SUBTLY SEXIST LANGUAGE

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"Why do I use 'chairman' instead of 'chairperson'? I hadn't really thought about it. Does it matter?"

—General Counsel of a major U.S. corporation[1]

"Where, after all, do human rights begin? In small places, close to home . . . the neighborhood . . . the school or college . . . the factory, farm, or office. Such are the places where every woman, man, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere."

—Eleanor Roosevelt[2]

Language can be a potent vehicle for subtle sexism.[3] As lawyers, we understand the power of words. What we say and how we say it can

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I would like to thank the Section of Women in Legal Education of the American Association of Law Schools (AALS) for the opportunity to organize the program on "Subtle Sexism in Our Everyday Lives," and to present our research on subtly sexist language. I am grateful to the other speakers, Deborah Brake, Margaret Montoya, Vernellia Randall, Deborah Rhode, and Catharine Wells, for their contributions to the program. Robert Kelley, Deborah Brake, Valerie Weis, Michele Kristakis, and Mindy Chou also offered their valuable expertise, and we are indebted to them. Finally, we thank Marie-Amélie George, Serena Orloff, and the editorial staff of this journal for their meticulous work and well thought-out inquiries.

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This Article originated in part as a research project I began two years ago on the use of sexist language in educational institutions.

[1] Personal Conversation in Pittsburgh, Pa. (Nov., 2006).

[2] Janet K. Swim et al., *Everyday Sexism: Evidence for Its Incidence, Nature, and Psychological Impact From Three Daily Diary Studies*, 57 J. SOC. ISSUES 31, 32 (2001) [hereinafter Swim et al., *Everyday Sexism*].

[3] For discussions of subtle sexism, see NIJOLE V. BENOKRAITIS & JOE R. FEAGIN, MODERN SEXISM: BLATANT, SUBTLE AND COVERT DISCRIMINATION 38-43, 82-121 (2d ed. 1995) (listing characteristics of each type of discrimination); Janet K. Swim et al., *Sexism*

perpetuate gender stereotypes and status differences between women and men. In contrast, language also can be used as a constructive tool for reinforcing equality.

Sometimes, sexist language is blatant and universally shunned. Other times, it is more subtle and even socially acceptable. For instance, social science research has considered the use of male-gendered generics (the use of such words as *he*, *man*, *chairman*, or *mankind* to represent both women and men) rather than gender-neutral alternatives (such as *she or he*, *human*, *chairperson*, or *humankind*). As we will discuss, this research concludes that male-gendered generics are exclusionary of women and tend to reinforce gender stereotypes. However, these words may not be recognized as discriminatory, because their use is perceived as normative and therefore not unusual. In addition, those who use these words may not intend to cause harm. Complaining about their use may even be criticized as a trivial activity or an overly sensitive reaction.[4]

Sexism and sexist language get an unintentional boost from people who say, "Gee, I haven't noticed it," and thus conclude that using male-gendered generics must not be a problem. Of that small group of people who are aware that language has the potential to be sexist, it is an even smaller group that understands the scope of sexist language's pervasiveness—from newspapers and textbooks, to classroom, boardroom, and courtroom presentations, to the inscriptions engraved on prized monuments, statues, and memorials.

Substantial interdisciplinary research and commentary have underscored the use of male-gendered pronouns and nouns as a form of

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and Racism: Old-Fashioned and Modern Prejudices, 68 J. PERSONALITY & SOC. PSYCHOL. 199 (1995) [hereinafter Swim et al., *Sexism and Racism*]; Chris G. Sibley & Marc Stewart Wilson, *Differentiating Hostile and Benevolent Sexist Attitudes Toward Positive and Negative Sexual Female Subtype*, 51 SEX ROLES 687 (2004); Janet K. Swim et al., *Judgments of Sexism: A Comparison of the Subtlety of Sexism Measures and Sources of Variability in Judgments of Sexism*, 29 PSYCHOL. WOMEN Q. 406 (2005).

The early theoretical basis for the research on the negative effects of sexist language is grounded in the Sapir-Whorf hypothesis of linguistic relativity, which suggests that culture and language are intertwined, and that the words that people use affect the way they see both the world and their self-concepts. *See* BENJAMIN LEE WHORF, LANGUAGE, THOUGHT, AND REALITY: SELECTED WRITINGS OF BENJAMIN LEE WHORF (J.B. Carroll ed., 1956) and discussion accompanying notes 10-12.

[4] *See* Janet B. Parks & Mary Ann Roberton, *Contemporary Arguments Against Nonsexist Language: Blaubergs (1980) Revisited*, 39 SEX ROLES 445 (1998) [hereinafter Parks & Roberton, *Blaubergs (1980) Revisited*]; Maija S. Blaubergs, *An Analysis of Classic Arguments Against Changing Sexist Language*, 3 WOMEN'S STUD. INT'L Q. 135, 138 (1979).

subtle sexism in various settings.[5] Yet, there is a surprising absence of discussion on the use and effect of these words among lawyers, law faculty, law students, and judges.[6] Given the declarations of law schools, law firms, and courts on their commitment to nonsexist and diverse environments, one might expect that legal professionals would no longer use male-gendered generics since alternative gender-neutral options are available. Given the persistent signs of gender discrimination and the lack of gender parity in the profession,[7] one might question whether a causal relationship exists between sexist language used in the legal community and sexism more broadly in these settings.

