

4-1-1998

## Changing Attitudes: A Panel Discussion on Issues of Race and Sex in the Federal Courts

UB Law Forum

Follow this and additional works at: [https://digitalcommons.law.buffalo.edu/ub\\_law\\_forum](https://digitalcommons.law.buffalo.edu/ub_law_forum)

---

### Recommended Citation

UB Law Forum (1998) "Changing Attitudes: A Panel Discussion on Issues of Race and Sex in the Federal Courts," *UB Law Forum*: Vol. 11 : No. 1 , Article 30.

Available at: [https://digitalcommons.law.buffalo.edu/ub\\_law\\_forum/vol11/iss1/30](https://digitalcommons.law.buffalo.edu/ub_law_forum/vol11/iss1/30)

This Article is brought to you for free and open access by the Alumni Publications at Digital Commons @ University at Buffalo School of Law. It has been accepted for inclusion in UB Law Forum by an authorized editor of Digital Commons @ University at Buffalo School of Law. For more information, please contact [lawscholar@buffalo.edu](mailto:lawscholar@buffalo.edu).

# Changing attitudes

## *A panel discussion on issues of race and sex in the federal courts*

**A** look. A touch. A crude or insensitive comment.

Those are some of the ways racism and sexism rear their ugly heads in the federal courts of the Second Circuit, according to a study that surveyed thousands of judges, attorneys, court personnel and jurors.

The good news, according to some of the study's authors: Outright sexist or racist behavior is rare in the Second Circuit, which comprises New York, Connecticut and Vermont. More common are errors of judgment or perception.

Three authors of that study presented their findings on Feb. 27, 1998, in two programs sponsored by UB Law School's Baldy Center for Law & Social Policy. In a luncheon program at the downtown Hyatt Regency Buffalo and another at the Law School, the presenters told about their three years' work and talked about the status of women and minorities in the federal courts.

The programs were co-sponsored by the Baldy Center's Program on Gender, Law and Social Policy, coordinated by Professor Lucinda Finley, and the Program on Community and Difference, coordinated by Professor Frank Munger.

"We are 30 years beyond the era of the first civil rights laws," Munger said. "Most people believe racial inequality is disappearing. This report documents continuing instances of differences in the ways we treat men and women, and the ways we treat people of different races. There are some sharp differences in treatment, and there are also differences in perception. There was very little evidence in the report of malice or ill will or deliberate discrimination. Much of it came from a lack of understanding,



*Honorable Carol E. Heckman, U.S. Magistrate Judge for the Western District of New York*



*Professor Diane Zimmerman of New York University Law School*

differences in perception and experience. Making people aware of the problem is a good start."

In addition, he said, "This report relates very closely to the mission of the Law School. What the Law School is about is improving the judicial system, not just teaching the practice of law."

Professor Carroll Seron, acting dean of the School of Public Affairs at Baruch College of the City University of New York, and one of the presenters, said the report "serves to put people on alert to ways in which things that are said unintentionally can backfire and have real effects on the individual. For example, there was a woman who reported being brought into a settlement conference. Only lawyers were there, and they all were asked to introduce themselves. When the judge got to her he said, 'What are you doing here?' The implication was that she was not a lawyer. These are things that are not going to stop the world, but cumulatively they can really undermine the integrity of the process."

She added: "It was really a wonderful opportunity to be able to present it and engage in a discussion and make people aware of what is going on."

Said fellow presenter Beryl Jones, a Brooklyn Law School professor: "We don't have what I think are egregious stories. One that I did find troubling was an account given to us by an Asian woman who indicated a judge had called her supervisor in the U.S. attorney's office to praise a colleague. The colleague was an Asian woman, and the judge said something about her being a Chinese doll."

"Those kinds of explicit and egregious comments were not evident in most of the conversations we had. But that didn't mean that people weren't

deeply troubled about their experiences. Clearly there were ways in which they were seriously disadvantaged during their court appearances, or that their clients were disadvantaged, because of their status as women or minorities. I think it is important for us not to sit and feel comfortable because egregious stories are not the norm. It doesn't mean there are not serious issues that the court needs to address."

The third presenter was Professor Diane Zimmerman of New York University Law School. "Our general conclusion," she said, "was that the Second Circuit was doing a pretty good job in these areas and there were not gross problems. On the other hand, it was also clear that there is a lot of room for improvement. Women and minority attorneys perceive that it made a difference that they were minorities or women. White men didn't perceive that.

"At least half of the minority attorneys and white female attorneys said that at least once in the past five years they had been mistaken for someone

other than an attorney. Virtually no white men reported that experience. That is the kind of thing you find.

"We asked people where they thought racism or sexism might be an issue. Some consistent responses were: bail determinations, sentencing determinations for women prisoners, employment discrimination. The truth is, we did find evidence that women are not treated the same as men in the sentencing process in the circuit, that minorities do in fact get different treatment in the pre-trial setting. But the reasons for it are fairly complicated. They obviously suggest the need for some discussion between judges and attorneys about what is appropriate."

Among the attendees were many members of the Western New York Bar. The events were widely publicized by co-sponsors including the Western New York chapter of the Women's Bar Association, the Minority Bar Association of Western New York, the Women Lawyers of Western New York and Attorney Access.

Said Kelly Omel '89, president of the Women Lawyers of Western New York: "Obviously these problems are going to exist. I think they are existing less and less as the years go on."

Holly Baum '88, president of the Western New York chapter of the Women's Bar Association, said: "I was disappointed that the statistics revealed the level of disparate treatment that was clearly the case in the study — that we are still at that point. As the presenters pointed out, the kinds of disparate treatment we are talking about is much more difficult to eradicate. It is more subtle and it is not acknowledged. Women attorneys tend to perceive the issue, and people of color tend to perceive the issue, different from white males. Everyone is coming from a very different place, and there is not even a consensus that there is a problem.

"There could be justice even if someone perceives disparate treatment, but often that's not the case." ■

UB LAW  
FORUM

Spring  
1998



Left to right: Professor Diane Zimmerman, Professor Carroll Seron, Professor Beryl Jones and Honorable Carol E. Heckman