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# Gender roles highlight gender bias in judicial decisions

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Judges may be just as biased or even more biased than the general public in deciding court cases where traditional gender roles are challenged, according to a new study published in the journal *Social Psychological and Personality Science*.

This study examined the role of gender bias relating to judges and legal decisions, and the sex discrimination worked both ways, sometimes against women and sometimes against men.

"These results show that judges' ideology and life experiences might influence their court decisions," said Andrea Miller, PhD, a visiting assistant professor of psychology at the University of Illinois Urbana-Champaign. "Many judges are not able to factor out their personal beliefs while they are considering court cases, even when they have the best possible intentions."

More than 500 judges from a state court system (68 percent men, 30 percent women, and 2 percent unidentified) participated in the study in an effort by that court system to address gender bias. The court system wasn't identified for confidentiality reasons.

"The judges who participated in the study did so at great personal and professional risk because they care deeply about confronting the possibility that there might be social group disparities in case outcomes," stated Miller, "This state court system has become a leader in the search for evidence-based solutions to the problem of implicit bias."

More than 500 lay people (59 percent men, 41 percent women) also were recruited online to take part in the study.

The judges and lay people analyzed two mock court cases, including a child custody case and a sex discrimination lawsuit where the plaintiff was presented as either a man or woman. The participants also completed surveys about their beliefs in traditional gender roles, such as stereotypes that women are more interested in raising children than in their careers and that children are better off if their fathers are the primary breadwinners for the family.

In the sex discrimination lawsuit, the plaintiff alleged that he or she was denied a promotion after taking six weeks of paid parental leave to care for an adopted baby. The plaintiff also wanted to introduce expert evidence from a psychologist about research on sex discrimination. Judges who supported traditional gender roles were more likely than lay people with similar gender ideologies to dismiss the case or rule against a female plaintiff.

In the divorce case, the father and mother both sought primary custody of their two children. Both spouses worked full-time jobs and sometimes had conflicts with caring for their children. Judges and lay people who supported traditional gender roles allocated more custody time to the mother than to the equally-qualified father, but the judges were even more biased in favoring the mother than were laypeople. Only three percent of the judges in the sample gave the father more custody time than the mother.

"In both of these cases, support for traditional gender roles was associated with decisions that encouraged women to engage in more family caregiving at the expense of their careers and discouraged men from participating in family caregiving at all." Miller said.

"Cultural ideas about gender bias may shape judges' decision-making as much as the rest of us," Miller said. "The significant expertise that judges possess doesn't inoculate them again decision-making biases, and we can't expect much change until we see policy reforms that address decision-making procedures in the courtroom."

**More information:** Miller, Andrea. Expertise Fails to Attenuate Gendered Biases in Judicial Decision-Making. *Social Psychological and Personality Science*. Online before print April 3, 2018. DOI: 10.1177/1948550617741181

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