

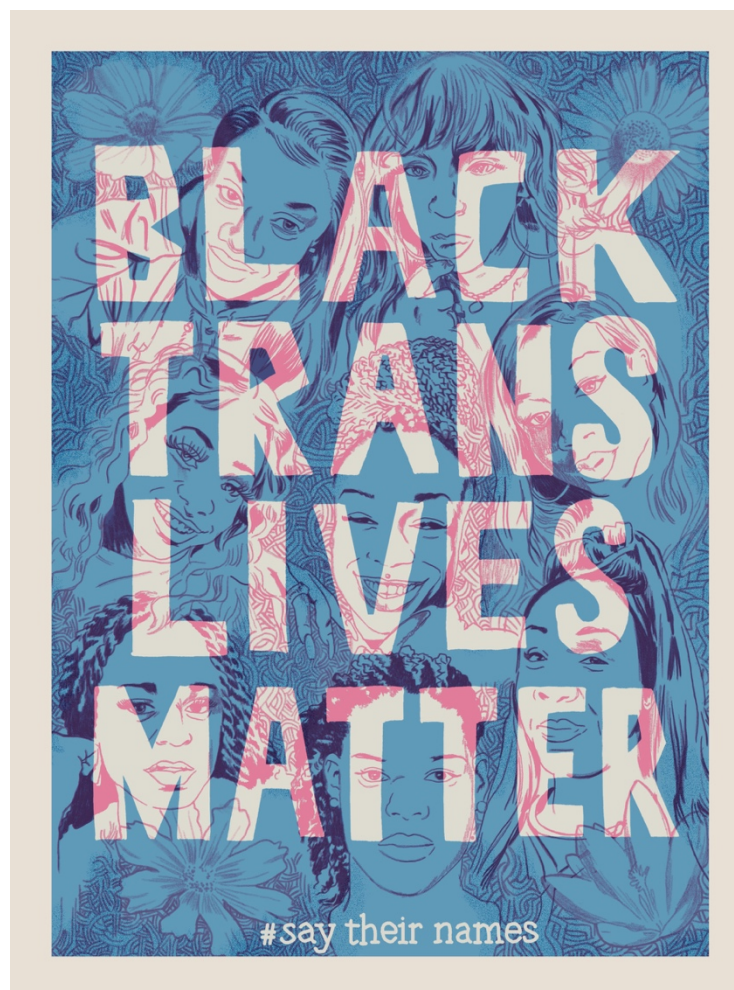
RADICAL TEACHER

A SOCIALIST, FEMINIST, AND ANTI-RACIST JOURNAL ON THE THEORY AND PRACTICE OF TEACHING

Teaching Note

Teaching Gender as Social Structure: “Walking While Trans” as Illustration

by Jillian Crocker



"BLACK TRANS LIVES MATTER - SAY THEIR NAME" BY JOSÉ 'PRIMO' HERNÁNDEZ FOR AGITARTE

In classroom contexts where a binary sex/gender system remains largely taken for granted, how do we encourage students to think critically about the origins and impacts of gendered ideologies and institutions? How do we demonstrate that the normative enforcement of gendered conventions isn't just academically interesting, but that it shapes experiences in ways that can cost people their livelihoods, and sometimes their lives? My institution, SUNY Old Westbury, is a public liberal arts college on Long Island, NY. Approximately 40% of incoming first years are first-generation college students, and nearly 60% of our students identify as members of under-represented racial and ethnic groups. Two courses in my regular rotation take gender as their explicit analytical focus, both through a sociological lens. In each, I am consistently searching for improved strategies and resources to help students recognize the value of "making the familiar strange" and to better understand the world and their place in it.

Like many instructors, I occasionally draw on current events and political issues to illustrate course concepts. And, like many instructors, I am consistently working to integrate the experiences of trans and gender non-conforming folks throughout my courses. (See Spade 2011 for advice on making classrooms more inclusive of trans students and voices.) At the same time, I am hesitant to incorporate current events or political issues into courses in ways that risk spectacularizing them, or in ways that don't move the course forward. In what follows I offer a brief description of a classroom analysis of the experiences of police harassment of trans and gender non-conforming individuals as an illustration of gender as a social structure (Risman 2004) and related course concepts, with a focus on how the use of this illustration enhances student understanding of key course ideas.

The phenomenon, widely referred to as "Walking While Trans," has been the subject of increasing media and political attention in recent years. The story of Layleen Polanco, which received widespread media attention when she died on Rikers Island in New York City in June of 2019, offers just one recent example of numerous similar incidents. Polanco had been incarcerated due to her inability to make the \$500 cash bail associated with prior misdemeanor sex work and drug charges, and was in solitary confinement at least in part due to a policy against placing trans and cisgender women together. She died when corrections workers failed to provide appropriate medical care following an epileptic seizure while in solitary confinement. Her case, death, and subsequent investigation highlighted key aspects of systemic transphobia, classism, and racism built into the criminal-legal system, and was readily offered as an illustration of the dangers of "walking while trans."