We noticed, however, that some law teachers, students, and professionals continue to use male-gendered generics in their conversations, both inside and outside the classroom, and in their writings. This observation prompted us to research the subject more thoroughly to see if our impression of the ongoing use of these words in the legal community

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[5] Janet K. Swim et al., *Understanding Subtle Sexism: Detection and Use of Sexist Language*, 51 SEX ROLES 117 (2004) [hereinafter Swim et al., *Understanding Subtle Sexism*]; Janet B. Parks & Mary Ann Roberton, *Influence of Age, Gender, and Context on Attitudes Toward Sexist/Nonsexist Language: Is Sport a Special Case?*, 38 SEX ROLES 477 (1998) [hereinafter Parks & Roberton, *Age, Gender, and Context*]; D. Stanley Eitzen & Maxine Baca Zinn, *The Sexist Naming of Collegiate Athletic Teams and Resistance to Change*, 17 J. SPORT & SOC. ISSUES 34 (1993); Bill Daily & Miriam Finch, *Benefiting From Nonsexist Language in the Workplace*, BUS. HORIZONS, Mar.-Apr. 1993, at 30; Sheila Gibbons, *Sexist Language Usage Persists Despite Years of Efforts to Stop It*, 31 MEDIA REP. TO WOMEN 3, 3-5 (2003).

[6] Some scholars and lawyers have discussed how conversational "scripts" and attitudes toward gender roles have long supported male dominance in the legal profession. *See, e.g.*, Deborah Rhode, *Perspectives on Professional Women*, 40 STAN. L. REV. 1163, 1189 (1988); Phyllis D. Coontz, *Gender Bias in the Legal Profession: Women "See" It, Men Don't*, 15 WOMEN & POLITICS 1 (1995); Roberta Ikemi, *Should Sexist Comments be a Disciplinary Offense?*, ABA J., Aug. 1995, at 40; Katherine de Jong, *On Equality and Language*, 1 CAN. J. WOMEN & L. 119 (1985).

[7] *See, e.g.*, AMERICAN BAR ASSOCIATION COMMISSION ON WOMEN IN THE PROFESSION, VISIBLE INVISIBILITY: WOMEN OF COLOR IN LAW FIRMS 34-95 (2006) (summarizing major research findings on disparate practice experiences of women of color); DATEBOOK ON WOMEN IN LAW SCHOOL AND IN THE LEGAL PROFESSION 2-22, 48-93 (Gita Z. Wilder & Bruce Weingartner eds., 2003) (offering statistical analysis and commentary on the current status and trends of women in law schools and in the legal profession); LINDA F. WIGHTMAN, LAW SCHOOL ADMISSIONS COUNCIL, WOMEN IN LEGAL EDUCATION: A COMPARISON OF THE LAW SCHOOL PERFORMANCE AND LAW SCHOOL EXPERIENCES OF WOMEN AND MEN (1996).

was accurate. If so, what are the implications of this conduct given the social science research on the effects of sexist language?

Drawing from interdisciplinary research, we synthesized the research on subtly sexist language and, particularly, the use of male-gendered generics. We discovered a consensus among social science researchers that male-gendered generics are examples of subtle sexism.[8] Based on our original empirical analysis, we also studied the use of male-gendered words by judges in their judicial opinions, lawyers in their legal briefs, and faculty and other authors in law review articles. We found in our analysis of these varied documents that we as a legal community continue to use male-gendered words,[9] seemingly oblivious to the sexist message we are sending and the harm we are inflicting in our schools and workplaces. Finally, we consider some possible reasons for the legal community's resistance to change and propose some initial steps to decrease further the subtly sexist use of male-gendered generics.

I. EXISTING EMPIRICAL RESEARCH

While our tendency is to take language literally and not to look for meaning beyond the apparent message, cultural and psycholinguists propose that language conveys much more than the literal message.[10] Benjamin Lee Whorf is often credited with the original hypothesis that language is related to perception, analysis, and conduct. He proposed that the words one uses and hears shape how one "understands reality and behaves with respect to it."[11] This Whorfian hypothesis of "linguistic relativity" has been explored and debated since its introduction in the 1950s.[12] One contemporary interpretation is that "linguistic processes are

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[8] *See infra* Part I.

[9] *See infra* Part II.

[10] This tendency to interpret messages literally is particularly evident in American culture and other "low-context" cultures, where the communication style is more direct, analytical, and linear. In contrast, in "high-context" cultures, the communication style is more indirect and interdependent on the relationships and context in which the communication occurs. Stella Ting-Toomey, *Toward a Theory of Conflict and Culture*, *in* THE CONFLICT & CULTURE READER 46, 51 (Pat K. Chew ed., 2001).

[11] WHORF, *supra* note 3, at 23.

[12] One version of the Whorfian hypothesis posited that thought and action were entirely determined by language. While psycholinguists have discarded this deterministic theory (called the Whorfian "strong hypothesis"), social science research has supported an alternative theory that language affects thought and action (called the Whorfian "weak

pervasive in most fundamental domains of thought. That is, it appears that what we normally call 'thinking' is in fact a complex set of collaborations between linguistic and nonlinguistic representations and processes."[13]

Considerable contemporary research, for example, has considered how our use of particular ostensibly-innocuous language can shape the way we think about gender and can have sexist effects. Words, phrases, and expressions that unnecessarily differentiate between women and men, or exclude, trivialize, or diminish either gender, for instance, have been shown to be problematic.[14] Studies indicate that (1) the use of male-gendered words when referring to both men and women (male-gendered generics), (2) hierarchic and separatist terms (such as *man and wife*), and (3) terms that influence women's self-esteem or identity (such as using *girl* to refer to a woman) are all examples of sexist language.[15] Consistent with the Whorfian hypothesis, social scientists have carefully and specifically considered how the use of male-gendered generics shapes our perceptions and is linked to gender-related attitudes.[16]

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hypothesis"). Lera Boroditsky, *Linguistic Relativity*, *in* 2 ENCYCLOPEDIA OF COGNITIVE SCIENCE 917 (Lynn Nadel ed., 2003); Janet B. Parks & Mary Ann Roberton, *Development and Validation of an Instrument to Measure Attitudes Toward Sexist/Nonsexist Language*, 42 SEX ROLES 415, 415-16 (2000) [hereinafter Parks & Roberton, *Development and Validation*]. The Whorfian hypothesis is also called the Sapir-Whorf hypothesis, in recognition of Whorf's mentor, Edward Sapir. WHORF, *supra* note 3, at 15-16.

