

## Opinion Editorial: WISE LATINAS, WHITE MALES AND THE FEDERAL JUDICIARY

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Dallas, TX - Judge Sonia Sotomayor apparently believes that her experiences as a woman and Latina give her an edge in reaching certain types of conclusions. She has so stated publicly on several occasions, most recently in 2001, when she said in a speech, "I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a White male who hasn't lived that life."

Now while this statement may be politically incorrect, and you or I may or may not agree with it, it is hardly an assertion of racial superiority. "I would hope", "richness of her experiences", "more often than not" and "better", hardly seem to be words one would use to express innate superiority.

Moreover, it is not clear that Judge Sotomayor was referring primarily to her experiences as a Hispanic, as opposed to as a woman. After all, on various occasions in the past she has said the same thing, but referring to herself as a woman, not a Latina, and to men generally, not White males. Therefore, it may be more accurate to view her statements as evidencing "her identity as a woman more than anything else".

However, as a remark referring to differences between women and men generally, the statement seems even more tame. In a country where books like *Brain Sex* and *Men Are from Mars and Women Are from Venus*, which dwell on supposed physiological differences between men and women, become bestsellers, the concept that women are better than men at reaching certain conclusions is hardly novel. (If you don't believe me, you can ask my wife and four grown daughters.) Of course, the converse is also true: if polled, most Americans would agree men are generally better at reaching certain types of conclusions than women. Frankly, with the exception of some Harvard faculty, scattered feminists and male chauvinists and, more recently, some politically-motivated critics of the Sotomayor nomination, these supposed small differences between the sexes are just not that controversial a topic.

What makes this statement stand out, then, are the references in the 2001 speech to "wise Latinas" and to "White males." So why did Judge Sotomayor describe herself in this particular sentence as a "Latina", and not just as a woman, and why did she refer to "White males", rather than men generally?

To begin with, the 2001 speech was given as a tribute to a deceased Bay area Latino judge and civic leader, and before a largely Hispanic audience. It is in its first part a personal reflection on what it means to be a Hispanic in our country. Under these circumstances Judge Sotomayor's describing herself by the narrower "Latina", rather than the broader "woman", seems understandable.

There remains the reference to "White" males, rather than all men, as in her other speeches. However, even that is perfectly understandable in context. Most of the 2001 speech is about the deplorably limited historical role of both women and minorities in our federal judiciary over the years, and a plea for diversity. .

Lost in the controversy over Judge Sotomayor's statement is the painful truth that among all our significant societal institutions, the federal judiciary, and most notably the United States Supreme Court, has historically been very segregated, by race and gender. Sadly, the Supreme Court itself has been the worst in this regard. Over the Court's history there have been 110 Justices; 108 of them have been men; and 106 of those have been White males (including the last two nominees immediately preceding Judge Sotomayor). That adds up to roughly 96.36% White male membership - startling, isn't it? It is hard to imagine any other institution in our country with similar numbers not generating huge public outcry. Hence, the sentence's reference to White males only: sadly, non-White males have been largely absent in the federal judiciary. In fact, in her speech Judge Sotomayor is clearly advocating for them as well.

It appears that like the 2001 speech, Judge Sotomayor's past references to the edge afforded her by her experiences

have been in the context of advocating for more diversity in the federal judiciary. You may or may not agree that there is value in combining different life experiences, but certainly our national business and political leaders--including virtually all members of Congress--have endorsed the importance of diversity, which is largely based on that exact premise. You cannot logically attack Judge Sotomayor for arguing that more women and minorities belong in the federal judiciary because the different perspectives they bring with them have value, but claim you are otherwise a supporter of diversity. Regardless of the office they occupy or the trappings that surround them, federal judges are human, too.

Viewed through this prism of advocacy for diversity, it may also be that far from being an assertion of superiority, Judge Sotomayor's statements are simply the plea of the understudy. If you are second-string and hungry to be given a chance, you do not say, "I am just as good as the starter." You say, "I can do it better".

To me, that may be what underlay Judge Sotomayor's statements, made not on her own behalf, but on behalf of all of the "second-string" women and minorities who would like the chance to show they can do the federal judge's job as well, and maybe even a little better. Call this what you like, but do not mistake the fact that the real issue lies with a historical mindset that over the years has produced a U.S. Supreme Court 96.36% composed of a single demographic segment of our society. Whatever else that percentage may represent, it is certainly not equality of opportunity. Of course, disqualifying members of the other segments who speak out against this situation and ask that it be rectified is another way to help perpetuate the status quo.

*Mr. Loumiet is Chair of the New America Alliance, a national association of Hispanic business leaders which has endorsed Judge Sotomayor. Write [ceo@naaonline.org](mailto:ceo@naaonline.org) or visit [www.naaonline.org](http://www.naaonline.org).*

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*Abbreviated Version*

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by

**Carlos E. Loumiet**

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Moreover, it is not clear that Judge Sotomayor was referring primarily to her experiences as a Hispanic, as opposed to as a woman. After all, on various occasions in the past she has said the same thing, but referring to herself as a woman, not a Latina, and to men generally, not White males. Therefore, it seems more accurate to view her statements as evidencing her identity as a woman more than anything else.

Lost in the controversy over Judge Sotomayor's statement is the painful truth that among all our significant societal institutions, the federal judiciary, and most notably the United States Supreme Court, has historically been very segregated, by race and gender.

Sadly, the Supreme Court itself has been the worst in this regard. Over the Court's history there have been 110 Justices; 108 of them have been men; and 106 of those have been White males (including the last two nominees immediately preceding Judge Sotomayor). That adds up to roughly 96.36% White male membership - startling, isn't it? It is hard to imagine any other significant institution in our country with similar numbers not generating public outcry. Hence, the sentence's reference to White males only: sadly, non-White males have been largely absent in the federal judiciary. In fact, in her 2001 speech Judge Sotomayor is clearly advocating for them as well.

It appears that all of Judge Sotomayor's references to the edge afforded her by her experiences have been in the context of advocacy for more diversity in the federal judiciary. You may or may not agree that there is value in combining different life experiences, but certainly our national business and political leaders--including virtually all members of Congress--have endorsed the importance of diversity, which is largely based on that exact premise. You cannot logically attack Judge Sotomayor for arguing that more women and minorities belong in the federal judiciary because the different perspectives they bring with them have value, but claim you are otherwise a supporter of diversity. Regardless of the office they occupy or the trappings that surround them, federal judges are human, too.

Viewed through this prism of advocacy for diversity, it may also be that far from being an assertion of superiority, Judge Sotomayor's statements are simply the plea of the understudy. In our country, if you are second-string and hungry to be given a chance, you do not say, "I am just as good as the starter." You say, "Put me in, I can do it better". Perhaps in this instance as in many others there was a touch of hyperbole involved, but in our culture this type of affirmation is certainly not unusual, nor is the desire to have the opportunity to prove oneself viewed as a negative.

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