

Why Courts Matter: Women's Rights

Federal judges make decisions that impact the lives of women every day. Our courts often have the final say in stopping discrimination that denies women their rights in the workplace, in public schools and universities, and in making decisions about their health care. In order to effectively protect the rights of women, current federal judicial vacancies must be filled with diverse judges who do not choose ideology over the law and who are familiar with the issues women face every day.

Women in the judiciary: A diverse federal bench improves the quality of justice and instills confidence that judges understand the real-world implications of their decisions. Yet women are significantly underrepresented in the federal judiciary today:

- Women make up only 30 percent of our federal appeals and district courts judges.
- Women of color make up only 9 percent of the federal bench.
- 41 percent of President Obama's confirmed nominees have been women – more than any president in U.S. history. President Obama has increased the number of women on the 1st, 2nd, 4th, 6th, 9th, 11th and Federal Circuits, as well as the U.S. District Courts. As of February 2013, 17 of President Obama's 36 pending nominees are women. For example:
 - Eighth Circuit Nominee Jane Kelly, if confirmed, would be the second woman ever to sit on that court since 1891.
 - D.C Circuit Nominee Caitlin Halligan, if confirmed, would be the sixth woman ever on what is considered the second most powerful court in the nation.
- More than a dozen district courts across the country have never had a female judge, including the Western District of New York and the Eastern District of Wisconsin, which currently have judicial vacancies and no nominees.

Gender discrimination cases: Female judges understand the impact of the law on the lives of women and girls, resulting in fairer hearings and better outcomes in gender discrimination cases.

- Two recent studies show that when a female judge sits on a panel, the court is less likely to rule against women bringing sex discrimination cases. The studies indicate that male judges find their female colleagues to be more knowledgeable about sex discrimination and so they rely on the female judge's input.
- In 2012, a public high school's girls' basketball team in Indiana challenged a policy that said only the boys' basketball team could play on weekend nights, while the girls' team must play on weeknights.
 - A panel for the 7th Circuit, which included two male judges and one female judge, ruled in favor of female plaintiffs.
- In 2012, Connecticut's Quinnipiac University cut the women's volleyball team, making the argument that the cheerleading team could replace volleyball and count toward the Title IX requirement instead. Title IX requires schools receiving federal funding to provide equal athletic participating opportunities for men and women.
 - A panel for the 2nd Circuit, which included two male judges and one female judge, ruled in favor of the volleyball team.

Reproductive rights cases: For years, conservatives have put a strong emphasis on the federal bench, understanding that a lifetime appointment can have as much impact as legislation. The result has been the appointment of judges who choose ideology over law, which is most evident in cases involving reproductive rights.

- In 2011, both North Carolina and Texas passed laws excluding Planned Parenthood from receiving Title X funding used to administer family planning services. When the North Carolina law was challenged in federal court, a Bill Clinton appointee struck it down. When the Texas measure was challenged, the ultra-conservative 5th Circuit upheld the law.
- South Dakota passed a law in 2011 requiring physicians to provide false information to women about the risks of having an abortion. The law was upheld by the full 8th Circuit, in which nine of the 11 judges were appointed by Republican presidents.
- In 2011, Texas passed a law requiring women to undergo invasive ultrasounds before receiving an abortion, and three Republican appointees on the 5th Circuit upheld this law.

Legal Progress is the legal policy and communications program at the Center for American Progress. A key mission of Legal Progress is to educate the public about the impact of the courts on issues they care most about.