[13] Boroditsky, *supra* note 12, at 920.

[14] Janet B. Parks & Mary Ann Roberton, *Attitudes Toward Women Mediate the Gender Effect on Attitudes Toward Sexist Language*, 28 PSYCHOL. WOMEN Q. 233, 233 (2004) [hereinafter Parks & Roberton, *Attitudes Toward Women*]; Parks & Roberton, *Development and Validation*, *supra* note 12, at 415. See also Appendix A of this Article for examples of problematic language.

[15] *See* Parks & Roberton, *Attitudes Toward Women*, *supra* note 14, at 233; Parks & Roberton, *Blaubergs (1980) Revisited*, *supra* note 4, at 446.

[16] As with many psychology studies, participants are often college students who are asked to complete surveys and questionnaires based on hypothetical situations. While the researchers design the studies to increase the probability of the validity and reliability of the study results, generalizing from the study and using its results as predictors of actual behavior in everyday life should be done with the limitations of an experimental setting in mind. Given that we are interested in part on the applicability of the empirical research to law students, the researchers' use of college students makes generalizing from the study results to law students conveniently appropriate.

A. Male-gendered Words as Pseudo-generics

A common explanation for using male-gendered generics, such as *his*, *he*, and words with the suffix *–man*, is that the words are intended to and understood to be inclusive of both men and women; that is, they are not intentionally sexist or exclusionary.[17] A classic defense was given by William Strunk and E.B. White in an early edition of their widely used and admired book, *The Elements of Style*: "The use of *he* as pronoun for nouns embracing both genders is a simple, practical convention rooted in the beginnings of the English language. *He* has lost all suggestion of maleness in these circumstances. . . . It has no pejorative connotations; it is never incorrect."[18]

While Strunk and White were generally correct about the convenience and historical origins of *he* as a generic for individuals of both genders, they were mistaken about the lack of gender association and its impact.[19] Many social scientists have concluded that when we read, hear, or use male-gendered generics, we are much more likely to think of

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[17] *See, e.g.*, Parks & Roberton, *Blaubergs (1980) Revisited*, *supra* note 4, at 452; Blaubergs, *supra* note 3, at 140.

[18] WILLIAM STRUNK & E.B. WHITE, THE ELEMENTS OF STYLE 60 (3d ed. 1979).

[19] In the 16th century, grammarians developed rules to reduce the spoken language to formal grammatical conventions. They decided that *he* would continue to be used to refer to both males and females. Various justifications were offered:

> One justification was that it was more natural to place the male before the female . . . for man is first in the natural order, or more important. Another justification was that the male gender is more comprehensive than the female. Once it is accepted that the male gender is more comprehensive, it becomes easy to accept that male is the norm, the universal category.

de Jong, *supra* note 6, at 121 (describing the etymology of *he* and *she*). For more explanations and rationalizations of male-gendered generics, see Allen R. McConnell & Russell H. Fazio, *Women as Men and People: Effects of Gender-Marked Language*, 22 PERSONALITY & SOC. PSYCHOL. BULL. 1004 (1996).

Even White later modified his original position. In a 2005 edition of the book, coauthored with William Strunk, Jr., they acknowledge that "[c]urrently, however, many writers find the use of the generic *he* or *his* to rename indefinite antecedents limiting or offensive." Furthermore, they offer alternatives to "avoid an awkward overuse of *he or she* or an unintentional emphasis on the masculine." WILLIAM STRUNK, JR. & E.B. WHITE, THE ELEMENTS OF STYLE 89 (4th ed. 2005).

"maleness."[20] These researchers found in a variety of settings that, in comparison to the use of more gender-inclusive terms such as *he or she* or *humankind*, the use of male-gendered words triggers in both the communicator and the audience a male image.[21] Thus, using male-gendered generics excludes or at least diminishes the prominence of women in our cognitive associations. Furthermore, as we will subsequently discuss, using male-gendered generics has identifiable effects.

To illustrate, in one study, individuals were asked to recite sentences that contained either *he*, *he/she*, or *they* as generic pronouns.[22] The study participants were then asked to verbally describe the images that came to mind. Those who read *he* had a disproportionate number of male images, even though the readings expressly referred to people of either gender.[23] In another experiment, participants were induced to complete sentence fragments using masculine or unbiased generics, after which they were asked to visualize the sentence and to give a first name to the person they visualized.[24] Results indicated that using masculine generics generated more male-biased imagery in the mind of the user. In yet another study,

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[20] Mykol C. Hamilton, *Masculine Bias in the Attribution of Personhood*, 15 PSYCHOL. WOMEN Q. 393, 393-94 (1991) [hereinafter Hamilton, *Attribution of Personhood*] (summarizing research). *See also* John Gastil, *Generic Pronouns and Sexist Language: The Oxymoronic Character of Masculine Generics*, 23 SEX ROLES 629 (1990); Mykol C. Hamilton, *Using Masculine Generics: Does Generic He Increase Male Bias in the User's Imagery?*, 19 SEX ROLES 785 (1988) [hereinafter Hamilton, *Masculine Generics*]; Rebecca Davis Merritt & Cynthia J. Kok, *Attribution of Gender to a Gender-Unspecified Individual: An Evaluation of the People=Male Hypothesis*, 33 SEX ROLES 145, 155 (1995); Joseph Schneider & Sally L. Hacker, *Sex-role Imagery and Use of the Generic "Man" in Introductory Texts: A Case in the Sociology of Sociology*, 8 AM. SOCIOLOGIST 12 (1973).

