts that you just described so succinctly, can you first share with us what what is algorithmic bias? broadly speaking,

Lydia X. Z. Brown:

I prefer to use the phrases algorithmic discrimination, and algorithmic justice. When we talk about this body of work, the word bias isn't strong or clear enough. Most people when they talk about algorithmic bias, are describing the ways in which algorithmic systems and tools incorporate existing societal attitudes and beliefs that is commonly held or dominant biases that can happen in very simple straightforward ways are very complex and nuanced ones. I prefer to think of this as discrimination because it is a civil rights issue and a social justice issue. And our conversation in response, therefore is being about one of justice. Most people who talk about algorithmic bias will talk about its corollary is algorithmic fairness, the response to bias is fairness. If an algorithmic system is biased, say against women, or against disabled people, we're against people of color or people who belong to more than one of those groups, then the solution to that bias is to judge the algorithm with fairness, I understand our work to be able to understand and the ways in which algorithms don't just deploy bias, but they cause enable and perpetuate discrimination. And that responding to that discrimination, and the ways in which algorithmic systems can prop up corporate violence, state violence, or every day harmful decision making is also a question of justice. So let's talk about a couple of examples. One example of a very basic way in which an algorithmic system can replicate existing societal biases that is the ways that oppression already operates is in hiring resume screening software, which is now commonly used by many employers, whether for white collar jobs or for hourly wage paid working class positions, will train the algorithm to screen people's resumes to decide which people based on predictive analysis are more likely to become a successful candidate should they be hired, as opposed to which people might be less likely to be successful candidates. And that algorithm is likely going to have been trained on data based on existing employees at a particular company, or perhaps similarly situated companies. And if you're hiring for retail positions, you might obtain a data set of employees of other retail companies that hired a similar area. Or you might train the data set based on your own employees. And the algorithm will learn over time, based on who has already been hired, who might be predicted to be likely to be successful in the future. Now, at first glance, that might seem okay, well, you know, someone's been successful before people that are similar to them will probably be successful in the future. What's wrong with that? Think about it for about two seconds longer. And you'll realize and remember that we already live in a society that is profoundly unequal, where women are much less likely to advance in their careers than men, regardless of whether they are transgender cisgender. But especially if they're transgender, that disparity sharpens even more, that people of color are less likely to advance in their careers than white people. And that when you just aggregate that falls unevenly among different communities of color. For example, if you are a black or brown person, or you are a native or indigenous person, you face particularly insidious forms of employment discrimination, that even other people of color that are lighter skinned, might not experience, you will necessarily be able to recognize, if you're just looking at past employees that have South Asian employees who've been hired before, there's a better there's a better likelihood of someone from an upper caste background, having been hired and promoted than someone of a lower caste background even in the West. If you look at data among Asians as a whole, East Asians are likely to have higher employment and promotion rates than South East Asians and South Asians are. And those are just a couple of examples of the ways in which racial and gender bias are already built in To the existing workforce, we can also understand this in ableist terms, too, and that disabled people are less likely to be hired, we're more likely to face over employment discrimination, we're less likely to graduate with a high school diploma, we're less likely to be funneled into college programs, we're less likely to be supported in transition to adulthood. And then we're more likely to experience all of the things that are resume screening software tool might be trained to see as cautionary information about somebody gaps on our resume because of discrimination because of chronic illness, because of a higher likelihood of experiencing homelessness or incarceration, that a disabled person might be less likely to have a college degree or a graduate degree, that a disabled person might be more likely to have gone to a community college, or to have had a significant gap between finishing high school and attending college at all. And there's so many other reasons why training data on an existing set of employees is literally going to replicate the very same oppressive systems and forces that already existed. That's just one example.

Qudsiya Naqui:

And connecting back to your discussion earlier of the concept of intersectionality. I would imagine that algorithms in this kind of structured system of multifaceted oppression, could really have an impact on someone who has an intersectional or multifaceted identity. Like, you know, for example, myself, I'm I'm blind, and I am South Asian, and I'm a woman. If an algorithm is built with existing societal discrimination, then I'm experiencing that discrimination on all of those fronts kind of at the same time. Is that accurate?

