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## Gender Bias and Feminist Consciousness among Judges and Attorneys: A Standpoint Theory Analysis

In a study of federal judges appointed to the bench by President Jimmy Carter, one judge who was asked about his “greatest problems as a *man* lawyer/judge” wrote that he had “none as a man, many as a lawyer” (E. Martin 1990, 207; emphasis added). When asked a parallel question, 81 percent of the women said they had suffered from sex discrimination such as “bias against women” or a “belief that women’s place is in the home.” Men viewed their primary problem as “professional challenges or pressures” (E. Martin 1990, 207); fully 40 percent had their legal careers interrupted by military service, but none saw the disruption as related to their gender (208). Differences such as these suggest that women are more aware of gender inequality than are men (Scott 1997). In this article, we argue that women are more conscious of gender inequality because they occupy a devalued gender status and, as a result, have more negative experiences. We also argue that these experiences impel women, more than men, to develop a feminist consciousness and that this gender difference has implications for the legal institution.

Using data from Florida’s Gender Bias Study of attorneys and judges (Florida Supreme Court Task Force 1990), we examine the extent to which women and men in the legal profession are conscious of gender inequality in the form of beliefs about separate spheres, property rights after divorce, domestic battery and rape, and negative stereotypes of women. We also analyze men’s and women’s observations of gender harassment and sexual harassment in legal settings as evidence of experience with gender bias.

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Scholars who study gender and the legal institution agree on several points. (1) The institution's primary participants historically were men—as judges, lawyers, and jurors.<sup>1</sup> (2) Stereotypical beliefs of women's alleged delicate physiology and lesser mental capacities framed women as incapable of participating in the adversarial world of law and as “naturally” suited for home and family life, while men's higher intelligence and coarser nature prepared them well for the world of law.<sup>2</sup> (3) Women's influx into law schools and the legal profession since the 1970s has changed the institution's gender composition so that women now constitute a larger, though still minority, proportion.<sup>3</sup>

Despite such agreements, scholars disagree about whether women's greater presence will improve the legal institution.<sup>4</sup> To produce change, women would have to have different perspectives than men, some scholars say. For example, if women reason differently from men, participation by more women judges (and lawyers) has the potential to change judicial decision making and thereby improve the institution's responsiveness to women and other devalued groups (Sherry 1986a, 1986b; Brockman 1993; Bogoch 1999). For example, if women emphasize connection, context, and community more than men do, their participation will counterbalance men's emphasis on individual rights, rules-based justice, and abstract rules (Davis 1993). Research on gender and judicial reasoning provides little support for this thesis (Spohn 1990; Steffensmeier and Hebert 1999), however, and most studies include few women, suggesting that caution is urged in interpreting their results.

In contrast to the “women will change the institution” thesis is the claim that the norms and practices of the legal institution, as well as the character of the law itself, will override any effects resulting from women's greater participation (Walker and Barrow 1985; McCormick and Job

<sup>1</sup> Epstein (1981) 1993; Sampson et al. 1990; Schafran and Wikler 1994; Resnik 1996.

<sup>2</sup> See Epstein et al. 1995 on the current harm of stereotypes to women lawyers.

<sup>3</sup> In 1970, 8 percent of U.S. law students were women, whereas by 1998 women made up 46.1 percent (Morgan and Snyder 2000, 451). Similar figures for the profession show women were 4.7 percent of lawyers in 1970 and 28.5 percent in 1998 (Epstein [1981] 1993, 5; U.S. Bureau of the Census 1999, table 675). In Florida, women comprised 12.5 percent of Florida Bar Association members in 1984, but by 1998 they were 26 percent (91 percent of all members of the Florida Bar in 1998 were white). Although women's inroads since the 1970s are noteworthy, the majority of judges and attorneys in the United States are still white men (Goldman and Saronson 1994; Schafran and Wikler 1994). In 1999 in Florida, for example, 70.9 percent of judges were white men, 18.4 percent were white women, 7.4 percent were minority men, and 2.9 percent were minority women (Florida Supreme Court Administrator's Office 1999).

<sup>4</sup> For reviews, see Anleu 1992; Solimine and Wheatley 1995.

1993). Women's participation will not alter the system or affect how justice is done because the system is guided by objective, gender-neutral laws and practices in accord with the "classical model of judging" (Solimine and Wheatley 1995, 908–11). In such a system, a person's gender (and/or race, social class, etc.) is irrelevant because all people are viewed and treated the same. Many scholars question the legal system's record in this regard or claim that the legal institution is substantively and in practice a "male and masculine" institution that moots women's presence and influence.<sup>5</sup> Since the system was created by men, based on a concept of citizen as man, with laws written from the man's standpoint, the ability to take women's standpoint fully into account is undermined (MacKinnon 1987, 1989; Pateman 1989; Kenney 1995).

We contend that a judiciary made up solely of men differs from one made up of more equal proportions of women and men because men and women have different standpoints, and standpoints have consequences (Sampson et al. 1990). That is, the gender composition of the legal institution is consequential because individuals' social location in the sex-gender system affects their experiences, interpretations, and, ultimately, consciousness within and beyond legal contexts (Solimine and Wheatley 1995). One does not leave gender "at the door" on entering a legal setting. Rather, the material, social, and cultural experiences associated with gender are raw material for the practice of law (Schafran 1990; Rosenberg, Perlstadt, and Phillips 1993; Pierce 1995), just as they are raw material for the ongoing construction of social life generally.<sup>6</sup> While we acknowledge that all women are not the same, we view society's gender stratification system as devaluing all women (and the feminine) with the result that all women share to some degree a less privileged status or position relative to men (Chafetz 1990; Binion 1991; Resnik 1996).

Using feminist standpoint theory, we ask if women and men legal professionals are similarly conscious of gender inequality and similarly observant of the gender-biased processes that produce it. Standpoint theory suggests that women's greater experiences of gender-based discrimination sensitizes them to these issues. Women thus should be more attuned to gender bias in cases that come before them and in the social relations that constitute the practice of law.

Determining whether women and men judges and lawyers have significantly different experiences in legal settings and express a different consciousness of gender inequality is useful on several accounts. First, a

<sup>5</sup> MacKinnon 1989; Ivkovic 1995; Riger et al. 1995; Resnik 1996; McGinley 2000.

<sup>6</sup> Acker 1990; Lorber 1994; Bird 1996; Britton 1997; P. Martin 1997, 2001.

more even mix of women and men may increase the legal institution's "objectivity" by improving its ability to respond appropriately to petitioners with gender-related problems. Sandra Harding (1991) argues that science is improved when "multiple subjectivities" about a social phenomenon are taken into account because multiple subjectivities produce a more complex and accurate "objectivity." Michael Solimine and Susan Wheatley (1995) advocate for more women in the judiciary because women's experiences as women give them valuable knowledge, perspective, and understanding that men lack and that are needed in court (cf. Sampson et al. 1990, 139–42). A legal institution that fully incorporates women should be more objective because it will more equally reflect women's, rather than primarily men's, experiences (Songer, Davis, and Haire 1994). Women plaintiffs and defendants should find their experiences validated more, and women lawyers and judges should be treated more positively.

