

Women in The Judicial System: The Impact of Female Judges On Combating Gender Injustice

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ABSTRACT

This paper mainly discusses the role of female judges in pushing forward gender justice through their unique living experience and their knowledge of gender discrimination. This paper first explains how gender discrimination discourage women from entering legal professions and from influencing the decision-making process in the judicial system. Using cases from the supreme court, this paper then discusses why female judges consider gender justice an important agenda and how they change the current legal framework. This paper then moves on to consider the question of intersectionality, unraveling the role of race in women's liberation and how it is reflected in the effort of female legal professionals. This paper concludes that while not all female judges share the same opinion on gender justice, their presence in the legal system constitutes a pivotal victory of feminist movements.

Since the 1940s, feminist movements have strived to make visible all forms of discrimination and subordination that women face in both private and public realms, from marital rape to denied suffrage. These struggles have underscored how encompassing gender norms and gender inequality shape women's personal life. Gender norms are social rules that define what is appropriate and acceptable for women and men in specific culture or situation. These rules and expectations constrain societal expectations of women's capacities, leading to unequal the access to power, resources and opportunities. This in turn upholds male dominance in the patriarchal society. Placed at a subordinate position, women frequently encounter inequitable treatment and violence, which are, however, rationalized through gender stereotypes.

The legal system is a crucial pathway to address gender inequality. Domestic violence, for example, is a type of violence that is the result of male dominance. It can be described as a sequence of abusive behaviors that happen within an intimate relationship, used by one partner to maintain power and control over another intimate partner (United Nations, 2020). While women are constrained in the family as caretakers, their lack of financial independence and support network makes it difficult for them to leave the relationship. As the society grants men the power to work and provide for the family, they could easily inflict abusive behaviors on their partners. While domestic violence constitutes a legitimate form of violence, prevailing social and cultural beliefs regarding gender roles often obfuscate this reality. Domestic abuses are thus normalized as personal interactions in the private family, instead of a violation of law.

It was not until 1994 that domestic violence was signed into law by President Bill Clinton, perfecting a legal system that failed to take women's rights into account. Before the improvements of laws, women who suffered from domestic violence did not have a formal access to resist or protect themselves. Under the bill, serious domestic violence can constitute crimes, such as violence interference with marriage freedom and abuse (U.S. Department of Justice, 1999). The bill provides a legal basis for institutions and public service to intervene. When a police officer receives reports of a suspected case of domestic violence during patrols, they are expected to identify and react to it.

Therefore, law reforms are at the center of addressing gender inequality and gaining more rights for women. The improvement of law not only offers legal protection for women but also pushes the society to

recognize and understand the invisible gender inequality behind. The enhancement of legislation paves way for recognizing women's value and contribution to the society. Among all institutions in the legal system, the Supreme Court, for example, serves as the ultimate judicial authority, which makes the final decision on legal disputes and controversial issues that influence millions of Americans (Original Jurisdiction, 1948). As the Constitution represents the core values of all members of the society, Supreme Court interprets these fundamental laws and applies these interpretations to ruling its cases. Modifications in laws will change legislations in states and social opinions, promoting justice and societal benefits.

However, the legal system itself is pervaded by gender discrimination that excludes women from participating in discussion surrounding women's rights. Female law professionals face more obstacles than their male counterparts to make their words count and to achieve career aspirations. To be more specific, women are always considered emotional, subjective and irrational, thus not suitable for judicial decision-making. The justice system has been deliberately trying to keep women out: the proportions of female judges, lawyers and law students have always been smaller. Moreover, gender norms create obstacles for women to thrive in the legal system. For example, the disciplining practices of gender expectations hinder women's ambition for professional jobs, which discourage them from expressing themselves and competing with their male colleagues (Sen, 2014). Research has shown that in legal workplace, female lawyers need more encouragement and support to demonstrate their opinions, disadvantaging their professional performance (Bryan, 2022). Male judges evaluate counsel based on their compliance with traditional gender norms (Tokarz, 2023). Statistically, female judges resolve cases more frequently and quickly than male judges, but they are in the small proportion of the judicial system (Black, 2022). Therefore, the minority of women in the judicial system find it harder to help individuals of the same gender and race, and the failure to get justice for them makes the situation even more difficult for women.

Therefore, I argue that Women Justices in Supreme Court will advance the pursuit of justice for three reasons: 1) Women Justices care more about gender-related issues and will work towards the protection of women's rights. 2) Female judges complement the current legal framework with their gender-specific knowledge derived from their personal experience as women. 3) Women justices with diverse background in class, race and sexuality show deeper understanding of intersectional oppression of women.

Firstly, female Justices, having personally experienced gender inequality, tend to show greater concern for issues related to women's rights. Since it is the Justices that decide what cases are admitted into the Supreme Court, disputes surrounding gender equality and cases aligned with feminist agenda are more likely to gain a hearing. These unresolved cases appealed to Supreme Court reflects some inadequacy of the current legal framework to approach cases related to gender inequality. Female judges are more competent in highlighting the shortcomings and demonstrating how current interpretation of law fails to protect the rights of more members of the society. Hence, they draw attention to evidence that is previously overlooked to correct the disparities in legal status, making women and men stand equally before the law.

