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## Media adopt gender, racial stereotypes in characterizing Sotomayor

Submitted by jonathan on Thu, 2009-06-04 08:34 [Media Literacy/Bias](#) | [Politicking](#) | [Newswire](#)

by M.W., [Media Matters](#)

Numerous media figures have adopted language reflecting gender and racial stereotypes in reporting about Sonia Sotomayor's temperament and intellect, in many instances relying on anonymous characterizations in Jeffrey Rosen's New Republic piece on Sotomayor.

Since Sonia Sotomayor's name was raised as a possible choice to replace retiring Supreme Court Justice David Souter, numerous media figures have adopted language reflecting gender and racial stereotypes in reporting about her temperament and intellect. In many instances, reporters and pundits point to **characterizations** from a **controversial New Republic piece** by Jeffrey Rosen, which cited in part anonymous Democratic "former law clerks for other judges on" the 2nd U.S. Circuit Court of Appeals, on which Sotomayor sits. In a subsequent **piece**, Rosen defended his original article in part by noting similar comments about Sotomayor from anonymous attorneys in the 2008 edition of the Almanac of the Federal Judiciary. Scholars and others have noted that such descriptions reflect gender and racial biases, and similar characterizations have been **cited by The Handbook of Social Psychology** (Oxford University Press, 1998) as representing "Anglos' generic stereotypes of Latinos."

In a May 8 post to his Dissenting Justice blog, **Scalia v. Sotomayor: The Use of Gender-Coded Language to Evaluate a Judge's "Temperament"**, American University law professor Darren Hutchinson wrote that "[s]ome critics have argued that AFJ lawyer comments can reflect racial and gender biases. I agree." Noting that "[a] persistent and ubiquitous gender stereotype portrays smart and aggressive women as domineering, mean, nasty bitches," he explained how it has impacted lawyers' perceptions of Sotomayor:

Most of the early reviews on Sotomayor concede that the *summa cum laude* Princeton and Yale Law School graduate is smart. The **worst reviewers**, however, say that she lacks judicial temperment [sic]. Rather than being firm, but flexible, detached but engaged, her detractors describe her as a fiery Latina tempest waiting to knife and brutalize lawyers in the courtroom. A survey of lawyer comments from the AFJ report on Sotomayor confirms this view of Sotomayor among some lawyers:

Sotomayor can be tough on lawyers, according to those interviewed. "She is a terror on the bench." "She is **very outspoken**." "She can be **difficult**." "She is **temperamental and excitable**. She seems **angry**." "She is **overly aggressive** -- not very judicial. She does not have a very good temperament." "She abuses lawyers." "She really lacks judicial temperament. She behaves in an **out of control manner**. She makes **inappropriate outbursts**." "She is **nasty** to lawyers. She doesn't understand their role in the system -- as adversaries who have to argue one side or the other. She will **attack lawyers** for making an argument **she does not like**". . . .

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"She **dominates** oral argument. She will **cut you off and cross examine you.**" "She is active in oral argument. There are times when she asks questions **to hear herself talk.**" "She can be **a bit of a bully.** She is an **active** questioner." "She asks questions **to see you squirm.** She is **very active** in oral argument. She **takes over** in oral argument, sometimes at the expense of her colleagues." "She can be **very aggressive** in her questioning." "She can **get harsh** in oral argument." "She can **become exasperated** in oral argument. You can see **the impatience.**" "You **need to be on top of it** with her on your panel."