Second, women are likely to view a legal system that marginalizes or excludes them as unfair and biased (Epstein et al. 1995). One national survey of attitudes toward the legal system found that men more than women agree that "judges are generally honest and fair in deciding each case" (Miethe 1995, 7; 74 percent of men vs. 67 percent of women, based on our calculations). If women perceive that men judges, prosecutors, and defense and other attorneys will not understand their situations or experiences, they may refuse to participate in the legal system (Fine 1993). A legal institution that fully incorporates women in all kinds of positions should thus enjoy more legitimacy in women's eyes.<sup>7</sup>

Finally, our study tests an aspect of feminist standpoint theory concerning the connection between consciousness and experience. We ask if feminist consciousness is more highly related to gender-based experience(s) for women than men, as standpoint theory suggests it is. Because women occupy the less-valued gender status, they experience more gender bias and are apt to be more aware of other women's experiences with gender bias (Klein 1984; Scott 1997). Their greater exposure to bias thus impels women, more than men, to develop a feminist consciousness. Our study explores how a feminist consciousness is achieved, as standpoint theorists say it necessarily must be, by exploring the intersections of social

<sup>7</sup> The social composition of the legal institution is consequential for perceptions of legitimacy among racial and ethnic minorities as well (Bell 1989). Barbara Price and Natalie Sokoloff (1995, 324) make this point in quoting federal judge Leon Higginbotham who, in 1992, said that "judicial pluralism breeds judicial legitimacy. . . . Judicial homogeneity, by contrast, is . . . a deterrent to, rather than a promoter of, equal justice for all."

location, observations/experiences, and consciousness. In this regard, our results offer a rare test of the feminist standpoint theory tenet that experiences associated with marginalized or devalued positions affect consciousness in ways that experiences associated with more privileged positions do not.

Our article is organized as follows. First, we describe our use of feminist standpoint theory. Next, we review research on gender inequality relative to feminist consciousness and gender bias and the potential effects of age, marital and parental status, position in the legal system (judge vs. attorney), and race/ethnicity. After we describe our methods and data, we present the results and discuss their implications for understanding gender in the legal institution. In general, our findings show that, compared with men judges and attorneys, women judges and attorneys are more conscious of gender inequality, observe more gender bias in legal settings, and show a stronger connection between experiences with gender bias and feminist consciousness. Furthermore, we find that the gender differences among legal professionals remain after accounting for other influential statuses, including age, marital status, parental status, and race/ethnicity.

## **Background**

### ***Feminist standpoint theory***

Feminist standpoint theory offers both a theoretical perspective and a method for studying gender in the legal institution. A central concern of feminist standpoint theory is that different social locations “tend to generate distinctive accounts of nature and social relations” (Harding 1997, 384). This means, according to Harding, that we can use the accounts of the less powerful to gain insights into how power operates and to reveal differences between what is “claimed” to be true and what people actually experience. We can, for example, use women’s observations of legal contexts to gain knowledge of how the legal institution actually works in contrast to how “official theory” or ideology says it works (Harding 1997, 384).<sup>8</sup>

<sup>8</sup> We do not imply that all women’s experiences and understandings of the legal institution are the same; however, women do share a common cultural position in society that is devalued relative to men and the masculine (Chafetz 1990; Lorber 1994). If gender ideology and cultural practices encourage men to view and treat women as if they are all alike (in short, to stereotype them; see Ridgeway and Correll 2000), all women will share a common devalued status, irrespective of other differences (Reskin 1988, 2000; Rosenberg, Perlstadt, and Phillips 1993). Gender ideology that says women are less competent than men means a woman

Since a standpoint specifies a relationship to power, one way to understand how power works is to learn from the standpoint(s) of the less powerful. Dorothy Smith (1987) favors starting “from women’s lives and experiences” because women have less power yet are more responsible for the routine work that makes society “happen”—for example, caring for children and elderly parents, cooking and washing clothes, meeting with teachers, and shopping for food (see Harding 1991, 123–24). According to Smith (1997a, 393; Smith 1997b), by “exploring experience as a method of discovering the social from the standpoint of women’s experience . . . women’s standpoint returns us to the actualities of our lives . . . in the local particularities of the everyday/every night worlds in which our bodily being anchors us.” What we can learn from women’s experiences will likely contradict hegemonic theories about how the legal system works (Smith 1990; Solimine and Wheatley 1995). Once we know the accounts women give from their less-privileged locations, we will, following Harding (1991, 1997), have a more accurate (or “less false”) understanding of how power operates in legal settings (Hartsock 1997).

*Gender standpoint and consciousness of gender inequality.* A tenet of feminist standpoint theory is that women’s subordinate status in the sex-gender system leads to experiences that can (although will not inevitably) produce a feminist consciousness about gender. Judges and attorneys are embedded in the societal gender order, as everyone is; thus we expect them to “practice gender” when they “practice law” (West and Zimmerman 1987; Riger et al. 1995; P. Martin 2001). For example, we expect them to inject gender, including gender stereotypes, into interactional exchanges, a practice that need not be intentional to produce negative results.<sup>9</sup> We assess how legal professionals’ statuses as women and men (and as persons occupying other statuses, e.g., a race/ethnic status) affect their awareness of gender inequality in the legal system.

#### **Consciousness of gender inequality and gender bias dynamics**

Feminist consciousness is an aspect of a more general consciousness of gender inequality. Consciousness of gender inequality refers to awareness of ongoing social arrangements based on gender that give boys or men systematic advantages and girls or women systematic disadvantages and

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judge or defense attorney may be treated “as a woman” in interactional exchanges irrespective of her competence, expertise, social class, race/ethnicity, age, etc. (Epstein et al. 1995; Ridgeway 1997).

<sup>9</sup> J. Martin 1990; Hall 1993; Reskin 2000; Ridgeway and Correll 2000.

that do not reflect actual abilities, skills, or performance (Mueller 1987; Katzenstein 1990). Some people are more conscious of gender than others. Since gender is a part of many issues that are legally adjudicated, consciousness about gender inequality may influence how legal professionals handle gender issues in their work relations and practices (Matsuda 1996).

Courts deal with legal disputes involving marital and parental conflicts and violence against women—fundamental aspects of gender relations (Resnik 1996). Judges are often asked to decide whether a woman's duty is to care for children and the home and a man's is to work and provide support for his family. Judges with little consciousness of gender inequality may enforce a separate-spheres view of family and work onto women and men who approach the court in domestic disputes (Davis and Robinson 1991; Kane and Sanchez 1994). Similarly, a marriage breakup poses different problems for women and men in terms of child care and labor market prospects. Questions arise as to whether the wife should receive half of a couple's material assets at divorce or the husband should retain the bulk. Rape and domestic violence usually entail men's violence against women, and beliefs about gender affect how officials view and handle these cases (Spohn 1990; Songer, Davis, and Haire 1994; Siegel 1996). Finally, negative stereotypes about women can affect how lawyers view and act toward women in court (Sterling 1993; Epstein et al. 1995). Those who view women negatively may fail to treat them as men's equals in cases involving gender-based disputes and, perhaps, in other kinds of legal issues as well.

Feminist consciousness is a commitment to a gender politics aimed at eliminating women's societal disadvantages. According to Ethel Klein (1984), feminist consciousness is a belief that (*a*) women and girls are systematically discriminated against, (*b*) this dynamic is wrong, and (*c*) collective action is necessary to correct this wrong. This article focuses on judges' and attorneys' feminist consciousness as one expression of a heightened awareness of systematic inequality between women and men.

A feminist consciousness is a political achievement, not an automatic response to the experience of gender inequality. Women's chances of achieving a feminist consciousness are greater than men's because of their differing experiences of gender bias (Harding 1991, 127). Klein (1984) argues that because a feminist consciousness is premised on women's experiences of gender inequality, men cannot develop a true feminist consciousness. However, men can (and do) develop feminist sympathy. Feminist sympathy resembles feminist consciousness but is more "an abstract, ideological commitment to equality" and a diffuse desire for social justice

rather than an “internalized political perspective derived from personal experience” (Klein 1984, 7). To avoid confusion, we use the term *feminist consciousness* to refer to an awareness of gender inequality in both men and women. Using Klein’s reasoning, men judges and attorneys should have less of a feminist consciousness, and their observations of gender bias should be more weakly associated with feminist consciousness because of their relative inexperience with gender-based discrimination.<sup>10</sup>

Feminist consciousness entails a rejection of gender inequality as it exists across a range of public and private settings. The dimensions of feminist consciousness that we analyze are: (1) separate spheres, or rejection of a traditional division of labor between husband and wife (he works and she stays home); (2) divorce property rights, or rejection of the view that a husband should retain most material assets when a marriage dissolves; (3) rape myths, or rejection of a view that holds women or girls responsible for being raped; (4) domestic violence, or rejection of men’s right to harm women partners physically; and (5) stereotypes of women, or rejection of negative representations of women. By analyzing multiple aspects and dimensions of feminist consciousness, we acknowledge its complex nature and explore the possibility that some aspects of feminist consciousness are more influenced by gender (and other statuses) than others (see Reingold and Foust 1998). Furthermore, by taking our respondents’ race/ethnicity into account, we address the significance of multiple intersecting statuses for development of a feminist consciousness.