[21] Even though gender-neutral words result in more female images than do male-gendered words, evidence exists that even gender-neutral words are male-biased (eliciting more male images than female images). *See* Merritt & Kok, *supra* note 20, at 147, 153; Hamilton, *Attribution of Personhood*, *supra* note 20. Researchers theorize that there is a cultural tendency for the male gender as the norm for the concept of people (the "people = male" bias). Thus, using gender-neutral language reduces but does not override the people = male bias. The importance of using gender-neutral language, particularly terms expressly including women such as *she or he*, is heightened because it can serve as a reminder that people = both female and male. As social scientists suggest, reducing or eliminating male-gendered generics could begin to significantly decrease over time the people = male bias. Merritt & Kok, *supra* note 20, at 155.

[22] Gastil, *supra* note 20, at 638.

[23] *Id.*

[24] Hamilton, *Masculine Generics*, *supra* note 20, at 789-91, 795-97.

participants who were asked to create photo collages for textbook chapters selected more photos of males when chapter titles included *man* in the title (for example, *economic man*) than when the titles did not contain *man* in the title (for example, *economic behavior*).[25] Finally, McConnell and Fazio found that individuals were more likely to describe the "average person" in an occupation as male when that occupation's title was male-gendered (e.g., *city councilman* rather than *member of city council* or *city councilperson*).[26]

These studies and other empirical research confirm that male-gendered generics are not actually gender-neutral, prompting their labeling as pseudo-generics or false generics. In this way, male-gendered generics are sexist because those who use them and those who hear them tend to exclude women or at least be biased toward men, even though their conscious intentions are perhaps to be inclusive.

B. Gendered Language and Its Effect

Everyday sexism has psychological ramifications for women. In one study, college students kept track for two weeks of everyday sexism, including traditional gender role stereotyping, demeaning and derogatory comments and behaviors, and sexual objectification.[27] The women's reporting of more sexist incidents was associated with their increased anger, more depression, and lower self-esteem.[28] Other research demonstrates the subtle deleterious effects of sexist language on the self-concepts and attitudes of both men and women.[29]

Evidence is also emerging that gendered language reinforces traditional gender stereotypes. Psycholinguist Lera Boroditsky, for instance, explored how the gendering of objects in certain languages affects the way speakers describe those objects.[30] In one study, Spanish and German speakers were asked to rate similarities between pictures (of both females and males) and pictures of objects (the names of which had opposite genders in Spanish and German). She found that both groups rated

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[25] Schneider & Hacker, *supra* note 20, at 13-17.

[26] McConnell & Fazio, *supra* note 19, at 1008-09, 1011-12.

[27] Swim et al., *Everyday Sexism*, *supra* note 2, at 42-51.

[28] *Id.* at 47-49.

[29] Parks & Roberton, *Blaubergs (1980) Revisited*, *supra* note 4, at 446 (summarizing research).

[30] Boroditsky, *supra* note 12, at 920.

grammatically feminine objects to be more similar to females, and grammatically masculine objects more similar to males, even though the objects had opposite genders in the two languages.[31] In another study, participants were asked to describe a *key* (a word that is masculine in German and feminine in Spanish). Researchers found that German speakers were more likely to use stereotypically masculine descriptions such as "hard, heavy, jagged, metal, serrated, and useful," while Spanish speakers were more likely to use stereotypically feminine descriptions, such as "golden, intricate, little, lovely, shiny, and tiny."[32] Similarly, study participants were asked to describe a *bridge* (a word that is feminine in German and masculine in Spanish). The German speakers described it as "beautiful, elegant, fragile, peaceful, pretty, and slender," while the Spanish speakers described it as "big, dangerous, long, strong, sturdy, and towering."[33] Boroditsky observed that even the arbitrary designation of a noun as feminine or masculine can affect how people think of objects, and can trigger associations that are tied to stereotypically feminine or masculine characteristics.[34]

Even more to the point, evidence also exists that the use of male-gendered words influences the way we think of others. Psychologists Allen McConnell and Russell Fazio designed an experiment to consider whether gender-marked language affects our perceptions of others' personal attributes.[35] Study participants read three vignettes, each describing an executive in a business situation that involved a give-and-take process to reach a compromise agreement with an opposing party. All participants read the same vignettes, although the business executive's title varied in different versions among *Chairman of the Board of Directors* (*man*-suffix condition), *Chair of the Board of Directors* (no-suffix condition) or *Chairperson of the Board of Directors* (*person*-suffix condition). The vignettes also varied the executive's gender identification. In one vignette, there was no gender identification and, in subsequent vignettes, the executive was identified as a woman or as a man. After reading the

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[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] McConnell & Fazio, *supra* note 19.

vignettes, participants answered a series of questions about the executive's personality.[36]

The researchers found clear evidence that title suffixes influence the assessment of the executive's personality traits. Use of the *Chairman* title resulted in the executive being described more consistently in stereotypically masculine terms (rational, assertive, independent, analytical, intelligent) and less consistently in stereotypically female terms (caring, emotional, warm, compassionate, cheerful). In contrast, use of the *Chairperson* title resulted in the executive being described with more stereotypically female qualities and less consistently with stereotypically masculine attributes.[37] This pattern was consistent across all three vignettes even though the executive's gender identification varied.

McConnell and Fazio provide a range of explanations for these results. One is that individuals might associate someone who uses the title *Chairperson* with a particular personality profile (politically left-of-center, independent, or feminine) even though there is no specific evidence supporting that association. Another explanation is that seeing the title *Chairman* repeatedly primes the reader to make the association of *Chairman* with *man* (as described in the research above), and then to link it to stereotypically male traits. This priming process overrides the fact that the executive's gender is not identified (as in one vignette) or is female (as in another vignette).[38] The study participants' own attitudes may also help explain these outcomes, as we will subsequently describe. While we might not yet understand why, it appears that gendered titles affect our perceptions of people and that those perceptions are consistent with gender stereotypes.

