Gender and Society Pedagogy Project Lesson Plan
Gender and Legal Consciousness
By Pedrom Nasiri MA MSTJ (they/them), Ph.D. Student
Department of Sociology, University of Calgary

Contact Information:
Email: pnasiri@ucalgary.ca Website: https://www.pedromnasiri.com

Type of Lesson
This lesson plan has been created for a gender and legal consciousness module for a mid-level undergraduate class focusing on Law and Society or the Sociology of Gender. This lesson may be amended by drawing on the thematic pairings, suggested later in this plan. Such pairings may serve to better situate students in the sub-field of legal consciousness studies, orient them to the phenomenology of gender and law, or explore the intersections of gender, race, and sexuality with conceptions of legality (law).

Student Learning Outcomes
Students will be able to:

• Identify how conceptions of gender and law (legality) mutually inform one another inside and outside of legal institutions
• Explain how social action is intimately tied to intersubjective understandings of gender and law/legality
• Consider the implications of intersecting social locations/experiences on the relationship between gender and law
• Understand how to critically apply concepts from this lesson to text analysis.

Classroom Setting
This lesson plan has been designed to accommodate online learning environments.

Abstract
“In the past decade, a few countries have created a third gender category to legally recognize gender-nonconforming individuals. However, we know relatively little about the response of the gender-nonconforming individuals toward the legal third gender category. To address this gap, this article analyzes the different social, religious, and institutional discourses that have emerged around the recently created third gender category in Pakistan and their influence on the legal consciousness of the Khawaja Sira community, a marginalized gender-nonconforming group. Even though the third gender category was created to address the unique gender identity of the Khawaja Sira community, most continue to legally register as men. My research indicates that the patriarchal stigma, high compliance costs, and limited material benefits associated with the legal third gender category dissuade the Khawaja Sira community from choosing to register. My findings point to the limitations of a legal third gender category within a patriarchal sociolegal order where important benefits associated with the masculine identity are forfeited by registering. In doing so, I caution against over emphasizing the symbolic value of legal recognition for gender-nonconforming groups” (Nisar 2018).

Reasons for Selection
Nisar grounds the examination of the legal third gender category in Pakistan through Ewick and Silbey’s (1998) framework of legal consciousness. The author begins by providing a concise review of the legal consciousness literature, which will give students an entry-point into this branch of sociolegal inquiry. Over the next several sections, Nisar provides a sophisticated examination of the ways by which members of the Khawaja Sira community, a marginalized gender-nonconforming group, assess the opportunity costs associated with registering under Pakistan’s newly fashioned legal third gender category. To bridge this reading with Stefan Vogler’s article (see below), the instructor may spend some time on the relationality of consciousness and the ways by which conceptions of gender and law are fabricated through culturally-specific layers of texts, practices, aesthetic forms, and stylized gestures.


Abstract
“Transgender legal protections have long been contentious issues, with courts often pathologizing or refusing recognition of transgender identities. Recently, however, courts adjudicating asylum claims have recognized “transgender” as a legitimate category of protection. I take this legal development as an opportunity to ask how courts determine if
individuals are transgender. While previous work has shown how courts maintain the gender binary, asylum law offers the first chance to analyze how recognizing a distinct transgender category affects the legal gender order and the classification of trans claimants. Drawing on court decisions, ethnographic observations, and interviews, I argue that the recognition of transgender as a category implicitly acknowledges the malleability of gender. Yet, the adjudication of transgender asylum cases continues to uphold a fixed and binary conception of gender by assuming a “born into the wrong body” narrative and that claimants should always already know their gender identities. Courts thus enforce a cis–trans binary wherein only certain claimants are found ‘trans enough’” (Vogler 2019).

Reasons for Selection
Vogler’s (2019) article offers a complementary pairing with Nisar’s study of gender and law. Where Nisar predominantly focuses on the subjective experiences and calculated strategies of members of the Khawaja Sira community, Vogler underscores the importance of intersubjectivity in the analyses of social inter-action. More specifically, the author demonstrates how the gender identities and practices of transgender claimants in the US asylum apparatus are negotiated, contested, and constrained through the interpretive lenses of legal actors and institutional settings that work to pattern them. As a result, Vogler provides the student with an exceptional analysis of law both constitutes and becomes constituted by gendered social experiences.