As a cis-gendered white woman I am cautious about sensationalizing stories of the murder, marginalization, or exploitation of trans women of color like Layleen Polanco. At the same time, there is pedagogical value in humanizing and contextualizing statistics-based arguments for structural change – perhaps especially in cases where data collection presents challenges, as it does here (Carpenter and Marshall 2017). There is also value in encouraging

students to situate cases such as Polanco's, which receive significant local and sometimes national media coverage, in terms of their socio-political significance.

My students' understandings of at least three ideas central to my courses have been strengthened by the analysis of issues related to Polanco's story and others like it (e.g., CeCe MacDonald, see Pasulka 2012), and from the consideration of their social, political, and historical context. First, gender is more than an individual identity: it is a social structure with interactional and institutional components. Second, the analysis of gender difference and inequality must account for race and class as primary organizing principles of society. And finally, but crucially, marginalized subjects and their allies have capacity as agents of social transformation. I have found an examination of key features of the phenomenon termed "Walking While Trans," including the recent history of sumptuary laws, proliferation of quality of life policing, and the work of activists to achieve legal reforms to be useful for underscoring these points. I address each in turn.

Gender is a social structure, not just an individual identity.

The analysis of gender in Sociology relies on an understanding of the concept as a social construction – an idea whose meaning and significance is shaped by social context. (See Jones 2017 for an approach to teaching the social construction of gender.) But what does this social construction look like in daily life? How is gender constructed (or de-/re-constructed)? While students can often recognize and relate to the ways in which gender is (re)produced in individual experiences and interactions, the recognition of gender within institutions, the ways it is built into the cultures or structures of a society, can be more difficult to observe.

Illustrations from institutions like work, family, medicine, or the criminal-legal system offer numerous opportunities to highlight the ways in which gendered norms and assumptions are woven into social systems – or the ways in which even seemingly gender-neutral policies and practices can have disparate impacts. There are a wide range of examples of the ways in which gender conformity can be written into policy, sometimes in explicit ways. In the context of the criminal-legal system, I have found the topic of sumptuary laws that banned "cross-dressing" to be a useful starting point and source of engaging class discussion. Widely enforced until the 1980s, such laws require that individuals wear at least three articles of clothing conventionally associated with their birth sex. Drawing on Mogul and colleagues' (2012) well-documented and accessible discussion of such practices, class discussion typically considers the origins of such laws, the assumptions underpinning such policing, and the ways in which such policing contributes "to the development of archetypes of gender transgressive people as inherently criminal" (Mogul et al 2012: 65).

Students are typically surprised to learn about the existence of such laws, although occasionally one or two has previously learned of their Stonewall era enforcement.

The example provides a useful starting point to consider the legal enforcement of gender conformity, with a mix of disbelief that it could be legally permissible to enforce gendered dress norms and a recognition of parallels to the non-legal, informal, and sometimes violent regulation of attire that we observe in other contexts (e.g. school/work dress codes, hoodies). Shifting focus away from the actions of individuals, the consideration of this legal regulation of dress provides a useful starting point for the analysis of normative social control more generally. Such laws are just one clear example of the ways in which the criminal-legal system can be used to enforce gender norms, and their consideration provides a foundation for more difficult conversations as the course progresses.

Analysis of gender inequality must account for systems of race and class inequality.

The idea of policing sex/gender, or the idea that some bodies are more policed than others, is one that resonates with popular understandings of practices and policies like racial profiling or Stop & Frisk. We know that policing is not experienced the same by all communities, but even within targeted communities police harassment and violence are not uniformly distributed. An examination of the practice of “quality of life” policing offers a useful illustration of the ways in which systems of race and class inequality intersect with systems of inequality organized around gender and sexuality.

Not unlike the broader scope of the criminal-legal system (Alexander 2010; Spade 2013, 2014; Pemberton 2013), quality of life policing is a widely recognized site of both racial/ethnic and gender disparity. Developed in the 1990s, quality of life policing draws on the (now problematized) theory that minor indications of community degradation create fertile ground for more significant criminal activity. But attempting to maintain social order through the enforcement of quality of life regulations, which include a range of common activities that occur in public spaces and are generally minor non-violent offenses, relies on considerable discretion among police officers. Social constructions of deviance, and by extension criminality, shape “whom to stop, question, search, and arrest, and whom to subject to brutal force” (Mogul et al 2012: 49). And while such crimes are often low-level misdemeanors, they can accumulate to significant consequences, particularly within the context of a cash-bail system.

Street-based prostitution is a common target of quality of life policing, often charged as “loitering with intent to prostitute.” But how does a police officer identify a loiterer’s intent when it comes to sex work? According to Mogul et al (2012: 62):

Gender nonconformity is perceived to be enough to signal “intent to prostitute,” regardless of whether any evidence exists to support such an inference. When combined with hailing a cab or carrying more than one condom, it’s an open and shut case.