C. Personal Attitudes and the Use of Gendered Language

Some emerging research also identifies connections between an individual's attitudes and her or his detection and use of sexist language. In particular, evidence points out that a person's attitude toward gender issues is predictive of that person's use of and associations with male-gendered generics.

Historically, the measure of sexist attitudes was an individual's approval or rejection of traditional prejudices (such as endorsement of

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[36] *Id.* at 1006.

[37] *Id.* at 1008.

[38] These two theories were further tested in Experiment 2 of this study. *Id.* at 1008-09.

traditional gender roles, differential treatment of women and men, and stereotypes about lower female competence). In the McConnell and Fazio study described above, for instance, the researchers found that individuals who endorsed traditional gender roles were the most likely to associate the *man*-suffix titled executives with the stereotypically masculine traits, and the *person*-suffix titled executives with the stereotypically female traits.[39] This outcome thus suggests that those with traditional sexist prejudices are particularly likely to make stereotypically gendered associations with gendered language.

With increasing social pressure to reject these traditional gender prejudices, however, people are unlikely to espouse them, at least publicly. At the same time, ongoing gender disparities in education and employment suggest that sexism continues to exist.[40] Social scientists, therefore, are increasingly realizing that sexism has become more nuanced, and have sought other ways to measure underlying prejudicial beliefs.[41] Drawing from research on modern and subtle forms of race discrimination, researchers have identified specific beliefs that they think indirectly condone the unequal treatment of women and men, and thus underlie more contemporary and subtle forms of sexism. These beliefs include: (1) denial of ongoing discrimination against women, (2) antagonism toward women who are making political and economic demands, and (3) resentment about so-called special favors for women, such as policies designed to help women in education or employment.[42] The validity of these "modern sexist" beliefs and their relationship to people's conduct continue to be studied.

For example, Janet Swim and her colleagues have explored whether modern sexist beliefs predict individuals' detection and use of sexist language.[43] In one research project, participants completed a packet of

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[39] *Id.* at 1007-08. *See also* M.R. McMinn et al., *Does Sexist Language Reflect Personal Characteristics?*, 23 SEX ROLES 389, 392 (1990) (suggesting that the use of written sexist language is related to religious faith and sex role perception; in particular, those using sexist language tend to be more fundamentalist in their Christian beliefs).

[40] Swim et al., *Sexism and Racism*, *supra* note 3, at 200. Gender disparities in the legal profession continue as well. *See* Ikemi, *supra* note 6, at 40; Coontz, *supra* note 5, at 2-3.

[41] *See* Swim et al., *Sexism and Racism*, *supra* note 3, at 199-200; BENOKRAITIS & FEAGIN, *supra* note 3, at 82-122.

[42] Swim et al., *Sexism and Racism*, *supra* note 3, at 200; Swim et al., *Understanding Subtle Sexism*, *supra* note 5, at 119.

[43] Swim et al., *Understanding Subtle Sexism*, *supra* note 5.

questionnaires in which various research instrument were embedded.[44] In addition to completing an instrument measuring modern sexist beliefs such as those listed above, participants indicated their personal definitions of what constituted sexist language,[45] and they demonstrated their ability to detect sexist language including male-gendered generics. The research results showed significant connections between individuals' attitudes and their ability to detect the use of sexist language. Those who endorsed modern sexist beliefs were less likely to detect sexist language and to define as sexist the types of language that have been defined as sexist in the research literature.[46] In comparison, those who disagreed with modern sexist beliefs were more likely to define sexist words as sexist and detect their use.[47] In a subsequent study, the same researchers found that those who endorsed modern sexist beliefs were more likely to actually use sexist language, while those who did not endorse these views were less likely to use sexist language and more likely to use nonsexist language.[48] Thus, it appears that one's beliefs about gender issues affects whether one believes male-gendered language and other sexist language is indeed sexist, and whether one uses male-gendered language or more gender-neutral word alternatives.

There also appears to be a not-fully understood relationship between attitudes, gender, and the use of sexist language such as male-gendered generics. Numerous studies have confirmed a gender gap regarding sexist language, with women more likely than men to detect sexist language and to be supportive of nonsexist language.[49] Some research, however, suggests that we may be oversimplifying the situation. Women's attitudes toward gender roles[50] and their age,[51] for instance,

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[44] *Id.* at 119-20.

[45] As defined by the researchers, sexist language consisted of (1) the use of terms such as *he* or *man* to represent both women and men; (2) word choices that assume certain occupations or roles are held by women and not men, or held by men and not women; (3) and use of nonparallel structure such as using *men and ladies* rather than *men and women* or using a husband's name to refer to both the husband and wife. *Id.* at 119.

[46] *Id.* at 120-21.

[47] *Id.*

[48] *Id.* at 125-26.

[49] Parks & Roberton, *Attitudes Toward Women*, *supra* note 14, at 233-34 (summarizing research).