Suggested Thematic Pairings
Orienting Students to Legal Consciousness


Phenomenology of Gender and Law


Intersections of Gender, Race, Sexuality and Legal Consciousness

**Asynchronous Class Activity**
Students will **complete one or more of the following activities** to learn how to critically apply concepts from this lesson.

The first activity is a collaborative exercise that students will be able to complete by themselves, with the instructor providing feedback at the time of marking.

The second activity is an active learning exercise that draws on source material from Vogler’s (2019) article. This exercise is divided into two parts. In the first part, students will conduct a critical text analysis of two court opinions. In the second part, the instructor will either (a) respond to each group’s written analysis or (b) guide students in an in-class analysis of the court opinions that incorporates each group’s written analysis.

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<tr>
<th>Activity</th>
<th>Time Allotted</th>
<th>Guiding Instructions</th>
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| Asynchronous Text Analysis: Journalism, Government Documents, and Think Pieces. | One Week      | To accommodate the differences in time-zones, instructors should advise students that they will be given one week for the completion of this activity. Students should be broken up into groups of 2-3 for this activity. Students will review the items listed as (a) and (b) in the activity resources section. They will then answer the following questions for each of the texts:  
  - What is the underlying argument presented in these texts?  
  - Who is the intended audience for each of these texts?  
  - How do each of these texts orient us to particular
<table>
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<tr>
<th>Interactive Case Analysis: Court Opinions on Hernandez-Montiel and Avendano-Hernandez</th>
<th>Part A: One Week</th>
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| conceptualizations of gender? | **• Who is given authority in and through these texts to claim knowledge about gender?**  
**• How might these texts contribute to the naturalization of certain gender identities and practices?**  
Answers to the questions may be either uploaded to a shared course platform such as D2L or Blackboard, so that students may share and comment on each others response, or discussed in-class through an instructor facilitated conversation.  
Instructors should make students aware that the assigned court opinions contain references to acts of sexual violence, homophobia, transphobia, and misgendering.  
To accommodate the differences in time-zones, instructors should **advise students that they will be given one week for the completion of the first part of this activity.**  
Students should be broken up into groups of 2-3 for this activity.  
Students will review the items listed as (c) and (d) in the activity |
Students will then critically engage with the texts to collaboratively answer the following questions using an online platform (Google Docs, Perusall, etc.):

- What are the main arguments presented in this opinion?
- Who are the intended audiences for this text?
- How does this text orient us to particular conceptualizations of gender?
- How are these conceptualizations entangled with those of sex and sexuality?
- Who is given authority in and through these opinions to claim knowledge about gender, sex, and sexuality?

Once students have addressed these questions, they should be encouraged to highlight the similarities and differences between the two opinions in a table appended to the online document.

In the final part of this activity, instructors will enhance each
OR
30 mins (In-Class Instructor-Led Analysis That Incorporates Each Group’s Findings)

This may be conducted in one of two ways:
(1) instructors provide specific feedback to each group via the online documents;
or
(2) instructors guide students through an analysis of the court opinions in class, incorporating the findings of each group.

Activity Resources

Activity 1: Journalism, Government Documents, and Think Pieces

(b) Australian Passport Office. “Sex and Gender Diverse Passport Applicants.”

Activity 2: Court Opinions on Hernandez-Montiel and Avendano-Hernandez
(c) Avendano-Hernandez v. Lynch, 800 F.3d 1072 (9th Cir. 2015).
(available here: https://casetext.com/case/avendano-hernandez-v-lynch)
(d) Hernandez-Montiel v. INS, 225 F.3d 1084 (9th Cir. 2000).
(available here: https://www.refworld.org/cases,USA_CA_9,3ba9c1119.html)

Additional Resources
Instructors may wish to include regional resources for trans (legal) advocacy organizations.

For example, the Transgender Law Center (https://transgenderlawcenter.org/resources) in the US offers resources on such things as navigating the immigration system, accessing appropriate health care services, and updating names and gender markers on Federal Identity Documents.