Lydia X. Z. Brown:

Right, and you can't separate it out either. I can tell you about so many different experiences I've had, right. And in many of those stories, it is hard to pull out was what happened to me the result of gender based discrimination, was it because I was perceived as feminine? Was it because I was accurately pegged as transgender? Was it because of racist discrimination, because I'm East Asian, Was it because of ablest discrimination because whether they knew my specific disability or not, they nonetheless pegged me as being disabled of some kind. And the reality is, in many situations, it's probably some combination of all of those, whether or not it's conscious or explicit, like, here's an example of that. When I was in high school, I was falsely accused of planning a school shooting. And I was accused because I like to write fiction. And the fiction that I write deals with very heavy topics of trauma, and violence, interpersonal violence, as well as state violence. And I remember having a conversation with a friend at school about the plot of one of my novels, and I made a joke related to the novel, someone overheard the joke and reported it to the school administration, because it freaked them out and made them uncomfortable, then I was called in. And an assumption was made about me on multiple levels, that I had a propensity toward violence that I was perceived as being obsessed with weapons and with violence. And that because I made this one joke related to a piece of fiction, I was writing that therefore I must have been at least unstable, threatening, or scary. And to understand what happened, we have to look at this from multiple angles and see how they collided because I was gendered as a girl, even though that's not my gender identity. Because I was gendered as a girl, it was socially unacceptable for me to be interested even in fiction related to violence and trauma. compared to if I was perceived as and gendered as a boy. A boy is expected to be allowed to have some level of interest in violent video games, or in TV shows that might involve more violent content or R rated movies. But someone who is gendered as a girl is expected to perhaps be allowed to be interested in one or two crime related shows because they're so popular, but not to be so interested that you're creating content. On the other hand, I was known to be disabled and neurodivergent. And we know that every single time there is a school shooting, the rhetoric that comes out about the shooting is always well, this person was mentally disturbed. This person was socially inept, this person was bullied and probably therefore experienced some kind of awkwardness. This person was probably psychopathic, this person was perceived as scary. This person probably had these diagnoses, they were unstable, they were referred for treatment, they were receiving special ed services. All of these sometimes not veiled, always, of describing the people who commit school shootings, as necessarily neurodivergent in some form, mentally ill, autistic, or otherwise disabled. And knowing that I was already perceived as an understood to be disabled and specifically autistic, undoubtedly contributed to that perception. We have an autistic kid who's very awkward, who is writing stuff that's related to violence, therefore, they probably have violent tendencies. They probably don't know the difference between reality and fiction, they probably are going to act as out in some way, right? There's that ablest assumption that presumes that disabled people are necessarily criminal, and suspect. And lastly, because I was a person of color, but undoubtedly played into the assumption that I was suspicious in a way that a white student probably wouldn't have been suspected. Now, could it have been worse? Absolutely. Because I wasn't Muslim, because I wasn't black. Right, which are both experiences that in the US are even further responded to with criminalization and state oppression, the experiences of anti black racism, experiences of racialized anti muslim violence, right are not experiences that I had, because I was a light skinned kid in a Christian family. So those are not experiences that would have contributed to the accusation. But because I was privileged as a light skinned person, from a white family that undoubtedly contributed to why it didn't get worse than the accusation. Other people who I know of in the autistic and disabled communities have had very similar stories to the point where, at what age were you when you were accused of being a future shooter is basically an inside joke in the autistic community, which is pretty fucked up, right. So the ways that this happened to me in terms of being accused, and the fact that I didn't end up incarcerated because of it were the result, both of compounded oppression that I experienced, and compounded privilege that requires an intersectional analysis to understand both how that could happen, and why I was privileged enough not to face the worst possible consequences.

Qudsiya Naqui:

And add to that this idea of if those assumptions are being used in some sort of predictive modeling about, say, for example, how to mete out school discipline, you know, then you have a real real problem on your hand and, and real active discrimination occurring. I think that makes a lot of sense.

]Short, cheerful beats]

Intermission

Hi, it's Qudsiya. . I hope you're enjoying the episode so far. I want to tell you a little bit more about supporting Down to the Struts on Patreon. This podcast is a labor of love, but it also requires resources, like our audio production equipment, transcription software, our website, and most importantly, the team of talented, dedicated humans who make it all happen. With your donation, you'll be able to help us with these expenses. And you'll also become part of our community, and another voice in the movement for Disability Justice, you can support us at three different tiers starting at just $5 a month. In exchange, you'll receive access to bonus content, personalized messages from me, and exclusive Down to the Struts mirch. If you can't give right now, that's okay, too. You can still support us in other ways, like rating and reviewing us on Apple, podcasts, Spotify, Stitcher, or wherever you love to listen, you can also follow us on social media, or just share the episodes with a friend. Okay, now back to the episode.

