

# Gender Bias in the Legal System

By Alicia N., Columbia, MD

Gender equality, a fin de siècle issue, has evolved such that many are sure that men and women are now treated as equals. Some question if advocacy for women's rights has gone too far and created an environment where men must monitor their actions lest one glance go askew and bring on sexual harassment charges. Unfortunately, while gender equity is present in most aspects of society, disparities between the sexes are still prevalent where one would least expect it - the legal system.

The courts are and have always been dominated by men. Largely due to the late start women had entering the law profession, this disparity can also be blamed on public opinion when women were attempting to break into the legal system. Even Clarence Darrow, famous for his progressive outlook, told the first female attorneys, "You can't be shining lights at the bar because you are too kind. You can never be corporate lawyers because you are not cold-blooded. You have not a high degree of intellect. You can never expect to get the fees men get."

Disturbingly, this opinion is still present and has played a large role in preventing women from dominating the upper-echelons. Consider this, from the Commission on Women in the Professions report "A Current Glance at Women in the Law 2005": "When education, training, and experience are equal among the sexes, but the rate of employment (and annual salary) remain incongruous, the answer lies in prejudice rooted in mindset and behavior." I conducted research to determine the most common types of bias and their prevalence today. My results encompassed everyone from high schoolers to professionals and instances of bias are indeed frequent and tangible despite our "equal and just" society.

Whether due to popular media or the mindsets of parents, I've encountered several high schoolers who already have developed a distinctly biased opinion of female attorneys. In response to the question "If you were on trial for murder, would you prefer to have a male or female attorney represent you?" one student answered, "I would choose a male attorney because guys have a higher standing in court. They can be meaner and stand up for me better." Another student commented, "[I would prefer] a male because it's harder for them to get distracted." Until recently, judges took the blame for most of the biased behavior in the courtroom. According to these students, society must prepare for new generations of biased individuals.

While easily pinpointed instances of bias are significantly less common than 30 years ago, female attorneys and other court personnel continue to report disturbing incidents. Attorney Susan Y., testified that "[Female attorneys] long for the easy camaraderie with judges and court personnel enjoyed by men ... because it ... means a more ready acceptance, a more open ear to a novel or difficult position, a more forgiving attitude toward a mistake - things all litigators need from time to time."

Kimberley C., lawyer for the Attorney General, commented that she had been referred to as "the secretary." The bias she sees comes mostly from older men who act condescendingly and less professionally toward females. Additionally, she experienced more bias working as a lawyer in her private firm. In another instance, when she went before a judge with a male colleague, the judge would only direct questions to him, even though he was there solely to observe the proceedings. Based on the testimony from these women and my research, I have found that the most common types of gender bias in the courts today fall into four categories:

- 1) The demeaning use of epithets, such as "sweetie" or "honey," while men are referred to more

professionally.

2) Female attorneys who are diligent and hard-nosed about their cases are looked at as unstable or too emotional, while their equally aggressive male counterparts are praised for their hard work.

3) Women are often excluded from friendly conversations between judges and attorneys on topics like the latest football game or fishing trip, which results in feeling disadvantaged because such conversations lead to friendly bonds in the courtroom.

4) Men complain they were cheated out of custody by judges who cling to the idea that children belong with their mother.

These instances of bias may seem subtle but the fact that prejudice exists in the very justice system of a society that brags of its blind eye to gender, race, and religion is startling. Through case studies and committee reports, state courts and task forces have proved that the best method for eradicating bias is education. You, the reader, are now aware of the issue. Do not turn a blind eye. Do not let gender bias manifest itself in our society.