[50] *Id.* at 237-38.

influence their support for nonsexist language. Like everyone else in society, women also may be shaped by both cultural forces and their own particular life experiences. One study found, for instance, that eighteen- to twenty-year-old students were more resistant to using nonsexist language than older students.[52] The researchers suggest that these younger students

> grew up in a society that proclaimed more egalitarian views of women and modeled more inclusive language. During the same time, however, "politically correct" became a pejorative term, and some people began to view inclusive language as disingenuous and unnecessary. These mixed messages appear to have resulted in a neutral attitude toward sexist/nonsexist language.[53]

Furthermore, even if a woman supports nonsexist language, she may still be hesitant to use it.[54]

The discussion above on existing empirical research offers substantial evidence that using male-gendered generics is a form of subtle sexism, even though the user does not necessarily have sexist intentions. First, while grammarians may claim otherwise, those who use male-gendered generics such as *he* and words with the suffix *-man* are much more likely to exclude women in their cognitive associations. Thus, when people hear the word *businessman*, most are likely to visualize a male business person, not a female one. Second, gendered language reinforces traditional gender stereotypes. Thus, when the title *Chairman* is used, listeners and readers associate the designated person with stereotypically masculine characteristics, even though the executive's gender is not specified. Abandoning the use of *Chairman*, therefore, would presumably preclude those gendered associations for both women and men executives. Finally, individuals may use male-gendered generics for a variety of reasons, including totally innocuous ones. However, there is evidence that individuals who have beliefs that researchers think condone the unequal

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[51] Parks & Roberton, *Age, Gender and Context*, *supra* note 5, at 479.

[52] *Id.* at 485-88. The current approximate age of these individuals would be twenty-nine to thirty-one years. *See also* Parks & Roberton, *Attitudes Toward Women*, *supra* note 14, at 237-38 (describing a similar result).

[53] Parks & Roberton, *Blaubergs (1980) Revisited*, *supra* note 4, at 489.

[54] *See infra* discussion accompanying notes 83-88.

treatment of women and men are particularly likely to use male-gendered generics and not find it problematic.

II. SUBTLY SEXIST LANGUAGE IN LEGAL EDUCATION AND THE PROFESSION

A. Study Methodology and Interpretation

Although the empirical research above demonstrates the meaning and effects of male-gendered generics, and explains why those generics constitute a form of subtle sexism, no studies have investigated their use in the legal environment. The following study uses empirical methods to quantitatively assess their use and provide a baseline of their prevalence in the legal community. Even though male-gendered generics may be problematic in general, they may not be used in the legal community. If, on the other hand, they are widely used in the legal community, then the implications of that finding should be carefully considered.

This study analyzes the written work of judges, lawyers, and legal scholars because they are important and representative members of the legal community. Not only are they critical to the interpretation, advocacy, and teaching of laws, they also shape the legal environment, determining whether it is inviting or uncomfortable for women colleagues, students, or clients. Westlaw,[55] the highly used on-line electronic legal database, and its search engines make it possible to comprehensively and efficiently study the specific databases of these professionals' written work.

The first step we took was to select a list of male-gendered generics that had gender-neutral word alternatives. After referring to the research literature and guides on sexist and nonsexist words,[56] we selected word

[55] The authors conducted their searches between the dates of January 7 and January 21, 2007. Because the Westlaw database is updated regularly, conducting the same searches at another time would likely yield slightly different results. However, the universe of total documents is so great that any variations should be relatively small. The universe of documents also differs in each time period, presumably with a larger number of total documents in more recent time periods than in earlier time periods. In the absence of knowing the exact number of total documents in any given time period for any given database, the authors calculated the percentages indicated above to allow comparisons across time and across data bases. This allows us to empirically and accurately approximate the use of these terms.

[56] *E.g.*, THE PROJECT ON THE STATUS AND EDUCATION OF WOMEN, ASSOCIATION OF AMERICAN COLLEGES, GUIDE TO NONSEXIST LANGUAGE 2-4 (not dated); AMERICAN PSYCHOLOGICAL ASSOCIATION, PUBLICATION MANUAL 66-67 (5th ed. 2002); THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE (4th ed. 2000), *available at*

pairs (1) associated with the legal profession and legal studies (*congressman/congressperson* or *congressional representative*, *draftsman /drafter*, *reasonable man/reasonable person*, *layman/layperson*), (2) common in professional settings in general (*businessman/businessperson*, *chairman/chairperson*, *spokesman/spokesperson*), and (3) common in general everyday use (such as *mankind/humankind*, *fireman/firefighter*). The idea was to study words illustrative of those used in the legal community; the purpose was not to analyze an exhaustive list. While it would have been meaningful to study the use of male-gendered words alone (such as *businessman* and *chairman*), we also wanted to select word pairs where the user had a choice between a male-gendered word and a more gender-neutral one. Thus, while a male-gendered word might be used to refer to a specific male (or a specific female), the user also has the choice to use a gender-neutral option. In other words, it is now grammatically correct to select a gender-neutral word to refer to either gender, even when referring to a specific male or female.[57] The terms also needed to be meaningfully searchable as gendered generics. Some male-gendered generics such as *man*, *he*, or *chair* could not be meaningfully searched because searches on those words could not distinguish uses of these words that would be inappropriate for our study's purposes (for example, use of the word *chair* to reference a piece of furniture as opposed to a person's title).[58] The study also initially included words with the suffix *-woman* (e.g., *businesswoman*, *chairwoman*). However, the use of these terms was so infrequent in the legal documents that omitting them in the statistical analysis did not appear to meaningfully alter the overall results.[59]

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http://www.bartleby.com/61/ (online definitions including Usage Notes on *man* and *person*); McConnell & Fazio, *supra* note 19.

[57] *See, e.g.*, THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE, *supra* note 56 (online definitions including Usage Notes on *man*, *person*, *businessman*, *businesswoman*, and *businessperson*).

[58] An initial search of the word *he*, for instance, indicated that the word was sometimes used to identify a particular male person rather than used as a generic pronoun. While some words in our study, such as *businessman* or *congressman*, were also sometimes used to refer to a specific male executive or Congressional representative, it would have nonetheless been appropriate in these instances to use a gender-neutral word alternative rather than the male-gendered one.