Qudsiya Naqui:

So you've really elucidated the problem here, and I'm interested to get your perspective following from that, on what what are some of the potential policy solutions to ensure that when we use technology, which you know, has some potential for good and can create access for disabled people? But how do we leverage technology in a way that doesn't produce these harms that you've described? What are some of those policy solutions? Number one,

Lydia X. Z. Brown:

we need regulatory agencies to step up and do what they are supposed to do. Most discrimination by algorithm, whether it's an employment, or whether it's in the criminal legal system, or an educational context, in housing, or in benefits determinations, is already illegal, because we already have civil rights laws that make it illegal to discriminate because of race or because of disability or because of gender. If regulatory agencies actually exercise their power to monitor and to enforce our existing protections against developers and vendors and users of such algorithmic systems and tools, then we would already see greater limitations on what tools different people whether corporate or government entities are already using. But number two people who are thinking about adopting algorithms developing them or purchasing them for their use need to be in consultation with people from marginalized communities about what the even purpose of the algorithm is going to be, as well as how it will be designed. Because if you're designing a tool to help select resumes, or you're designing a tool to help identify information about tenants, when you're designing a tool to help better support students learning, then you need to be sure, based on repeated consultation with an auditing by people from marginalized communities, who have personal and technical expertise, that your algorithmic systems are not discriminating.

Qudsiya Naqui:

So can you talk a little bit about some of the work you've done in this space and whether you see change happening when it comes to regulating some of some of these companies, government entities that are interested in in using algorithms in their work?

Lydia X. Z. Brown:

We're very much in the early stages of regulatory action happening, unfortunately. But I hope that those efforts where they exist will begin to gain traction. For example, earlier this year, lawmakers in both Washington and California have introduced measures that would look at the use of algorithmic tools that might have potentially discriminatory impact. This is also taking place in New York City as well where a bill before the New York City Council would require certain types of auditing of employment related algorithmic tools. But I believe that we need a lot more action right then a few states looking at what their public or private use of algorithmic tools might might be like within that state, we need federal action. And we also need to see concerted effort in more than just a handful of states where some legislators are beginning to pay attention to the danger of algorithmic discrimination. Algorithms has been a reality now for probably a couple of decades, but increasingly over the last 10 years, as algorithms can increasingly make decisions about what advertisements we see about what insurance we might be considered for, and even what healthcare we might receive. The time for action is now

Qudsiya Naqui:

and what are some of those actions for the folks who are listening to this episode? What advice do you have for them about what actions they can take to further this cause?

Lydia X. Z. Brown:

more folks within disabled communities and frankly, even people who care about disability issues for any other reason, need to understand the real threat that algorithmic discrimination can pose to disabled people and the people in all other marginalized communities. And to that, and the work that I'm doing at the Center for Democracy and Technology. We're actually publishing plain language versions of the reports that we've put out about algorithmic discrimination as a way of increasing access to information for people who might not necessarily have a particular policy, legal or technical background or expertise, but who nonetheless wants to be informed and would like to be better equipped to advocate either on their own individually, or to advocate for regulatory or legislative change where they live or nationally. I also know that, you know, there have been increasing reports of litigation against algorithmic discrimination. One of our papers that we published was specifically about benefits determinations and litigation against states that use algorithmic decision making tools to make benefits decisions. But there have also been cases now in front of the EEOC as well as in the courts relating to employment discrimination caused by algorithms related to housing discrimination caused by algorithms, and related to predictive policing tools, which again rely upon algorithmic systems to make their decisions. And I know like I said before that litigation is not going to end discriminatory and oppressive systems and structures. How ever litigation as well as proactive lawmaking and regulatory action can do a great deal to address the current harms that algorithms systems pose Now, while organizers continue to advocate for an end to harmful discriminatory hiring practices in general, to harmful housing practices in general, or to the harms of policing it presents.

Qudsiya Naqui:

Thanks so much, Lydia. And we'll definitely share links to these plain language resources on our site so that folks can check them out. And they can contact their senators and representatives and help to educate their lawmakers on these issues. So I look forward to sharing those resources with everyone who's listening. So I wanted to switch gears a little bit and broaden out our conversation as we start to wrap up, you know, you you wear so many hats and you do a lot of work. I encourage everyone to check out Lydia's website where you can find their publications speaking engagements and more information about the issue. Use that we'ves talked about today on the podcast and your work you work by and with and for the autistic community, you work on issues of Disability Justice, what how do you what sustains you in this work? How do you how do you make this work sustainable for you and keep yourself motivated to move forward

