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Judging the judges, gender and the law

Over the last week, Judge Sonia Sotomayor's confirmation hearings brought issues of gender within the legal profession to the forefront of discussion once again, and I've been giving the issues a great deal of thought.

Prior to writing this column, I attempted to locate a book I received as a gift in 1992, when I graduated from the University of Rochester. The book was about women lawyers and the legal profession and was the perfect gift for me at the time, since I was attending Albany Law School the following fall.

I couldn't wait to read it.

After reading the first few chapters, which focused on the depressing statistics regarding the lack of women lawyers in leadership positions in the legal field, I tossed the book aside, deeming it irrelevant.

Published in the late 1980s, the book was based on studies from the mid-1980s, and I decided it described an outdated state of affairs, old news, a thing of the past.

I figured that, by the time I graduated from law school, things would be different. In retrospect, I couldn't have been more wrong.

In the early stages of my legal career, I re-visited the book on occasion, and kept it on a shelf with my other law-related books. It was a depressing reminder of the naivete of my youth.

The statistics regarding women lawyers in leadership positions have changed very little since the late 1980s. Recent studies confirm the profession's sad state of affairs.

I don't even bother to read the results of such studies anymore. They're depressingly repetitious and always end with the same predictable conclusion: For some reason, although women have represented nearly 50 percent of law school graduates since the 1990s, we are not advancing upward through the ranks of our profession.

The Sotomayor hearings are yet another reminder of the phenomenon. Not only because, if Sotomayor is confirmed she and Justice Ginsburg will be the only women on the court, but also

because of the demeaning tenor of the confirmation proceedings.

Predictably, some questions focused on Judge Sotomayor's "temperament," a topic all too often raised when discussing the capabilities of women judges.

Through the years I've heard male colleagues describe women judges before whom they've appeared in various ways, rarely complimentary.

At best, women judges are described as "ok," "not my favorite" or "decent." At worst, they "don't get it," "are ornery," "indecisive," "not too bright," "flaky," "short-tempered," "inefficient" or "rude".

I'm always taken aback when I hear such descriptions, and find it particularly frustrating when those same colleagues make excuses for the male judges known to be extremely cranky, explaining "Oh, he can be tough, but he and I — we get along."

Keep in mind, such comments tend to come from male colleagues whom I know well and respect. Otherwise, they are open minded, intelligent and level headed — people whom I like and admire greatly. And yet, they seem to be unaware of the incongruity of their judicial assessments.

Needless to say, the questions concerning temperament raised at Judge Sotomayor's confirmation hearings dredged all of these gender disparity issues to the surface of my mind.

As I always do when re-visiting these themes, I reached for that book I received in 1992, only to find it wasn't on the shelf anymore. I'd thrown it away in frustration the last time I looked at it a few years ago.

Sadly, since that time, nothing has changed.

I wonder if it ever will.

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