*Gender bias dynamics.* Gender bias occurs when people draw attention to gender when it has nothing to do with official work duties or relations. Gender or sexuality can be brought into interpersonal exchanges with comments such as “why are you girls always late?” or “all guys are sex-crazed.”<sup>11</sup> Following Judith Lorber (1994, 250), we define *gender harassment* as “inappropriately calling attention to women’s or men’s bodies, sexuality, and marital status” and *sexual harassment* as “turning a professional, work, or student-teacher relationship into a sexual relationship that is unwanted by one of the people involved and that is coercive because the initiator has

<sup>10</sup> We do not suggest that all men hold identical views about gender inequality, since men have differing experiences with discrimination because of age, race/ethnicity, sexual orientation, and/or violating norms associated with hegemonic masculinity (Connell 1995; Bird 1996).

<sup>11</sup> West and Zimmerman 1987; Fenstermaker, West, and Zimmerman 1991; Collinson and Hearn 1994; Gherardi 1995a, 1995b; P. Martin 2001.

some power over the other person.”<sup>12</sup> Janet Rosenberg, Harry Perlstadt, and William R. F. Phillips (1993) found considerable variation among women attorneys in the amount of gender and sexual harassment that they reported, and they found that women attorneys observed more “gender disparagement” than sexual harassment, as we do.

Statuses other than gender may affect judges’ and attorneys’ consciousness and observations of gender dynamics (Riger et al. 1995); thus we take several into account. We do not expect them to eliminate the effects of gender status, however, as we explain below.

We test four propositions.

PROPOSITION 1a. Women attorneys and judges will observe more gender bias in legal contexts, compared with men attorneys and judges.

PROPOSITION 1b. Other social locations or statuses (race/ethnicity, legal position, age, marital status, and having children) may affect women’s and men’s observations of gender bias dynamics in the legal system but will not explain away differences between women and men.

PROPOSITION 2. Women will express more of a feminist consciousness, compared with men attorneys and judges. Other social statuses are likely to affect women’s and men’s feminist consciousness, but they will not explain away differences between women and men.

PROPOSITION 3. The positive association between (observed) gender bias (as gender and sexual harassment) in legal contexts and a feminist consciousness will be stronger for women attorneys and judges than for men attorneys and judges; that is, women’s experiences with gender bias will be more strongly linked to a feminist consciousness than will men’s.

PROPOSITION 4. Minority women will (*a*) observe more gender bias in the legal system, (*b*) have a heightened feminist consciousness, and (*c*) show a stronger positive association between gender bias and feminist consciousness than all men and majority women will.

Since propositions 2 and 4 posit influences of social locations and statuses other than gender, we provide separate rationales for them.

*Race/ethnicity.* Proposition 4 posits that occupying a less-valued race/ethnic status heightens awareness of gender-related dynamics for minority women. Minority women have no way of knowing if experiences with bias result from race-ethnicity or from gender, but their frequent experience of such dynamics can heighten awareness of both. Experiences associated with occupying a “matrix of oppressed” positions reflect the

<sup>12</sup> See also Fitzgerald, Gefland, and Drasgow 1994; Riger et al. 1995. Note that our definition of sexual harassment differs from the more restricted version used in the courts.

concept of intersectionality, which posits that a woman is not simply a woman, she is a raced woman, a classed woman, a sexual woman, and so on (Crenshaw 1992; Matsuda 1996). An African-American woman judge or lawyer is an “insider” in the legal institution who may be treated by majority men and women as an outsider because of her devalued race/ethnic status; she is thus an “outsider within” (Collins 1998, 2000).<sup>13</sup> Minority women should be more conscious of gender inequality because their simultaneous occupancy of two less-valued statuses may produce more experiences with bias, which they may interpret as reflecting their gender (Spohn 1990).

*Legal position.* Some legal scholars suggest that women judges are more conservative on gender issues than women attorneys because powerful white men who nominate and select judges are likely to select women with views on social issues that resemble their own (Ivkovic 1995). Others suggest that judges of both genders are more conservative due to similar reasons and to pressures from colleagues and the legal institution to embrace a “classical model of judging” that denies differences resulting from gender (Solimine and Wheatley 1995).

*Age.* Older judges and attorneys should be less conscious of gender inequality than are younger judges and attorneys (Brockman 1993; Stepnick and Orcutt 1996; Padavic and Orcutt 1997). In general, older people hold more conservative views on social issues (Glenn 1974), although it is far from clear that conservatism results from aging per se (e.g., Alwin, Cohen, and Theodore 1991; Danigelis and Cutler 1991). Cohort and period effects are more likely sources. In terms of cohort effects, younger lawyers who grew up during the second-wave women’s movement should be more feminist because they grew up in a time when gender ideology and practices were less traditional (Rindfuss, Brewster, and Kavee 1996; Brewster and Padavic 1999). Period effects result from changes in the gender composition of the legal profession because of women’s influx. Since younger attorneys and judges will have had more women peers at each stage of their careers, they should be more accepting of women’s participation as colleagues.

*Marital-parental status.* Research on the nuclear family and family re-

<sup>13</sup> Resnik (1996) reports that 1 percent of white men federal judges said their competence had been questioned, compared with 10 percent of white women and minority men and 30 percent of minority women.

lations consistently reports that traditional (more conservative) views of gender are associated with being married versus being single, divorced, or separated (Rindfuss, Brewster, and Kavee 1996; Brewster and Padavic 1999; cf. Amato and Booth 1991). While an imperfect indicator, we use marital status as a clue to the conservatizing effects of a heterosexual family context (Davis and Robinson 1991). Parents, compared with people without children, also tend to have traditional views of gender. In addition, it is possible that attorneys' and judges' attitudes toward gender inequality affect their likelihood of getting married, divorced, or remarried (Amato and Rogers 1999; Sanchez and Gager 2000), though we are unable in this study to distinguish among the many marital trajectories that exist and have different meanings and consequences but are obscured by standard measures of "current" marital status (Barrett 2000).

#### **Data and methods**

Our data come from a 1988 state-sponsored study of attorneys who were members of the Florida Bar and of all Florida judges at the time. In 1987, the Florida Supreme Court created the Florida Task Force on Gender Bias to study the differential treatment of women and men in the state legal system. The Gender Bias Commission and the Florida Bar collaborated on the design of the mail questionnaire, drawing from the gender bias studies of the legal systems of the states of New York and Rhode Island (Sapolsky 1988). The Gender Bias Commission designed three versions of the survey: one for judges, one for general members of the Florida Bar, and a substantively focused version for members of the criminal law, family law, and trial law sections of the Florida Bar. Researchers used a stratified sampling design and oversampled women, who constitute a minority of Florida lawyers and especially judges. The Florida Bar's Office of Planning, Evaluation, and Research provided the sampling frame for lawyers. A total of 3,473 questionnaires were sent to Florida lawyers. All Florida judges sitting on Florida's county, circuit, appellate, and supreme courts in October 1988 received a questionnaire. The survey generated 1,655 usable attorney questionnaires (955 women, 700 men) and 366 judge questionnaires (40 women, 326 men). In all analyses, we weight the data for attorneys by the inverse of their sampling probability to correct for the oversampling of women.<sup>14</sup>

The questionnaire asked about gender inequality, gender and sexual

<sup>14</sup> For additional details on the design, execution, and findings of the 1988 Florida Gender Bias Study, see Sapolsky 1988.

harassment observations, and demographic and professional statuses. Specific items varied by survey, but many were common to the judge and lawyer questionnaires. All surveys contained comparable questions on lawyers' and judges' observations of gender bias (i.e., gender and sexual harassment) in the courtroom or legal chambers. In measuring consciousness of gender inequality, we constructed two scales from items common to all questionnaires. The judges' survey contained more items about attitudes toward gender inequality; thus we examine three additional aspects of feminist consciousness for judges only. Finally, all surveys inquired about each respondent's age and marital status. Only lawyers were asked their race/ethnic status and number of children, so we are unable to explore these effects for judges.