Previous research has shown that women judges are more likely to vote on a "pro-woman" stance and influence the decisions of their male counterparts (Scheurer, 2012). In cases of sexual harassment and sex discrimination, female judges are more likely to vote in favor of the women compared to their male colleagues (Peresie, 2005). The presence of a female judge on the panel will significantly increase the possibility that a male judge vote liberally (Songer & Crews-Mayor, 2000). With regard to the appointment of women Justices in the Supreme Court, support for women's issues improved since Justice Sandra O'Connor took her seat (O'Connor & Segal, 1990). Moreover, Justice O'Connor's supporting votes for sex-discrimination claims increased after Justice Ruth Bader Ginsburg was appointed (Palmer, 2002).

Secondly, women Justices carry distinct and precious insights derived from their personal and shared experience as women, which can greatly impact their interpretations of justice. Historically, as matters such as abortion and sexual harassment has always been excluded from the public discourse, male Justices usually lack appropriate understandings of these issues or fail to incorporate women's views in the ruling process. Having witnessed or personally gone through similar struggles, female Justices possess higher level of empathy and

knowledge that their male colleagues may not be able to fully grasp. Including these gender-specific viewpoints into the legal framework not only expand the range of perspectives acknowledged by the judiciary but also transforms the society's comprehension of gender issues. Bibliography

A gender discrimination case that gained majority support from both male and female Justices is the *United States v. Virginia* (1996). The U.S. government has filed a lawsuit against Virginia Military Institute (VMI) which is a college that only offers male students higher undergraduate learning program. By a vote of seven to one, the Supreme Court held that VMI violated the constitution because they were failed to prove that single-sex program promotes diversity in education. The two female judges on the bench, Justice O'Connor and Justice Ginsburg, voted in agreement. As women, they are more aware of the disparities in educational resources and employment opportunities between men and women. After the judgment, the establishment of men-only schools was restricted, thus ensuring equitable provision of opportunities to education.

The living experience of gender inequality offers female judges better understanding of racial injustice and they are more likely to seek justice for women of color due to solidarity. While feminist movements often emphasize women as a united group facing identical forms of oppression in the patriarchy society, this strategy often obfuscates the differences between individuals within groups (Crenshaw, 1991). Women of color, for example, face more difficulties when they attempt to escape domestic violence due to the lack of support and resources for minority communities. Intervention strategies should be developed to address the neglect of women from disadvantaged groups, and to seek justice for women of minority sexuality, low socio-economic status and racialized groups.

In addition, the neglect of ingroup differences will also lead to mutual incomprehension and intolerance between groups. Thus, this affects the discourse that female leaders and advocates bring into the public realm. Immigrant women, for example, are especially vulnerable when they experience domestic violence, because they rely on their partner for legal status and may face deportation after leaving the relationship (Miller, 2013). While victim women do not have the chance elaborate on their experiences, female judges and women in power, mostly coming from privileged backgrounds, may not be aware of their situations. A middle-class white woman is likely to ignore the plight of women facing multiple forms of oppression. Consequently, women of color are frequently marginalized in the pursuit of justice for women (Crenshaw, 1991). This underlying process of rejection and ignorance may be only understood and corrected by judges of same gender, races and socio-economic background. With more female judges enter supreme court, they will bring in diverse perspectives shaped by their class, race and sexuality. They could sympathetically respond to the victims and make judgements that address the injustices they experience. The interpretation of law thus becomes more comprehensive and serves a broader group of members.

Vance v. Ball State University (2013), for example, exemplifies the intertwined roles of race and gender in forming oppression. Maetta Vance, an African American woman employed by Ball State University, alleged that her supervisor, Sandra Davis created a racially hostile working environment for her. According to the District Court, since Davis do not have direct power to promote or fire Vance, her behaviors do not constitute a workplace harassment defined under the VII of the Civil Rights Act of 1964. It is worth noting that the final vote of the Supreme Court was five to four, with all three female justices voting against it and making dissents, including Kagan, Sotomayor and Ginsburg. And the five dissenting votes, however, were all from male judges. The controversial views in this situation precisely reflect the different attitudes and perspectives exhibited by men and women in this case. Female Justices are able to take a more comprehensive view when considering Maetta Vance's predicament. They are more aware of workplace harassment, which is a typical form of injustice that women face on a daily basis. In her dissent, Justice Ginsburg argues that while supervisors may not have the power to fire or demote victims, they can influence their working conditions by, for example, sexual harassment. Yet these nuances remain unaddressed by workplace protection laws as they are mostly faced by women. Although the case does not involve sexual harassment accusations but centers mainly around identifying racial

hostility, a gendered perspective is pivotal in unraveling the injustice and transforming societal belief in workplace harassment. An increased representation of female Justices in the Supreme Court ensures a broader array of unique viewpoints that can better tackle intersectional oppression and advocate for marginalized groups.

Conclusion

In conclusion, female judges play a pivotal role in advancing gender justice through the legal system. Although female legal professions are disadvantaged due to ingrained gender norms, they could nevertheless make great impact on cases both concerning gender and race equality. Although not all female judges share the same perspective on women's liberation and the rulings best supporting women's interests, the presence of female judges and their diverse opinions elicit discussions about women's rights in the public discourse. To transform legal and social perceptions of gender equality, it is crucial to ensure an ongoing process of occupying spaces as men in all realms of society and increasing visibility to gender justice.

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