



A Snapshot of Women in the Judiciary as Three Women Poised to Sit on the Supreme Court of the United States

In nominating Elena Kagan, President Barack Obama has taken a historic step toward increasing the representation of women in the judiciary. Kagan is the fifth woman nominated to the Supreme Court, and if confirmed, would be the fourth woman to serve. Her confirmation would also mark the first time in United States history that three women have sat on the Court at the same time.

While the nomination of Elena Kagan to the Supreme Court represents an important symbolic breakthrough, the fact remains that there is a lamentable dearth of women in the judiciary. Undoubtedly, female lawyers and judges have made huge strides since the first female attorney was admitted to practice law in 1873. Yet while the number of women attending law school has shot up,¹ there is still a huge lag when it comes to the judiciary.

Overall, women comprise just 24.7% of sitting federal judges (252 out of 1,018 federal judges, both active and senior status, are females). Women comprise 22.2% of the Supreme Court, 26.9% of the circuit courts, and 24.1% of the district courts. While only 22.0% of the judges confirmed under President Bush were female, 46.3% of President Obama's judicial nominations have been women.

Justice Ginsburg has expressed her dismay at the negative impact this gender disparity has on the judicial system. When some of Justice Ginsburg's male colleagues minimized the significance of a 13-year-old girl being strip-searched by school officials for alleging carrying ibuprofen, Ginsburg noted that "[t]hey have never been a 13-year old girl. It's a very sensitive age for a girl. I didn't think that my colleagues, some of them, quite understood." Justice Ginsburg also expressed her belief that male judges might have difficulty understanding the plight of women who had experienced workplace discrimination. Referring to the *Ledbetter v. Goodyear Tire & Rubber Co.* case which denied a woman who was paid less than men for 20 years the ability to sue for pay discrimination, Ginsburg stated "I have no doubt that [Sandra Day O'Connor] would have understood Lilly Ledbetter's situation."²

¹ 46.8% of the students admitted to law school in fall 2009 were women.

<http://lsacnet.lsac.org/data/Volume-Summary-Ethnic-Gender-Admits.htm>

² *Ginsburg: Court needs another woman*, Joan Biskupic, USA TODAY (May 5, 2005).

President Obama should be commended for nominating another woman to the nation's highest court. The Alliance for Justice urges him to continue to rectify the gender imbalance in the federal judiciary by continuing to nominate women for judgeships. As Justice Ginsburg noted, "Women hold up half the sky and they will do so in our courts. They need no favors. They need only equal respect for their talent."³

Statistics on Women in the Judiciary⁴

- 46.3% of President Obama's nominees to the federal bench have been women (31/67).
- 22.2% of Supreme Court judges are women (2/9).
- 24.8% of federal judges that hear cases at all levels are women (252/1,018).
- 24.1% of district court judges are women (191/794).
- 26.9% of circuit court judges are women (58/216).
- Of active circuit judges, women represent 29.4% (48/163).
 - First Circuit: 33.3% (2/6).
 - Second Circuit: 30.0% (3/10).
 - Third Circuit: 21.4% (3/14).
 - Fourth Circuit: 25.0% (3/12).
 - Fifth Circuit: 37.5% (6/16).
 - Sixth Circuit: 33.3% (5/15).
 - Seventh Circuit: 40.0% (4/10).
 - Eighth Circuit: 9.0% (1/11).
 - Ninth Circuit: 34.6% (9/26).
 - Tenth Circuit: 18.2% (2/11).
 - Eleventh Circuit: 25.0% (4/12).
 - D.C. Circuit: 33.3% (3/9).
 - Federal Circuit: 27.3% (3/11).

³ *Id.*

⁴ Statistics are based on information provided by the Federal Judiciary Center website, available at fjc.gov.