Lydia X. Z. Brown:

through relationships, and community, which is the only way that any of us can be sustained at all. When I mentioned earlier the 10 principles of Disability Justice, I only named the first which is intersectionality. Another one of the principles of Disability Justice is sustainability. and sustainability means sustaining ourselves and each other. And it also means sustaining movement, and community. This is incredibly difficult for most of us, and ask any activist or organizer and you'll probably hear every single one of us talk about how much we don't take time for ourselves how much all of us are overworked, working all night, long, every single day, every night, how much all of us are individual Crisis Response centers for whole communities of people, and how this is such a common experience. You'll put together a roomful of activists and organizers, and every single one of them will say that they don't feel that they can ever take a break, and that they will feel guilty if they take a break, and that it is impossible to take a break. And we all talk to each other about self care. And nobody ever fucking does it. Like literally not a single person. And, you know, I'm not trying to claim like, Oh, I'm the person that's figured it out, because I haven't. I'm bad at it too, like we all are. But the things that help a lot, are maintaining and cultivating relationships and spaces, outside of my activism and organizing work, and about surrounding myself with people who can help each other. With taking breaks, even if the break is just a couple of hours, I just want to be clear about that, too. I don't mean, take a break as and you stop caring or you stop being committed. But I mean that you take some time to do crochet, or play Dungeons and Dragons, or go for a hike in the woods, or play a computer game, or microwave your favorite junk meal and eat it, you know, whatever it might be, it doesn't have to cost money, it doesn't have to take a long time. It doesn't have to involve going somewhere, cultivate some practice, some space that you can do, at least sometimes that takes you outside of activism or organizing work.

Qudsiya Naqui:

That's really helpful advice. And I know we were talking about earlier, some of our common acquaintances and and one of one of the things that I love to do is sports that's my outlet. Give me a tandem bike anytime, and also junk food. Thanks for that. And I think that's really good advice. And so I recall, I don't know if you remember this, but at theTembrok Symposium, there was a young student, high school student that was attending and they connected with you and one of the sessions and it was really exciting to see a young a young person that was really interested in asking about how can I be involved? How can I be engaged? So you know, what advice do you have for people in our community in the in the disability bipoc queer community and those who call themselves allies of that community? What What advice would you have for them about how they can further the movement for Disability Justice,

Lydia X. Z. Brown:

everybody has something to offer in our youth and our elders alike are often on the front lines of liberatory revolutionary work, being young does not mean you do not have something to offer. And it doesn't mean you don't know things, you know a lot more than you might realize, you have so much more wisdom and knowledge to offer than most adults will probably ever give you credit for. And if you are already thinking about what you can do to challenge ableism and other forms of oppression, you're already doing a lot more than many adults are who've been out in the world for a lot longer than you. And there's so much work to be done. Whether that is creating art and cultural work that is engaging in organized political resistance locally in your county, or city or state or nationally, or internationally. Whether that is doing research and study whether that is challenging what is taught in schools, whether that is doing work of advocacy in a policy oriented way, or doing the work of advocacy in a direct action centered way, or do creating work online or organizing a support group or organizing a reading and study group with other people your age or not. All of that is work that anyone can do. You don't have to be a specific age to join an organization unless that organization has a membership ages. I guess some do, but you don't have to be right. For many disabled led organizations. You don't have to be a specific age. You don't have to be a specific age to create work online. You don't have to be a specific age to lobby in your state or your city. For laws that you want passed or laws that you want repealed. You already have so much more power than you might know. And it is up to you to decide whether to use it

Qudsiya Naqui:

very wise words. And if you don't see what you want or a group that you want to be a part of you can create it yourself and have people come to you. That's really wise advice. Thank you so much, Lydia for joining me. This has been such a wonderful conversation. And I know I personally have learned a lot and I imagine our listeners will as well. So thank you so much.

[jazzy piano chords, bass strumming with smooth R&B]

Thanks for listening to this episode of Down to the Struts. This podcast would not be possible without the energy and creativity of Avery Anapol and Ilana Nevins. If you want to support our work, become a patron by visiting www.patreon.com/downtothestruts. Also, be sure to subscribe rate and review the podcast on Apple podcasts, Spotify, Stitcher, or wherever you love to listen. Follow us on Twitter and Instagram at Down to the Struts. And you can also join our Facebook group at Down to the Struts podcast and become part of our growing community. Thanks as always for listening and stay tuned for our next episode coming into your feeds on Tuesday, August 24. So we can get back down to it.

Transcribed by https://otter.ai