00:05

In 1565, a man named Richard Walweyn was arrested in London for wearing what the authorities described as a "very monstrous and great outrageous pair of trunk hose."

00:20

(Laughter)

00:21

For those of you who don't already have a pair of these in your closet, trunk hose are these puffy trousers, and they were all the rage in men's fashion in Renaissance England. But they could get you into trouble. Walweyn had his pants confiscated by the authorities and exhibited in a public place, as, I quote, "an example of extreme folly."

00:48

(Laughter)

00:49

Laws like this weren't unique to Tudor-era England. In fact, the fashion police were hard at work all over Europe at this period in history. In England, France, Spain and in cities up and down the Italian peninsula. The authorities were passing laws about what people could wear, sometimes dozens in a single year, in order to keep up with ever changing fashions.

01:14

Now, OK, I imagine you're all thinking, well, that's an interesting history lesson. But what does it have to do with us today? That's like bloodletting or trial by ordeal. It's not the sort of thing we do in today's enlightened society. But actually we do. In fact, even in the 21st century, people regularly lose their jobs, kids are sent home from school, people are kept off airplanes and other types of public transportation, and sometimes people are even jailed for what they're wearing.

01:51

A couple of examples. In 2015, a high school student in Kentucky named Stephanie Dunn was sent home from school for wearing a scandalously revealing top that revealed her collarbones. And in 2012, an Alabama judge sentenced someone to jail for wearing sagging pants. "You are in contempt of court," the judge said, "because you showed your butt in court."

02:25

I'm a law professor, and I work on questions of civil rights and racial justice and gender equity. And over the course of my career, I've been surprised at just how many legal disputes involve

what people are wearing. And all of these lawsuits over dress and dress codes got me thinking that there's a lot more going on with our attire than just making a fashion statement.

02:52

So I decided to look into the history of rules and laws around clothing to try to figure out what's really at stake. And my research took me all the way back to the late Middle Ages. I found that these kinds of laws and rules really got started with the growth of cities when strangers began to come together and needed a way to size each other up quickly and on sight. And fashion became a kind of shorthand for status and identity and belonging. The elite used fashion in order to assert their social superiority and high status and position. And the average person used fashion as a way to challenge authority or to climb the social ladder.

03:40

Fashion was a type of credential, and wearing the wrong clothing could be considered a type of fraud. For instance, the Florentine patriarch, Cosimo de' Medici, once said, "One can make a gentleman from two yards of red silk." And this worry about the fraudulent use of fashion led the elite to pass laws that held that only they could wear the most high status and luxurious fashions, so things like jewels, precious metals, fur and red silk were restricted by law to the aristocracy and royalty.

04:20

And in a way, it's not all that different today. Even today, we used clothing and fashion as a way to signal identity and status and belonging, whether it's the expensive high fashions you might find on Madison Avenue or the edgy styles of an urban street culture. So maybe it's not surprising that we also judge each other in part based on what we're wearing. The problem is that we're not always very good at it. We could make serious mistakes that can have real consequences. So it works pretty good when we're dealing with people who are a lot like ourselves. So I'm not bad at evaluating the wardrobes of college professors, lawyers, artsy types who live in big cities. But we're not so good when it comes to dealing with people from other walks of life.

05:19

Here's an example. A former student of mine, who was the first in her family to attend college, told me this. She got a job interview, and she really wanted the job, and so she wore her very best dress to the interview. Problem was when she got there, the other people in the office thought her dress looked like a party dress, so they thought she was dressed up to go clubbing afterwards, later in the evening, and wasn't that serious about the job. They misread her clothing and therefore they misread her motivations.

05:54

Another problem is that a lot of our ideas about professionalism were established when large groups of people were excluded from the professions. And as a consequence, those groups have a harder time finding something that looks professional and is appropriate for them. Just think of all the grief Hillary Clinton got about her pantsuits. Bill Clinton never had those problems. And women of color often suffer under dress and grooming codes that were based on the hair texture common to white people. So a lot of workplace dress codes still forbid braids and locks, styles that are well suited to the texture of African-American's hair. And women in those workplaces face a cruel choice. They either need to straighten their hair with harsh chemicals or cut most of it off. That's just insulting, and it requires the sacrifice of these types of women that other people never have to make in order to be considered professional.

06:56

And finally, some of our ideas about what's appropriate are based on stereotypes. And so, for instance, a lot of workplace dress codes still require women to wear high-heeled shoes. And women from all over the world have started to push back against these kind of dress codes. So, for instance, a woman in London circulated a petition against workplace dress codes requiring high heels. And it got all the way to Parliament. Women at the Cannes Film Festival went barefoot in order to protest a dress code that would require them to wear high heels. And women in Japan have actually started a social movement that has gotten the name #KuToo. It's kind of a nod to #MeToo, but #KuToo means "shoe pain" in Japanese.

07:43

So, OK, at this point, you're probably thinking, wouldn't it be better if no one cared about any of this stuff? You know, maybe we should all be like Mark Zuckerberg, who just wears a gray T-shirt every day. But here's what he said about why he wears that gray T-shirt. He said, "I'm not doing my job if I spend any of my energy on things that are silly or frivolous. And that's my reason for wearing a gray T-shirt every day." So that doesn't quite sound like somebody who doesn't care about what people are wearing. Instead, it sounds like he's saying that people who dress fashionably are silly and frivolous and aren't doing their jobs. That gray T-shirt, suddenly not a matter of indifference, it's become a signal of moral virtue and the work ethic. And that can just be a new kind of dress code. In fact, on cue, when Marissa Mayer, the CEO of Yahoo!, wore a fashionable dress for a fashion magazine spread, the response was harsh. One commentator said she looks like she's relaxing and on vacation while everyone else is doing work.

08:59

So pretending you don't care about what people wear can turn into just a more subtle and insidious form of dress code. And in fact, getting rid of the written dress code sometimes leads to

an unwritten dress code that's equally harsh or maybe even more restrictive. So, for instance, the investment bank Goldman Sachs got rid of its formal business dress code in 2019, but the management had to add this: "We all know what is and is not appropriate for the workplace."

09:34

(Laughter)

09:35

And as a consequence, some people started to think, "Maybe getting rid of the dress code is some kind of a test to smoke out people who aren't savvy enough to figure out what's appropriate all on their own." And in fact, a lot of people in banking, after these dress codes went away, gravitated toward a new unwritten dress code that was equally, if not more, uniform. In fact, there's an Instagram page -- you've seen these guys walking around town, right? There's an Instagram page about it called the Midtown Uniform. There's no dress code, but everyone's wearing exactly the same thing out of fear of looking like someone who doesn't know what is or is not appropriate.

10:19

So, you know, trying to pretend that we don't care about what people wear when we so obviously do isn't the answer. And let's face it, sometimes it makes sense to draw conclusions from what people are wearing. But our gut reactions are often informed by stereotypes and subconscious biases and limited experiences or limited perspectives.

10:47

So whether it's writing a dress code or evaluating a stranger, let's all try to check our biases before we call the fashion police.

10:57

Thanks.

10:58

(Applause)