

Female Supreme Court Justices Are Interrupted More by Male Justices and Advocates

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During the Senate hearings on whether he should become the next associate justice of the Supreme Court, Neil Gorsuch maintained iron discipline in refusing to commit himself to any position that could count against him. Gorsuch maintained a steadfastly calm demeanor, but he showed his cards in one regard: He could not help repeatedly interrupting the liberal female senators. In this way, he proved himself to be well qualified to sit on the highest judicial bench. [Our new empirical study](#) shows that the male justices interrupt the female justices approximately three times as often as they interrupt each other during oral arguments. And the conservative justices interrupt the liberal justices more than twice as often as vice versa.

We examined the transcripts of 15 years of Supreme Court oral arguments,

finding that women do not have an equal opportunity to be heard on the highest court in the land. In fact, as more women join the court, the reaction of the male justices has been to increase their interruptions of the female justices. Many male justices are now interrupting female justices at double-digit rates per term, but the reverse is almost never true. In the last 12 years, during which women made up, on average, 24% of the bench, 32% of interruptions were *of* the female justices, but only 4% were *by* the female justices.

These results are not limited to the current Supreme Court. We conducted an in-depth analysis of the 1990, 2002, and 2015 terms to see whether the same patterns held when there were fewer female justices on the court. We found a consistently gendered pattern: In 1990, with one woman on the bench (former Justice Sandra Day O'Connor), 35.7% of interruptions were directed at her; in 2002, 45.3% were directed at the two female justices (O'Connor and Ruth Bader Ginsburg); in 2015, 65.9% of all interruptions on the court were directed at the three female justices on the bench (Ginsburg, Sonia Sotomayor, and Elena Kagan). With more women on the court, the situation only seems to be getting worse.

Prior research in linguistics and psychology has shown that women are routinely interrupted by men, be it in one-on-one conversations or in groups, at work or in social situations. Interruptions are attempts at dominance, and so the more powerful a woman becomes, the less often she should be interrupted. Yet even though Supreme Court justices are some of the most powerful individuals in the country, female justices find themselves consistently interrupted not only by their male colleagues but also by their subordinates: the male advocates who are attempting to persuade them.

Despite strict rules mandating that advocates stop talking immediately when a justice begins speaking, interruptions by male advocates account for approximately 10% of all interruptions that occur in court (excluding justices interrupting advocates, which is standard procedure). In contrast,

interruptions by female advocates account for approximately 0%. The problem was particularly observable when, in 2015, male advocates interrupting Justice Sotomayor was the most common form of interruptions of any justice, accounting for 8% of all interruptions in the court. Justice Sotomayor is also the court's only woman of color.

Can this pattern be explained by other factors? Of the 113 justices to have served on the Supreme Court, only four have been women, and three of those four were appointed by Democratic presidents. We expected that partisan differences could account for some portion of the interruptions. Since justices do not always vote in accordance with the party of their nominating president, we used [Martin-Quinn scores](#), the most common way to analyze judicial ideology, to determine how liberal or conservative each justice was. We found that conservative justices disproportionately interrupt liberal justices: 70% of interruptions were of liberals; only 30% were of conservatives. In addition, advocates interrupt liberal justices more than they interrupt conservative justices. Despite this pattern, gender is the stronger factor in interruption: In 1990 the moderately conservative Justice O'Connor was interrupted 2.8 times as often as the average male justice. (It is worth noting that the results were not driven by Antonin Scalia, despite his reputation as a particularly pugnacious justice.)

Two of the three sitting female justices, Kagan and Sotomayor, are the most junior justices on the court. But, once again, seniority does not explain the gender pattern. Although senior justices do interrupt junior justices more frequently than vice versa, and the difference is statistically significant, gender is approximately 30 times more powerful than seniority. The most junior justice on the court will now be Gorsuch, and we expect the greater importance of gender over seniority to become even more apparent.

Length of tenure does matter in one particular respect: Time on the court gives women a chance to learn how to avoid being interrupted — by talking more like men. Early in their tenure, female justices tend to frame questions

politely, using prefatory words such as “May I ask,” “Can I ask,” “Excuse me,” or the advocate’s name. This provides an opportunity for another justice to jump in before the speaker gets to the substance of her question.

We found that women gradually learn to set aside such politeness. All four of the female justices have reduced their tendency to use this polite phrasing. Justice Sotomayor adjusted within just a few months. Justices O’Connor and Ginsburg gradually became less and less polite over decades on the court, eventually using the polite phrases approximately one-third as much as they did initially. Justice Kagan is still learning: She uses polite language more than twice as often as the average man, although half as often as she did in 2010. We do not see a similar trend with the men, because male justices rarely use these polite speech patterns, even when they first enter the court. It is the women who adapt their speech patterns to match those of the men.

These behavior patterns are important, as oral arguments shape case outcomes. When a female justice is interrupted, her concern is often left unaddressed, which limits her ability to influence the outcome of the case. Women changing their questioning techniques should not be the only response to this problem. The chief justice should play a larger role as referee, enforcing the rule that prohibits advocates from interrupting the justices, and preventing an interrupting justice from continuing.

Our research aligns with previous research that has shown that women get talked over much more often than men in all sorts of settings, likely due to unconscious bias. What our findings additionally suggest is that there is no point at which a woman is high-status enough to avoid being interrupted.