[59] To illustrate, in the 2004-2006 period, *businesswoman* appeared in twenty-seven documents, *chairwoman* appeared in thirty-seven, and *congresswoman* in twenty-four. *Reasonable woman* appeared in thirty-nine documents and *womankind* appeared in none. In addition, including these documents confounded the calculations of overlap and total documents and undermined their accuracy.

We then investigated the use of these word pairs within three distinct databases in *Westlaw*: (1) All Federal Cases (ALLFEDS), consisting of federal judges' opinions,[60] (2) Brief-Multibase (BRIEF-ALL), consisting of lawyers' legal briefs,[61] and (3) Journals & Law Reviews (JLR), consisting primarily of law faculty's articles, but also including articles by other legal scholars and law students.[62] These particular databases were selected because each consists of legal documents that are primary work products of these legal professionals: judges write legal opinions, lawyers write legal briefs, and faculty write law review articles. In addition, judicial opinions are widely read and law reviews are widely referenced by the legal community. It is also reasonable to assume that each of these professional groups think, write, and carefully edit these particular documents. While they might have the assistance of judicial clerks, attorney associates, and student editors, the authors appreciate that their professional reputations attach to their work, and thus it is likely they will carefully review the final documents. In these ways, the documents in these databases represent the type of language purposefully used by the legal community in general, and by the federal judiciary, litigators who practice before the federal judiciary, and legal scholars in particular.

Considering each of these databases separately, and using the search-engine feature of the databases, the following information for each word pair for a recent time period (between November 15, 2004 and November 15, 2006)[63] was retrieved: (1) number of documents containing the male-gendered word, (2) number of documents containing the gender-neutral alternative, and (3) number of documents containing both words.[64]

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[60] Westlaw describes this database as containing all available federal case law with coverage beginning in 1790.

[61] Westlaw describes this database as containing selected briefs from the United States Supreme Court, Courts of Appeals, Courts of Appeals for the Armed Forces, Tax Court, and forty-two state courts.

[62] Westlaw describes this database as containing documents from law review publications and Continuing Legal Education materials from United States-based publications.

[63] Using a two-year period decreases the risk that any one unrepresentative year would offset the data. However, any two-year period still only captures a discrete data "snapshot" and does not capture changes that may have occurred between the two-year periods sampled.

[64] The search included both single and plural forms of each word (e.g., *businessman* and *businessmen*) and single and two word variations (e.g., *businessman* and *business man*). The search for documents with *congressperson* also included documents with

We also were interested in temporal changes in language use, especially in changes that may have occurred within the last decade. Consequently, the same searches for an equivalent two year time period a decade ago (between November 15, 1994 and November 15, 1996) were conducted.

Table A is a comprehensive compilation of the data. It documents word usage within the three databases and includes temporal comparisons for nine word pairs.

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congressional representative because the two terms appeared to both be used as the gender-neutral alternative and both terms could be meaningfully searched. In contrast, while *chairperson* and *chair* are both gender-neutral alternatives to *chairman*, the word *chair* could not be meaningfully included because a search for the word could not distinguish between its use as a title and its use as an object (piece of furniture). Therefore, the numbers and percentages given for the word pair may underestimate the actual use of gender-neutral alternatives. On the other hand, the large numbers of documents where *chairman* is used, for instance in the law reviews where over 2000 documents are cited, is sufficient evidence by itself of the significant use of this male-gendered generic.

Table A. Use of Gendered and Nongendered Language in Legal Documents

	All Federal Cases				All Briefs				Journals & Law Reviews				Average Use	
	'04-'06		'94-'96		'04-'06		'94-'96		'04-'06		'94-'96		'04-'06	'94-'96
	N	%	N	%	N	%	N	%	N	%	N	%	%	%
businessman	646	81.4	609	87.9	1771	85.7	1569	86.8	1555	77.9	1548	77.9	81.7	84.2
businessperson	165	20.8	103	14.8	367	17.7	294	16.3	532	26.7	543	27.3	21.7	19.5
Overlap	17	2.1	18	2.5	69	3.3	56	3.1	92	4.6	103	5.2	3.4	3.6
Total N	794	100	725	100	2069	100	1807	100	1995	100	1988	100		
chairman	3005	90.2	2510	91.4	5189	91.6	4622	93.4	7182	93.2	6556	92.0	91.7	92.3
chairperson	411	12.3	300	10.9	631	11.1	446	9.0	848	11.0	868	12.2	11.5	10.7
Overlap	83	2.5	65	2.4	158	2.8	121	2.5	320	4.2	300	4.2	3.1	3.01
Total N	3333	100	2745	100	5662	100	4947	100	7710	100	7124	100		
congressman	274	91.0	300	94.3	715	95.2	709	95.3	2124	92.2	2094	91.9	92.8	93.8
congressperson	34	11.3	34	10.7	59	7.9	47	6.3	266	11.6	288	12.6	10.3	9.9
Overlap	7	2.3	16	5.03	23	3.1	12	1.6	87	3.8	104	4.6	3.1	3.7
Total N	301	100	318	100	751	100	744	100	2303	100	2278	100		
mankind	504	96.9	123	94.6	450	87.5	382	91.4	1705	79.8	1347	78.8	88.1	88.3
humankind	16	3.1	12	9.2	68	13.2	37	8.9	650	30.4	512	29.9	15.6	16.0
Overlap	0	0.0	5	3.9	4	0.8	1	0.2	219	10.3	149	8.7	3.7	4.3
Total N	420	100	130	100	514	100	418	100	2136	100	1710	100		
fireman	1090	66.7	751	68.3	2668	64.6	1883	69.8	542	47.6	680	57.2	59.6	65.1
firefighter	623	38.1	391	35.6	1730	41.9	1043	38.7	658	57.8	603	50.7	45.9	41.7
Overlap	79	4.8	43	3.9	268	6.5	229	8.5	61	5.4	94	7.9	5.6	6.8
Total N	1634	100	1099	100	4130	100	2697	100	1139	100	1189	100		
layman	611	54.3	382	60.8	2147	62.0	1561	76.9	792	50.3	899	63.3	55.5	67.0
layperson	568	50.4	277	44.1	1557	45.0	551	27.1	879	55.8	595	41.9	50.4	37.7
Overlap	53	4.7	31	4.9	242	7.0	81	4.0	97	6.2	73	5.1	6.0	4.7
Total N	1126	100	628	100	3462	100	2031	100	1574	100	1421	100		
spokesman	115	42.8	100	54.6	334	50.8	272	59.3	1243	59.7	960	56.8	51.1	56.9
spokesperson	164	61.0	93	50.8	351	53.4	210	45.8	976	46.9	820	48.5	53.8	48.4
Overlap	10	3.7	10	5.5	28	8.4	23	5.0	136	6.5	91	5.4	6.2	5.3
Total N	269	100	183	100	657	100	459	100	2083	100	1689	100		
draftsman	122	7.6	145	10.7	416	9.1	398	12.7	501	9.4	635	12.7	8.7	12.0
drafter	1504	93.4	1241	91.2	4260	93.0	2823	89.9	5001	93.9	4605	92.1	93.4	91.1
Overlap	16	1.0	25	1.8	95	2.1	82	2.6	174	3.3	242	4.8	2.1	3.1
Total N	1610	100	1361	100	4581	100	3139	100	5328	100	4998	100		
reasonable man	510	6.3	388	9.5	1797	10.8	1571	15.3	453	14.7	592	20.8	10.6	15.2
reasonable person	7790	96.1	3852	93.8	15461	92.8	9264	90.3	2826	91.8	2553	89.7	93.6	91.3
Overlap	197	2.4	133	3.2	599	3.6	572	5.6	200	6.5	298	10.5	4.2	6.4
Total N	8103	100	4107	100	16659	100	10263	100	3079	100	2847	100		