*Feminist consciousness.* The dimensions of feminist consciousness were rape myths and separate spheres for all respondents; divorce property rights, stereotypes of women, and domestic violence were included for judges only. The survey asked respondents to indicate whether they strongly agreed (coded as  $-2$ ), agreed ( $-1$ ), were unsure ( $0$ ), disagreed ( $1$ ), or strongly disagreed ( $2$ ) with a statement concerning men's and women's status in society. High scores were coded to represent greater consciousness of gender inequality, and low scores were coded to represent more conservative views. With the exception of the separate-spheres dimension, for which only one item existed in the attorney and judge questionnaires, each dimension of feminist consciousness was measured as the average response to several items. Results for the separate-spheres dimension should be interpreted cautiously because of measurement error risks associated with single item measures (Carmines and Zeller 1980). The items, scales, and alpha reliability coefficients are reported in appendix A.

*Observations of gender bias dynamics.* A goal of the Gender Bias Study was to assess the extent to which harassment based on gender occurred in Florida courtrooms and other legal settings. The questionnaires asked respondents to report, in their experience, how often male judges and attorneys engage in harassing behaviors, for example, by making jokes or demeaning remarks about women. Responses were coded 0 for "never" or "don't know," 1 for "rarely," 2 for "some of the time," 3 for "often," and 4 for "almost always." We study two types of gender bias dynamics:

gender harassment and sexual harassment.<sup>15</sup> Items comprising each type are shown in appendix A.

*Predictors of feminist consciousness and observations of gender bias dynamics.* Feminist consciousness and observations of gender and sexual harassment should vary by the respondent's position in the broader society, as defined by gender standpoint, legal position (judge vs. attorney), age, race/ethnic status, marital status, and parental status. These statuses or positions are all measured as dichotomous dummy variables. We define these measures such that we contrast women to men, attorneys to judges, non-Hispanic whites to members of other racial/ethnic groups, currently married attorneys and judges to other marital statuses, and parents to nonparents. In the sample, the average age is forty-one years, 49 percent of the respondents are women, 82 percent are practicing lawyers, 92 percent are non-Hispanic whites, 69 percent are currently married, and 49 percent have children. Weighted descriptive statistics and bivariate correlations for all measures are provided in appendix B, table B1.

### **Analysis**

The analysis proceeds in four sections. In the first two sections, we compare the average reported observations of gender bias dynamics and attitudes reflecting feminist consciousness for four groups: women judges, women attorneys, men judges, and men attorneys. When comparing average responses on gender bias dynamics and feminist consciousness, we examine both observed or "unadjusted" differences in women and men attorneys and judges, and the differences that remain after controlling for the influences of other statuses (marital and parental status, age, and race/ethnicity). Group differences in observations of gender bias and feminist consciousness are estimated using ordinary least squares regression. Unadjusted differences are measured with models that include only dichotomous measures of gender and legal position; net differences are estimated with models that include controls for important statuses and positions. We also test whether men's and women's responses are significantly different from each other, and we test whether judges differ significantly from attorneys.<sup>16</sup> In the third section,

<sup>15</sup> Respondents reported how often male judges engage in these behaviors and then separately how often male attorneys engage in these behaviors.

<sup>16</sup> The significance of the difference between groups was assessed by using ordinary least squares regression to regress the measure of gender bias or feminist consciousness on three dichotomous dummy variables representing women judges, men attorneys, and men judges (or five dummy variables in the case of race/ethnic differences; see table 4). The *t*-tests for the slope coefficients ( $b_k$ ) report the significance of the comparisons involving the omitted

we examine the association between observations of gender bias dynamics and feminist consciousness, and we test whether the association varies by gender. Given the premise that a feminist consciousness is more directly linked to personal experiences and observations of gender bias for women, we present partial correlation coefficients that measure the strength of the association among women and men judges and attorneys. We present correlation (rather than regression) coefficients because they do not assume a causal order, given our acknowledgment that consciousness and observations are likely to affect each other. In the final section, we explore racial/ethnic differences among attorneys in terms of their observations of bias, their levels of feminist consciousness, and the connection between bias and consciousness.

## Results

As expected, the results show gender's pervasive influence on gender-bias observations, feminist consciousness, and the relationship between bias and consciousness. While women's observations of (more) gender bias are associated with a heightened feminist consciousness, this pattern is much less true for men, both judges and attorneys. These differences are not because of other statuses, moreover, suggesting that experiences associated with gender extensively matter. We do find, however, that race/ethnicity affects feminist consciousness and gender bias experiences for attorneys, as we explain below.

### **Proposition 1: Gender bias dynamics**

*Gender harassment.* As anticipated by proposition 1a, women judges and attorneys observe more gender bias dynamics than do men judges and attorneys. This pattern exists for both gender harassment and sexual harassment. (Table 1 reports the results.) Women attorneys and judges observe more gender harassment than do men attorneys and judges (row 1 shows the mean values of 1.78 for women attorneys and 1.68 for women judges). On average, women say that men judges and attorneys engage in gender harassment slightly less than "some of the time" (a score of 2 on the observations of gender harassment scale). Men attorneys and judges

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category (e.g., women attorneys). Following Hardy 1993, tests of significance for other comparisons use

$$\frac{b_{\text{Group1}} - b_{\text{Group2}}}{\sqrt{\text{Var}(b_{\text{Group1}}) + \text{Var}(b_{\text{Group2}}) - 2 \text{Cov}(b_{\text{Group1}}, b_{\text{Group2}})}}.$$

**Table 1.** Observations of Gender Bias by Gender and Legal Position

	Women		Men	
	Attorneys	Judges	Attorneys	Judges
Observations of gender bias:				
1. Gender harassment	1.78 <sup>a,b</sup>	1.68 <sup>a,b</sup>	1.09 <sup>b,c,d</sup>	.76 <sup>a,c,d</sup>
2. Sexual harassment	.74 <sup>a,b</sup>	.81 <sup>a,b</sup>	.38 <sup>b,c,d</sup>	.22 <sup>a,c,d</sup>
Observations of gender bias, controlling for other statuses: <sup>c</sup>				
3. Gender harassment	1.60 <sup>a,b</sup>	1.66 <sup>a,b</sup>	1.05 <sup>b,c,d</sup>	.96 <sup>a,c,d</sup>
4. Sexual harassment	.65 <sup>a,b</sup>	.77 <sup>a,b</sup>	.36 <sup>c,d</sup>	.30 <sup>c,d</sup>
Unweighted N	952	40	696	326

<sup>a</sup> Group mean significantly different from mean for men attorneys.

<sup>b</sup> Group mean significantly different from mean for men judges.

<sup>c</sup> Group mean significantly different from mean for women attorneys.

<sup>d</sup> Group mean significantly different from mean for women judges.

<sup>e</sup> Judges' adjusted means control for differences because of age and marital status; attorneys' adjusted means control for age, marital status, parent status, and race/ethnicity.

report significantly fewer observations of gender harassment, with men judges observing significantly fewer than other men, as well as women.