**The comments, which are racially and sexually coded, remind me of the "negative" description of Hillary Clinton as ambitious.** I have never heard ambition stigmatized in a male -- and certainly never in a presidential candidate. But commentator after commentator portrayed Clinton's ambition as a negative quality, and they seemingly never realized how their language rested on stereotypes. **For Sotomayor, being a sharp interrogator and requiring lawyers to be "on top of it" are negative qualities.** These traits are not negative in most men, certainly not white men. [emphases in original]

Similarly, Scott A. Moss, associate professor at the University of Colorado Law School, wrote in a May 26 *Politico* opinion piece, "**The case against the case against the Sonia Sotomayor nomination,**" that there is "gender bias" in the "anonymous criticisms of Judge Sotomayor" in the almanac. After explaining that one "criticism of Sotomayor -- that she is an intemperate bully -- derives largely from a collection of anonymous quotations in the Almanac of the Federal Judiciary," Moss wrote:

[S]ome of the complaints struck me as suspiciously common attacks on outspoken, high-powered women. How many men are criticized for being "very outspoken"? Do Sotomayor's critics see it as a bad thing that [Supreme Court Justice Antonin] Scalia frequently is "overly aggressive" on the bench and in his notoriously entertaining public speeches?

[...]

Any fair reading of evaluations, especially anonymous ones, takes into account this well-known gender bias, to avoid penalizing women for Type A traits that draw far less criticism, and even draw praise, in men.

And on the May 26 edition of MSNBC's *The Rachel Maddow Show*, Slate.com senior editor Dahlia Lithwick said of criticism of Sotomayor: "[S]o much of this is anti-woman politics. I mean, so much of this is larded up with talk of her being a bully and aggressive -- the kinds of things that she does on the bench that Scalia can get away with, but she can't."

Moreover, a May 27 McClatchy Newspapers **article** reported that "Sotomayor's colleague and former Yale Law School professor, Judge Guido Calabresi, became aware of the anonymous sniping after she joined him on the 2nd Circuit in 1998. He eventually concluded that the complaints reflected sexism among male attorneys." The article quoted Calabresi saying of Sotomayor's detractors: "They didn't like the idea of a woman being as strong as her male colleagues." In an interview aired on the May 26 broadcast of NPR's *Morning Edition*, Calabresi similarly said, in response to co-host Steve Inskeep's question about the negative descriptions of Sotomayor as reported in Rosen's article, "When -- some people, when she first came on, asked -- said some things like that, I kept track." He continued:

CALABRESI: Her way of dealing with other people is exactly the same as male judges do. The fact that she is a woman and does that meant that some people thought, oh, women shouldn't act that way. She is a totally fair, good negotiator, good talker with other people, but she's no different from anybody else.

Additionally, *The Handbook of Social Psychology* -- edited by Daniel T. Gilbert, Susan T. Fiske, and Gardner Lindzey and **described** by its publisher as "the standard professional reference for the field of social psychology for many years" -- **cites** characterizations similar to those used to describe Sotomayor as being among "Anglos' generic stereotypes of Latinos":

Stereotypes and especially subtypes of Latino Americans have received even less research attention, probably because most Anglo Americans (the majority of researchers) differentiate less among types of Latinos than Latinos do themselves (Huddy & Virtanen, 1995). Anglos' generic stereotypes of Latinos include aggressive, poor, lazy, ignorant, loud, unreliable, emotional, unambitious, uneducated, inefficient, rude, messy, unindustrious, family-oriented, and proud (Goodwin & Fiske, 1996; Marin, 1984). The origins of this stereotype content have not been elaborated either, but it might stem from presumed class differences, based on an erroneous assumption that immigrants come from and join only the lower social classes.

Advancing what the *Handbook* calls "Anglos' generic stereotypes of Latinos" as "ignorant" and "uneducated," as *The New Yorker's* Amy Davidson **first noted** and *Media Matters for America* senior fellow Jamison Foser has **repeatedly highlighted**, in his original piece, Rosen cropped a 1995 quote by 2nd Circuit judge Jose Cabranes, leaving out the judge's description of Sotomayor as "smart" and portraying the quote as an example of someone describing Sotomayor as "*not* that smart."