The term “Walking While Trans” – intended to parallel the phrase “Driving While Black” – developed to capture such experiences among trans women, and especially trans women of color, who are routinely stopped and harassed by police officers under the pretense of likely prostitution (Carpenter and Marshall 2017; Mogul et al 2012). Such experiences illustrate how gender nonconformity intersects with systems of race and class inequality to create a particular vulnerability to perceived criminality for trans women of color, and to inequities in criminal-legal encounters.

While students may sometimes struggle with the concept of gender nonconformity or transgender identity in abstract terms, or parrot political rhetoric against the creation of gender inclusive spaces (e.g. bathrooms), when presenting this as an issue of police harassment I have yet to encounter the same transphobia. The idea that police interactions are shaped by assumptions about race, immigration status, and social class are familiar to my students, many of whom aspire to careers as police or corrections officers, and many of whom are themselves Black and brown young adults from working class communities. That gender conformity is an intersecting dimension shaping such interactions resonates with familiar critiques of urban policing, and again facilitates a shift in focus away from individual gender performance and toward the analysis of how an institution responds to (and compels) such performances at the intersection of multiple social locations. While I am cautious of implying a false equivalence between systems of racial and gender oppression, the familiar framework gives students practice with the tools necessary to critically analyze assumptions about gendered conventions.

Marginalized subjects are agents of social transformation.

According to hooks (1986:127), “unless we can show that barriers separating women can be eliminated, that solidarity can exist, we cannot hope to change and transform society as a whole.” While her assertion somewhat predates the language of intersectionality (Crenshaw 1989; Collins 1990; Baca Zinn and Thornton Dill 1994), and could not have predicted changes in society or the criminal-legal system, it is nonetheless instructive. The experiences of trans women of color, and particularly Black trans women, bring into stark relief the ways in which racialized, gendered, and classed systems of oppression are interlocking. They also demonstrate the capacity of marginalized subjects and their allies as agents of social transformation. Following her death, Layleen Polanco’s case was widely cited by advocates and activists as yet further evidence of the need for cash bail reform, and has propelled movements to end solitary confinement and to decriminalize sex work. Effective January 2020 (with minor revisions a few months later), cash bail is now prohibited for most misdemeanors and nonviolent offenses in New York State (Merki 2020). In February of 2021 New York State repealed the law commonly referred to as the “Walking While Trans” ban (McKinley and Ferré-Sardurní 2021), the nebulous anti-loitering law that for decades was

used by police to harass and arrest trans people, many have said, simply for existing in public spaces. Its repeal is the product of years of advocacy by transgender activists and their allies on issues of criminal justice reform. Systems of gender inequality are fundamentally tied to systems of race and class inequality, and woven into the structures of society in covert, overt, and sometimes violent ways. And despite these systems of domination, marginalized actors resist and effect meaningful social change. (1)

The practice of animating academic concepts with current events and individual accounts is far from novel, but in the case of marginalized subjects calls for intentionality and reflexivity. My hope is that when I incorporate such issues and accounts into my courses, students develop both deeper understandings of the real-life importance of our work and clearer understandings of course concepts, and overall I have found this strategy to be successful. Class discussions building toward and considering the phenomenon of "Walking While Trans" are productive, with students engaging critically with key ideas and drawing connections across systems of inequality. As one student shared in a reflection: (2)

I kept drawing parallels between the police brutality inflicted upon the [LGBTQ+] community to that of the black and brown community and #Black Lives Matter.

Another described discussing the course material with a family member, sharing an interaction in which she could draw on evidence from the assigned reading to support an intersectional analysis of police encounters:

He said "Yeah, but gays can't have it too bad when it comes to police, right?" (probably comparatively to the experience of black people in regards to police brutality) to which I replied, "on the contrary, being black AND gay mixes the two experiences" and then I fed him some snippets of the article that depicted violence formed through both racism and homophobia/toxic masculinity.

Students routinely make explicit connections between the formal and informal regulation of gender norms and interlocking systems of oppression in their written and class reflections. As the course progresses, students continue to refer back to these examples and in some cases indicate an interest in pursuing such issues further through research or activism. Even students who may have struggled with the idea that gender is a social construction, or with challenges to the binary sex/gender system, often make considerable progress toward understanding these ideas and their implications through their understandings of the police harassment of trans and gender non-conforming folks. While I continue to develop my courses in ways that integrate a diversity of trans and non-binary/gender non-conforming perspectives, I expect that the analysis of "Walking While Trans" will continue to be a useful illustration as long as it remains a social issue.

Notes

1. As an alternative course resource, "Free CeCe!" (2016) provides a documentary account of activism surrounding the arrest and imprisonment of CeCe MacDonald.
<https://www.freececedocumentary.com/>
2. These passages are drawn from informal reflections and have been edited for typographical errors and clarity.

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