*Sexual harassment.* Results for sexual harassment are similar. Table 1, row 2, shows that women judges and attorneys observe significantly more sexual harassment than do men judges and attorneys (the mean value for women attorneys is .74, and for women judges the mean is .81). Although women judges and attorneys say that men judges and attorneys rarely make physical and verbal sexual advances, men attorneys and especially men judges say that this almost never occurs. Women in Florida's legal system observed gender and sexual harassment more often than men, and men attorneys observed them more than men judges.<sup>17</sup>

The data confirm proposition 1b concerning the durability of gender's effect on observations of gender bias. That is, gender differences remain after the influences of age, race/ethnicity, marital status, and parental status are taken into account. The bottom half of table 1 (rows 3 and 4) presents each group's mean after controlling for differences that result from other statuses. Women judges and attorneys report significantly more

<sup>17</sup> Women's elevated estimates are not because of questions that targeted men as harassers. All respondents were asked how often female judges and attorneys engaged in gender harassment toward women. Women respondents still reported more observations of gender harassment than men did, even in response to questions that asked about women as harassers.

observations of gender and sexual harassment than men after controlling for age and marital status for both judges and attorneys, and for race/ethnic status and parent status for attorneys only.<sup>18</sup> Men judges report the fewest observations of gender bias, and they observe significantly less gender harassment than do other men. After controlling for differences because of age and marital status, men attorneys and judges do not differ in their observations of sexual harassment. In summary, we find that gender systematically shapes perceptions of gender bias among attorneys and judges net of the influences of age, marital status, being a parent versus being childless, and minority versus majority race/ethnic status.

**Proposition 2: Feminist consciousness**

Results in table 2 generally confirm proposition 2, which anticipated that women judges and attorneys have a more feminist consciousness than men judges and attorneys do. There are exceptions to this generalization, however, as we review below (e.g., on the separate-spheres dimension). We review the five dimensions of feminist consciousness in turn.

*Judges and attorneys.* Table 2, row 1, shows that women judges and attorneys reject rape myths more than men judges and attorneys do. Both men and women disagree with the rape myths, yet women disagree more strongly. Women responded (on average) between “disagree” and “strongly disagree” (their mean rape myth score is about 1.42 for women attorneys and 1.33 for women judges), whereas men’s disagreement was less strong or consistent (the mean value for men attorneys is .90, and for men judges it is .77). Closer inspection of the survey responses reveals that 40 percent of men judges and 30 percent of men attorneys but only 13 percent of women judges and attorneys agreed with at least one of the four rape myth items (see app. A). The differences between women’s and men’s average responses on the rape myth aspect of feminist consciousness are statistically significant ( $p < .05$ ).

Contrary to proposition 2, women and men respond similarly to the

<sup>18</sup> The bivariate correlations presented in appendix B, table B1 show that there are good reasons to account for the influences of other standpoints. Many of these standpoints are related to both levels of feminist consciousness and observations of gender bias dynamics, and these standpoints vary by gender in the legal system. Older judges and attorneys have lower levels of feminist consciousness and observe less gender bias dynamics. Married attorneys and judges, and those who are parents, observe significantly fewer instances of gender and sexual harassment and are less likely to disagree with rape myths or the doctrine of separate spheres. These patterns suggest the “conservativizing” effects of age and of marriage and family as social institutions.

**Table 2.** Feminist Consciousness by Gender and Legal Position

	Women		Men	
	Attorneys	Judges	Attorneys	Judges
Feminist consciousness:				
Attorneys and judges:				
1. Rape myths	1.42 <sup>a,b</sup>	1.33 <sup>a,b</sup>	.90 <sup>c,d</sup>	.77 <sup>c,d</sup>
2. Separate spheres	.86 <sup>a,b,d</sup>	.40 <sup>c</sup>	.37 <sup>b,c</sup>	.13 <sup>a,c</sup>
Judges only:				
3. Divorce property	...	1.49 <sup>b</sup>	...	1.11 <sup>d</sup>
4. Stereotypes about women	...	1.27 <sup>b</sup>	...	.94 <sup>d</sup>
5. Domestic violence	...	1.29 <sup>b</sup>	...	1.08 <sup>d</sup>
Feminist consciousness, controlling for other statuses: <sup>e</sup>				
Attorneys and judges:				
6. Rape myths	1.26 <sup>a,b</sup>	1.36 <sup>a,b</sup>	.89 <sup>c,d</sup>	.94 <sup>c,d</sup>
7. Separate spheres	.66 <sup>a,b</sup>	.41	.34 <sup>c</sup>	.33 <sup>c</sup>
Judges only:				
8. Divorce property	...	1.46 <sup>b</sup>	...	1.11 <sup>d</sup>
9. Stereotypes about women	...	1.15 <sup>b</sup>	...	.96 <sup>d</sup>
10. Domestic violence	...	1.26 <sup>b</sup>	...	1.08 <sup>d</sup>
Unweighted <i>N</i>	952	40	696	326

<sup>a</sup> Group mean significantly different from mean for men attorneys.

<sup>b</sup> Group mean significantly different from mean for men judges.

<sup>c</sup> Group mean significantly different from mean for women attorneys.

<sup>d</sup> Group mean significantly different from mean for women judges.

<sup>e</sup> Judges' adjusted means control for differences because of age and marital status; attorneys' adjusted means control for age, marital status, parent status, and race/ethnicity.

separate-spheres dimension of feminist consciousness (row 2 of table 2). Furthermore, the lower average score for the entire sample suggests that neither women nor men are especially feminist on this issue. Women attorneys disagreed most strongly that marriage and family should take precedence over careers for women (average score is .86), and their average score is significantly greater than any other group. Women judges were not so sure; their response resembled that of men attorneys more than that of women attorneys. Of the four groups, men judges disagreed least that marriage and family should come before careers for women; the small positive mean score for men judges indicates that, on average, they disagreed slightly with the statement (but barely so).

*Judges only.* As noted, we have data on three additional dimensions of feminist consciousness for judges. Table 2, rows 3–5, compares men and

women judges' views of divorce property rights, negative stereotypes about women, and domestic violence. In every case, women judges report higher levels of feminist consciousness than do their men counterparts. Overall, the gender gap in feminist consciousness among judges is largest for rape myths and property rights, the gap is smaller but still significant for negative stereotypes about women and issues of domestic violence, and the gender difference is not significant for the doctrine of separate spheres.

The differences between women and men on feminist consciousness are not eliminated when other statuses are taken into account. The bottom half of table 2 (rows 6–10) reports each group's mean after controlling for differences that result from other statuses. With the influences of age and marital status removed (as well as race/ethnicity and parent status among attorneys only), women judges and attorneys are significantly more likely to reject rape myths than are men judges and attorneys (row 6 of table 2). Women attorneys' rejection of a separate-spheres doctrine diminishes after accounting for differences resulting from other statuses (the mean decreases from .86 in row 2 to .66 in row 7); their group mean is still significantly higher than men's but is no longer significantly different from the mean for women judges. Among judges, gender differences on the three additional dimensions of feminist consciousness diminish slightly but remain significant after accounting for the effects of age and marital status (row 8–10). Men judges have significantly less of a feminist consciousness than women judges do on every dimension (except for separate spheres).

Thus, in almost every case, men and women differ on the five dimensions of feminist consciousness, before and after accounting for the effects of other statuses. An exception is the separate-spheres dimension. Judges and attorneys are most conservative on the issue of the priority of work versus family in women's lives, resulting in smaller differences between groups. Women attorneys are most likely to reject a separate-spheres doctrine, while men attorneys and judges are indistinguishable from each other and from women judges after controlling for age, race/ethnicity, marital status, and parental status.