Media figures or outlets repeating or adopting language reflecting gender and racial stereotypes in reporting about Sotomayor's temperament and intellect include:

- A May 29 post to the **Fox Nation** website highlighted anonymous criticisms of Sotomayor as "'Angry,' 'Nasty,' 'Out of Control.'"
- In his May 29 column, **Pat Buchanan** stated that Rosen "reports, after talking to prosecutors and law clerks, that Sotomayor covers up her intellectual inadequacy by bullying from the bench." He added: "The lady is a lightweight."
- During the May 28 broadcast of his radio program, **Glenn Beck** said that Sotomayor is "not so bright, from what I have heard from people who have worked around her, worked with her." Beck did not identify those "people" he claimed to have "heard from."
- During the May 27 edition of his nationally syndicated radio show, **Rush Limbaugh** stated that Sotomayor is "an angry woman."
- In a May 27 *Washington Post* "**Washington Sketch**" column, **Dana Milbank** wrote, "In selecting Sotomayor, Obama opted for biography over brain. As a legal mind, Sotomayor is described in portraits as competent, but no Louis Brandeis. Nor is Sotomayor, often described as an abrasive jurist, likely to be the next Earl Warren."
- A May 27 *Washington Times* **editorial** wrote that "New Republic essayist Jeffrey Rosen reports that fellow liberals who have watched or worked with her closely 'expressed questions about her temperament, her judicial craftsmanship, and ... [they have said] she is 'not that smart and kind of a bully on the bench.'"

- On the May 26 edition of MSNBC's *Hardball*, MSNBC political analyst Pat Buchanan **repeated** numerous allegations, which he sourced to Rosen's article, among them, the charge that Sotomayor is a "bully" and "not that intelligent."
- During the May 26 edition of Fox News' *America's Newsroom*, Supreme Court reporter **Shannon Bream** stated, "There was a piece in *The New Republic* a couple of weeks ago that cited a lot of unnamed sources, and it was brutal to Judge Sotomayor. I mean, it talked about the fact that there were some people who believed that she wasn't as brilliant as she had been made out to be, that she was a bit of a bully in the way that she treated people. So she has had some negative publicity thus far." Co-host **Bill Hemmer** added that Sotomayor "is reportedly domineering in oral arguments. She can get bogged down in marginal details, failing to see the forest for the trees. Is that part of the criticism you were alluding to?" Bream replied, in part: "That is part of the criticism."
- During the May 26 broadcast of his nationally syndicated radio show, **Beck** said of Sotomayor: "I have heard that she is -- in the 2nd Court of Appeals, that she is almost a bully at times, that she has the image of not being that intellectually bright. I don't know if this is true or not. This is one -- a piece of analysis that I heard today. She's not that intellectually bright, and she's almost a bully; she just loves to hear herself talk." His guest, Cato Institute vice president for legal affairs Roger Pilon, replied that this view "is widely held" and went on to cite Rosen's article.
- During the May 26 edition of Fox News' *On the Record with Greta Van Susteren*, Fox News contributor **Karl Rove** claimed that when working on the 2nd Circuit, Sotomayor "would mark [opinions] up like she was your English school teacher and -- with your typos and misspellings and other words that she wanted to have changed and send it back to her colleagues -- not exactly the best way to ingratiate yourself with your colleagues. Rather than saying, 'Oh, well, I thought you had an interesting legal argument here and I'd like to talk to you more about this here.' She was acting like sort of the schoolmarm."
- On the May 26 edition of CNN's *CNN Newsroom*, anchor **John King** stated, "One other quick point, Kiran [Chetry], I do want to make -- that some liberal groups who were involved in helping the White House early on, and some -- I'll call them senior Democratic people outside of the White House -- some of them are voicing surprise at this because they view her as a highly competent and a highly qualified judge, but they do not believe that she was the most, shall we say, of the intellectual firebrands that the president had on his list, those who could go up against a Scalia, or an [Samuel] Alito on the court in the arguments."
- On the May 26 edition of CNBC's *The Call*, host **Larry Kudlow** referenced Rosen's article during his panel, saying of Sotomayor, "In the liberal *New Republic*, I'm sure you saw it, Jeffrey Rosen criticizes her, talking to law clerks and whatnot -- that she's not penetrating, she's not well prepared, and her opinions are sloppy. What do you think?"
- In a May 6 *Washington Post* **article**, staff writers Scott Wilson and Robert Barnes wrote, "Some lawyers who have practiced before her have complained of a domineering presence on the bench, and a lawyer who has been consulted on the Obama selection process but is not involved in compiling the list of candidates said Sotomayor may have to overcome a perception that she 'doesn't play well with others.' "
- In a May 5 ABCNews.com **article** reporting on "who's hot and who's not in potential replacements" for Souter, Ariane de Vogue and Jan Crawford