**Proposition 3: The association between gender bias and feminist consciousness**

*Judges and attorneys.* Proposition 3 anticipated that the connection between observations of gender bias and a feminist consciousness is stronger for women. Our results offer mixed support for this expectation (see table 3). We present the results by type of bias—gender harassment

**Table 3.** Associations between Gender Bias Observations and Five Dimensions of Feminist Consciousness, by Gender and Legal Position

	Women		Men	
	Attorneys	Judges	Attorneys	Judges
Correlation between gender harassment and feminist consciousness: <sup>a</sup>				
Attorneys and judges:				
1. Rape myths	.18*	.37*	.00	.09**
2. Separate spheres	.09**	-.17	-.06	.03
Judges only:				
3. Divorce property	...	.40*	...	-.02
4. Stereotypes about women	...	.11	...	-.04
5. Domestic violence	...	.32*	...	.02
Correlation between sexual harassment and feminist consciousness: <sup>a</sup>				
Attorneys and judges:				
6. Rape myths	.10**	.47*	.00	.06
7. Separate spheres	.05	-.13	-.04	.01
Judges only:				
8. Divorce property	...	.26**	...	-.02
9. Stereotypes about women	...	.21	...	.03
10. Domestic violence	...	.18	...	.07
Unweighted <i>N</i>	952	40	696	326

<sup>a</sup> Partial Pearson correlation coefficients. Judges' correlations control for differences because of age and marital status; attorneys' correlations control for age, marital status, parent status, and race/ethnicity.

\* Correlation coefficient significant at  $p < .05$ .

\*\* Correlation coefficient significant at  $p < .10$ .

or sexual harassment—and dimension of feminist consciousness, with gender harassment first.

**Gender harassment and feminist consciousness (as rape myths and separate spheres).** Table 3, rows 1–5, reports partial correlation coefficients measuring the strength of the association between the amount of gender harassment that women and men judges and attorneys observe and their level of feminist consciousness. The results show that attorneys and judges who observe more gender harassment have a more feminist consciousness relative to rape myths and, as anticipated, women more so than men (by two to three times; see table 3, row 1). The findings are strongest for women judges ( $r = .37$ ). For unknown reasons, the rela-

relationship is much weaker for women attorneys ( $r = .18$ ). There is no association between gender harassment observations and rape myths for men attorneys, but there is a marginally significant positive relationship for men judges ( $r = .09$ ). Thus, women and perhaps men judges who observe more gender bias are more likely to reject rape myths, and the relation is clearly stronger for women, especially women judges, as we anticipated.

Observations of gender harassment are largely unrelated to the separate-spheres aspect of a feminist consciousness. Judges and attorneys who observe more gender harassment are not necessarily more likely to reject a separate-spheres view, although women attorneys are an exception to this generalization (the correlation in row 2 for women attorneys is significant at  $p < .10$ ). That is, women attorneys who have observed more gender harassment are more likely to hold feminist views about separate spheres, but the association is only marginally significant.

*Judges only.* Among judges, data on three other dimensions of feminist consciousness offer additional, although mixed, support for proposition 3, which expects those who have observed more gender harassment to have a more feminist consciousness, but especially women.

**Gender harassment and feminist consciousness (as domestic violence, divorce, and negative stereotypes).** The results for property rights in divorce and domestic violence support proposition 3, whereby observations of gender harassment and feminist consciousness are significantly and positively associated for women but not men. Women judges who have observed more gender bias more strongly reject statements that favor men's property rights in divorce or that condone domestic violence (in rows 3 and 5,  $r = .40$  and  $.32$ , respectively). Even the nonsignificant association between negative stereotypes about women and gender harassment observations is in the expected positive direction among women judges. (The small number of women judges may contribute to statistical insignificance.) Men judges' consciousness is unaffected by their observations of gender harassment, with the possible exception of rape myths (see row 1).

*Judges and attorneys.* **Sexual harassment and feminist consciousness (as rape myths and separate spheres).** As expected by proposition 3, women judges and to a lesser extent women attorneys who observe more sexual harassment were more feminist relative to rape myths (table 3, row 6). The association for women judges is strong ( $r = .47$ ), while that for

women attorneys is much weaker ( $r = .10$ ). Among men attorneys and judges, there is no association between observations of sexual harassment and rape myth beliefs. Judges' and attorneys' disagreement with a separate-spheres view is unrelated to their observations of sexual harassment, for women and men alike (table 3, row 7), and we address this and related results in the discussion.

*Judges only.* Again, for judges, findings on three other dimensions of feminist consciousness show mixed support for proposition 3, which expects that those who have observed more sexual harassment will have a more feminist consciousness and that the link between observations and consciousness will be stronger among women.

**Sexual harassment and feminist consciousness (as domestic violence, divorce, and negative stereotypes).** Sexual harassment observations are consistently and positively related to feminist consciousness among women judges but not among men judges (table 3, rows 8–10), though only the association for property rights in divorce is statistically significant. Again the pattern of positive but insignificant associations for women judges is influenced by the small number of women judges in the sample. In general, women judges who report more sexual harassment had more of a feminist consciousness relative to divorce property rights, negative stereotypes, and domestic violence. For men judges, observing more or less sexual harassment in legal settings is unrelated to any aspect of feminist consciousness.

In summary, gender shapes the link between observations and feminist consciousness, as predicted by feminist standpoint theory. Women attorneys and judges who report more gender bias dynamics in legal settings have higher levels of feminist consciousness, especially in terms of rape myths and, for judges, attitudes concerning property rights of women after divorce. The general pattern for men attorneys and judges, in contrast, is no association between seeing gender bias and consciousness of gender inequality. However, there are exceptions for both women and men judges. The results show that women judges who observe gender bias in legal settings are *not* more likely to reject the doctrine of separate spheres, a result that differs from the positive associations for every other dimension of feminist consciousness. And finally, men judges' observations of gender harassment are associated with their attitudes on rape myths; those who observe more harassment are somewhat more feminist on this issue.

**Proposition 4: The intersections of gender and race/ethnicity**

Of the lawyers surveyed by the Gender Bias Commission, twenty-three were African-American women, fifty-seven were Hispanic women, and 862 were white women. Only seven were African-American men, twenty-nine were Hispanic men, and 650 were white men.<sup>19</sup> Such small numbers of minority women and men urge caution in interpreting our results. Yet the dearth of research on gender and race among legal professionals and the value of understanding intersectionality prompt us to report them. (Since judges were not asked about race/ethnicity, these results apply only to attorneys.)

Table 4 presents the average levels of gender bias and feminist consciousness and associations between the two for African-American, Hispanic, and white attorneys by gender. The analyses summarized in table 4 do *not* control for other statuses as before, because of the small number of nonwhite attorneys. For the same reasons, we focus on the patterns in the means and associations, rather than their statistical significance. Our results provide mixed support for proposition 4, which anticipated that race/ethnic minority women would observe or experience more gender bias in legal settings, have a heightened feminist consciousness, and show a stronger positive association between gender bias and feminist consciousness.

There is some evidence to suggest that minority women observe more gender bias than majority women and all men. Hispanic women see more gender bias than any other group of attorneys. Hispanic women (row 1) observe more gender harassment (table 4, row 1; mean score is 1.93) than African-American or white women and more than men of any race or ethnic group. Hispanic women also observe more sexual harassment than other women or men, with the exception of African-American men, who report similar levels (row 2; mean score for Hispanic women is .79). Race interacts with gender for men as well. Black men observe significantly more sexual harassment than Hispanic or white men and as much or more than women, whether African American, Hispanic, or white. We do not know what this result means, and we cannot place much confidence in our estimate of the mean for African-American men since it is based on just seven respondents. To the extent that these respondents are representative of African-American men attorneys in general, African-American men stand out from other men attorneys in their more frequent observations of gender bias dynamics.

Is minority women's feminist consciousness higher? We find little sup-

<sup>19</sup> We excluded seven attorneys who reported "other" race or ethnic background.

**Table 4.** Attorneys' Gender Bias Observations, Feminist Consciousness, and the Association between Gender Bias Observations and Feminist Consciousness, by Race/Ethnicity and Gender

	Women			Men		
	African American	Hispanic	White	African American	Hispanic	White
Observations of gender bias:						
1. Gender harassment	1.54 <sup>a</sup>	1.93 <sup>a,b</sup>	1.78 <sup>a,b</sup>	1.49 <sup>a</sup>	1.12 <sup>c,d</sup>	1.09 <sup>c,d,e</sup>
2. Sexual harassment	.60	.79 <sup>a,b</sup>	.74 <sup>a,b</sup>	.81 <sup>a,b</sup>	.41 <sup>c,d,e</sup>	.37 <sup>c,d,e</sup>
Feminist consciousness:						
3. Rape myths	1.43 <sup>a,b</sup>	1.38 <sup>a,b,c</sup>	1.41 <sup>a,b,c</sup>	.90 <sup>c,d</sup>	.84 <sup>c,d,f</sup>	.89 <sup>c,d,f</sup>
4. Separate spheres	.75 <sup>c</sup>	.68 <sup>c</sup>	.87 <sup>a,b,e</sup>	-.31 <sup>a,c,d,f</sup>	.21 <sup>d</sup>	.39 <sup>d,e</sup>
Bivariate correlation between gender bias and feminist consciousness:						
5. Gender harassment and rape myths	.27	.20	.16*	-.34	.46*	.06**
6. Gender harassment and separate spheres	.33	.15	.08**	-.35	-.29*	.01
7. Sexual harassment and rape myths	.29	.12	.07	-.66*	-.19	.02
8. Sexual harassment and separate spheres	.25	-.09	.03	-.61*	-.07	-.01
Unweighted <i>N</i>	23	57	862	7	29	650

<sup>a</sup> Group mean significantly different from mean for white men.

<sup>b</sup> Group mean significantly different from mean for Hispanic men.

<sup>c</sup> Group mean significantly different from mean for Hispanic women.

<sup>d</sup> Group mean significantly different from mean for white women.

<sup>e</sup> Group mean significantly different from mean for African-American men.

<sup>f</sup> Group mean significantly different from mean for African-American women.

\* Correlation coefficient significant at  $p < .05$ .

\*\* Correlation coefficient significant at  $p < .10$ .

port for this part of proposition 4. Women in all three groups had a feminist stance on rape myths, but minority women did not differ from white women; in fact, on the issue of separate spheres, white women were more feminist (though not significantly; see table 4, rows 3–4). All women were more feminist than men, however. White women disagreed most with the separate-spheres doctrine (mean score for white women is .87), but African-American and Hispanic women rejected it more than white or minority men. White men were more likely to reject the separate-spheres doctrine than minority men. African-American men, in fact, supported this view; that is, they said women should put family ahead of career (their mean score is  $-.31$ ). We again note that a result based on only seven African-American men urges caution.

Finally, the link between awareness of gender bias and feminist consciousness for minority women appears to be stronger than the link for white women and all men. Table 4 reports bivariate correlations between gender bias and consciousness for each group (rows 5–8). African-American women have the strongest positive association between observations of gender bias and feminist consciousness; this association is stronger than it is for white women and, to a lesser degree, Hispanic women (table 4, rows 5–8; correlation coefficients range from .33 to .25 for African-American women). Among African-American women, observing more gender harassment or sexual harassment is linked strongly to a feminist stance on rape myths and the separate-spheres doctrine. For African-American, Hispanic, and white men, observed gender bias and feminist consciousness were unrelated or negative in all but one case. To our surprise, observations and consciousness are negatively associated for African-American men (meaning the *more* bias they saw, the *less* feminist they were). Hispanic men pose an interesting anomaly. Hispanic men who observed more gender harassment rejected rape myths more than all other men and more than all women (row 5,  $r = .46$ ). Again, we do not know the meaning of this result and urge caution because of the small number of Hispanic and African-American women and men in our sample.

### Discussion

Our results offer insights about (1) how gender standpoints, experience, and feminist consciousness interrelate among attorneys and judges; (2) the utility of feminist standpoint theory for studying gender as a system of inequality; and (3) the potential efficacy of multiple standpoints and multiple consciousness for understanding and improving the legal institution.

*Gender as a standpoint.* Our results show the powerful influence of gender as a standpoint on the experiences and beliefs of judges and attorneys. Women observe more gender harassment and sexual harassment in legal settings than men do, especially more than men judges. Women attorneys and judges agree more with a feminist perspective on multiple gender issues that affect both litigants' and legal professionals' lives; women are more feminist than men on rape, domestic violence, property rights of wives after divorce, and negative stereotypes of women. In accord with feminist standpoint theory, as predicted, the connection between experiences with gender bias and a feminist consciousness is pervasive and relatively strong for women and absent or weak for men. The effects of gender remain, furthermore, after the influences of other statuses (age, marital status, etc.) are taken into account.

Only on the separate-spheres issue are some women—that is, women judges—indistinguishable from their male peers. However, on all other issues, women judges are more feminist than their male peers and equally as feminist as women attorneys. Thus, our results fail to suggest that women judges are co-opted by a legal institution that has been characterized as male, masculine, and masculinist (MacKinnon 1989; Ivkovic 1995). Women appear not to “cease and desist” from being women when they assume the judicial mantle. Indeed, women judges' greater support for an equal division of property after divorce may mean that women litigants can retain more property in divorce settlements if their cases go before women judges.

Our study shows that feminist consciousness is multifaceted and should be defined and studied broadly (Katzenstein 1990). In agreement with Stephanie Riger et al. (1995), we believe that a multidimensional approach allows for the discovery of inconsistencies and resists depicting feminist consciousness as simple and uniform. While we find some consistency, with all five dimensions positively correlated, we also find variations. As a group, women differ the most from men on their views of rape and differ the least from men on their views of separate spheres. As noted, women are more feminist than men on rape, domestic violence, property rights of wives after divorce, and negative stereotypes of women, and these differences persist after accounting for other statuses.

Our results show that gender bias is an aspect of social interaction in legal contexts. In line with past research, both women and men say men attorneys and judges sometimes insert gender and/or sexuality into the practice of law in inappropriate ways. Women observe these dynamics more than men do, and both women and men report more gender ha-

harassment than sexual harassment (Riger et al. 1995). Leora Rosen and Lee Martin (1998) found similar patterns in a study of the U.S. military, where gender harassment was more prevalent and, in their view, more harmful to the psychological well-being of women and men. While gender harassment is often viewed as “milder” than sexual harassment, Rosen and Martin say it is “a chronic and serious environmental stressor” (1998, 67), more than sexual harassment (Rosen and Martin 1997a, 1997b). Our finding that gender harassment links as strongly with feminist consciousness as sexual harassment does (among women; see table 3) suggests that both forms of gender bias are consequential and should be eliminated from legal settings.

*The utility of feminist standpoint theory.* The relationship that we anticipated between experiences with gender bias and feminist consciousness is supported for women. Women who observe more gender harassment and sexual harassment have a more feminist consciousness than women who observe less; this pattern, consistent for all categories of women, is basically absent for men and is strongest for African-American women, as we discuss later.

Our findings thus support the tenet from feminist standpoint theory that experiences associated with a subordinated or marginal standpoint give those located in it knowledge of “how the world works” that those in more privileged positions lack (Collins 1998). Because of their gender standpoint and associated experiences, women attorneys and judges have knowledge of gender relations in the legal institution that men attorneys and judges lack. Although some men see the gender bias dynamics that women see, they fail as a group to “translate” these observations into a feminist consciousness, which supports Klein’s (1984) claim that men do not develop a true feminist consciousness. Stated differently, observing gender bias fails to foster feminist consciousness in men because they do not occupy the gender position that would help them understand it. Feminist consciousness also does not appear to lead to a heightened sensitivity to gender bias dynamics among men. Apparently, one must see or experience bias from within a disadvantaged standpoint for consciousness to be affected. Not every woman who sees gender bias develops a feminist consciousness, however. Still, compared with men, the links are stronger. Feminist standpoint theory does not contend that knowledge from women’s standpoint is per se superior to knowledge from men’s standpoint, only that it differs and that using it will improve our understanding of the social world (Harding 1991; Collins 1998).