Greenburg uncritically reported of Sotomayor: "A so-far anonymous campaign has emerged that she's had less than a cordial relationship with some colleagues on the bench and has an abrasive personality."

- On the May 5 broadcast of Fox News Radio's *Brian & The Judge*, co-host **Andrew Napolitano** stated that Sotomayor "has a reputation for not being a very hard worker." When co-host Brian Kilmeade asked, "[H]ow do you do everything that she's done and not be a hard worker?" Napolitano replied, "You have your clerks do the bulk of the work." He later added, "Now, this comes to me from someone who was a clerk for another federal judge where they sort of worked in a common area, and you can tell who the hard-working judges are and who passes stuff off onto their clerks. That's just one person's observation."
- In a May 1 CNN.com **article**, "Conservatives prepare for Supreme battle," CNN senior congressional correspondent Dana Bash uncritically reported that "[a]n e-mail with talking points for conservatives" characterized Sotomayor "as a 'bully' who 'abuses lawyers.' "

From the May 26 broadcast of NPR's *Morning Edition*:

INSKEEP: Judge Calabresi, as we wait for the president's announcement, I want to ask about one other thing, and that is that any Supreme Court justice, of course, is one of nine, and any ruling or majority that's put together is often a negotiation, and so your personality, your style, can be significant. And I'm reading this article by Jeffrey Rosen of *The New Republic* who quotes a couple of -- anonymously -- a couple of courts who had served around Judge Sotomayor. One was not complimentary and said she's kind of a bully, not that bright. The other -- another seemed to think --

CALABRESI: Let me speak to that directly.

INSKEEP: OK.

CALABRESI: First, she has changed my mind any number of times. I hope I have changed her mind, because she is strong and good. When -- some people, when she first came on, asked -- said some things like that, I kept track. Her way of dealing with other people is exactly the same as male judges do. The fact that she is a woman and does that meant that some people thought, oh, women shouldn't act that way. She is a totally fair, good negotiator, good talker with other people, but she's no different from anybody else.

INSKEEP: And to be fair to Jeffrey Rosen's article, we'll say that another former clerk or person who clerked around her said that she had similar qualities but was very tough and self-confident. Judge Calabresi, thanks very much.

From the May 26 edition of MSNBC's *The Rachel Maddow Show*:

RACHEL MADDOW (host): Well, what is your assessment specifically of that "empathy" criticism? I mean, conservatives are saying that Obama's looking for a justice -- and in Sotomayor, he has found a justice -- who will substitute her feelings for the law. And I have to wonder if that's just kind of obvious, you know, anti-woman politics or if that's crazy Supreme Court partisan politics jargon that has a totally different meaning than we would understand those words to mean in the real world.

LITHWICK: Well, two things, Rachel. The first is, so much of this is anti-woman politics. I mean, so much of this is larded up with talk of



her being a bully and aggressive -- the kinds of things that she does on the bench that Scalia can get away with, but she can't. But I think your second point is really key, which really is that this is kind of empathy being massively distorted by the right to mean bias.

*article originally published at **Media Matters**.*

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