*Multiple standpoints, multiple consciousness, and the legal institution.* In our findings, feminist consciousness is related less to lawyers' race/ethnicity than to their gender. Women in each race/ethnic category are more feminist than are men. Yet our results indicate that race/ethnicity helps to explain awareness of gender bias and the link between awareness and consciousness. Hispanic women attorneys, for example, perceive somewhat more gender bias, especially gender harassment, than other women and men do (see table 4). African-American men attorneys observe more gender and sexual harassment than other men do, but their observations do not correlate positively with a feminist consciousness. Finally, of the six gender and race/ethnic categories, African-American women attorneys show the strongest connection between awareness and consciousness, a result with both substantive and practical import. Despite having few nonwhite lawyers, we reflect on our results to consider their implications for the legal institution.

Kimberle Crenshaw, an originator of critical race theory, says that African-American women experience racism and sexism uniquely: "This dual vulnerability [to racism and sexism] does not simply mean that our burdens are doubled but instead that the dynamics of racism and sexism intersect in our lives to create experiences that are sometimes unique to us. In other words, our experiences of racism are shaped by our gender and our experiences of sexism are often shaped by our race" (1992, 1468). As a result of intersection, Crenshaw argues, African-American women experience more bias than others, are more attuned to its dynamics, and may not distinguish between race and gender (see Lazos 1999). In our Florida sample, the connection between perceptions of bias and feminist consciousness is clearest for African-American women attorneys. Yet African-American women in this study do not see more gender bias than other women; rather, African-American women who do see more gender bias more consistently report a higher level of feminist consciousness compared with Hispanic or white women. African-American women's experiences in and from the positions of less-privileged racial and gender statuses probably account for this result. Patricia Hill Collins (1998, 2000) claims that learning from a *black feminist standpoint* will teach everyone about how society works. Our findings support her argument that a black feminist consciousness offers a unique accounting of how multiple societal institutions intersect.

To improve the legal institution, legal scholar Mari Matsuda advises "multiple consciousness as a jurisprudential method" (1996, 8). Many women of color have a multiple consciousness, she says, resulting from

occupying two (or more) devalued statuses. Matsuda asks all lawyers, regardless of gender or race/ethnicity, to learn from the oppressed:

The multiple consciousness I urge lawyers to attain is not a random ability to see all points of view but a deliberate choice to see the world from the standpoint of the oppressed. That world is accessible to all of us. . . . The jurisprudence of outsiders teaches that these details [of the lives of oppressed people] and the emotions they evoke are relevant and important as we set out on the road to justice. These details are accessible to all of us, of all genders and colors. We can choose to know the lives of others by reading, studying, listening, and venturing into different places. (1996, 8)

Matsuda's proposal is consistent with a feminist standpoint approach that calls for research on the form, substance, and consequences of intersectionality of standpoints because of the insights such research can produce. Our results support this view. A feminist standpoint approach can reveal how the legal institution operates as a paradoxical mechanism that both reinforces and challenges sexism and racism, as the era of the Civil Rights and women's movements showed (Matsuda 1996; Quadagno 2000). Research that allows people in multiple subordinated standpoints to share their experiences about the legal institution can instruct us about how it "actually works" (Smith 1987). Knowing more about African-American women's experiences may prove particularly useful (Spohn 1990).

In closing, we return to questions posed early in the article. Do women have more of a feminist consciousness than men? Our results suggest that they do. If women participate in greater numbers, will the legal institution improve? Will women judges help rape victims, domestic violence victims, and divorce petitioners more? Our findings only hint at answers to these questions. Women in our study are more aware of gender bias and have a (more) feminist consciousness. Whether these perceptions and beliefs translate into practice is impossible to know (cf. Bogoch 1999; Steffensmeier and Hebert 1999). Yet, if women's experiences differ from men's and if women's experiences with gender bias shape their consciousness, the legal system may well change if women are equally represented among its most-valued participants, especially women of color with experiences of both sexism and racism that foster a critical feminist and race-conscious awareness (Lazos 1999).

**Appendix A**  
**Descriptions of Measures of Feminist Consciousness and Observations**  
**of Gender Bias Dynamics**

**A. Measures of Feminist Consciousness**

*Rape myths* ( $\alpha = .69$ ):

- Any healthy woman can successfully resist a rapist if she really wants to.
- When women go around braless or wearing short skirts and tight tops, or go hitchhiking, they are just asking for trouble.
- Many women falsely report rapes to get back at a man, to protect their reputation after a pregnancy, or simply to gain some attention.
- If a woman engages in necking or petting and she lets things get out of hand, it is her fault if her partner forces sex on her.

*Separate spheres*:

- It is acceptable for a woman to have a career, but marriage and family should come first.

*Divorce property rights* ( $\alpha = .65$ ):

- When judges divide the marital property, the large share should go to the husband when he has been the income producer and the wife has been the homemaker.
- A wife should not expect to share in her husband's business and pension upon the dissolution of their marriage.
- Attractive wives should receive less property distribution or alimony because they will remarry soon.
- In this day and age of women's equality, long-term homemakers ought not expect to receive permanent alimony.

*Stereotypes of women* ( $\alpha = .58$ ):

- A woman who is outspoken or strongly adversarial is obnoxious.
- By and large female attorneys lack the competence of their male colleagues.
- Generally speaking, men are more credible than women.
- Traditionally, women have been accorded certain courtesies in behavior—what some people term *chivalry*. Women should be accorded these extra courtesies in the courtroom.

*Domestic violence* ( $\alpha = .78$ ):

- The fact of spouse abuse is not relevant to the issue of which parent should be awarded custody.
- The fact of spouse abuse is not relevant to the issue of whether visitation with children should be supervised.
- A single incident of domestic violence is not serious.
- Domestic violence is not serious unless the victim's injuries are visible.
- Usually, in domestic violence situations, both parties are at fault.
- Most of the victims of domestic violence provoke the violence.

**B. Measures of Observations of Gender Bias Dynamics**

*Gender harassment* ( $\alpha = .91$ ):

- In professional settings, males are assumed to be attorneys whereas females are not.
- Female attorneys are addressed by their first name or by terms of endearment, but male attorneys are referred to in a more formal manner.
- Comments are made about the personal appearance of female attorneys (or litigants or witnesses) when no such comments are made about male attorneys (or litigants or witnesses).
- Jokes or demeaning remarks are made about women.

*Sexual harassment* ( $\alpha = .85$ ):

- Women attorneys are subjected to verbal sexual advances.
- Women attorneys are subjected to physical sexual advances.

**Appendix B**  
**Bivariate Correlations, Means, and Standard Deviations for All Measures**

**Table B1**

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
(2)	.304											
(3)	.154	.310										
(4)	.222	.469	.103									
(5)	.176	.483	.217	.360								
(6)	.130	.491	.122	.571	.359							
(7)	.346	.193	.071	.092	.079	.111						
(8)	.259	.128	.029	.127	.130	.132	.620					
(9)	-.213	-.337	-.181	-.120	-.217	-.143	-.290	-.188				
(10)	-.167	-.110	-.082	-.038	-.146	-.038	-.111	-.134	.131			
(11)	-.243	-.233	-.178	...	...	...	-.151	-.109	.462	.450		
(12)	-.045	-.006	.052	...	...	...	-.040	-.049	.073	.039	.040	
<i>M</i>	.18	.95	.41	1.15	.98	1.10	1.16	.42	42.62	.75	.62	.93
<i>SD</i>	.38	.64	1.20	.54	.57	.52	.82	.59	11.02	.43	.49	.25

Note.—(1) female, (2) rape myths, (3) separate spheres, (4) property rights, (5) stereotypes, (6) domestic violence, (7) gender harassment, (8) sexual harassment, (9) age, (10) married, (11) parent, (12) white.

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