The top-most row in the table indicates which database is being investigated, the next row designates the timeframe, and the third row specifies the number of documents ("N") and the percentage of documents that "N" represents with respect to "Total N" for each word pair. The left-most column of the table contains each word pair. "Overlap" refers to the number of documents that contained both the male-gendered and the

gender-neutral terms.[65] "Total N" refers to the total number of documents that contained either the male-gendered term, or the gender neutral term, or both.[66] The right-most columns contain the average percentage use of the terms across all the databases in each time period.

B. Findings and Analysis

The research reveals a strong general pattern of the legal community's dominant use of the male-gendered word option in a number of the word pairs (four out of nine of the word pairs) and substantial use in three other word pairs. Referring to the data from 2004-2006 in Table A, this trend holds true across the categories of judicial cases, legal briefs, and law review articles, and is evident both in terms of total numbers of documents and the percentage of use calculations. Given that the use of male-gendered words to represent both men and women is subtly sexist, this general finding merits further consideration in this Article and in other forums in the legal community as well.

The pattern of very dominant use of male-gendered words was indicated between 2004-2006 in these word pairs: *chairman/chairperson*, *congressman/congressperson*, *businessman/businessperson*, and *mankind/humankind*. In the first two word pairs, the use of *chairman* and *congressman* outweighed that of *chairperson* and *congressperson* by at least a nine to one ratio (in other words, the male-gendered word was used more than ninety percent of the time). This is especially significant given the large sample sizes, which consisted of between approximately 3000 and 7000 in each database for 2004-2006 for *chairman/chairperson* and between approximately 700 and 2000 for *congressman/congressperson* in legal briefs and law reviews.[67] The male-gendered word options were used approximately eighty percent of the time in the *businessman/businessperson*

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[65] In this study, the overlap number was small enough to discount with the majority between zero percent and five percent. In only one case (for 2004-2006) did the overlap documents constitute ten percent of the total documents.

[66] Simply adding together the number of documents with male-gendered words and the number of documents with gender-neutral words for any given word pair would result in a double-counting of the overlap document number. As a result, "Total N" is calculated by adding the number of documents for "Term 1" to the number of documents for "Term 2," and then subtracting the overlap number.

[67] Adding the documents that use *chairwoman* to the documents that use *chairperson* alters this result only slightly, resulting in *chairman* being used 87.1% of the time in comparison to *chairwoman/chairperson* (not accounting for documents in which these words overlap).

word pair, and between approximately eighty percent and ninety-seven percent in the *mankind/humankind* word pair, again demonstrating its strong dominance.

While some uses of the male-gendered word in some of the word pairs may be in reference to a specific male and, in that sense, less objectionable, keep in mind that the user still had the choice of using a gender-neutral term. This prevalent and apparently preferential use of male-gendered words in the legal community is ironic given the increasing recognition by some authoritative sources that the gender-neutral alternative is actually more accurate in some circumstances when both men and women are referenced. The *American Heritage Dictionary*, for instance, defines *businessman* as a "man engaged in business," *businesswoman* as a "woman engaged in business," and *businessperson* as "[o]ne engaged in business."[68] Similarly, the United States Department of Labor now officially uses the occupational title *firefighter* rather than *fireman*.[69] In contrast, it is also clear that the male-gendered word is commonly used in the legal documents to refer to both men and women. The authors' sampling of the documents confirmed this conclusion. Furthermore, consider, for instance, that *congressman* was being used from ninety-one percent to ninety-five percent of the time in these legal documents during the 2004-2006 period, even though approximately fifteen percent of congressional representatives were women in that time period.[70]

The word pairs with a less prevalent but still substantial use of the male-gendered word are noteworthy as well. Such examples from the 2004-2006 data include *spokesman/spokesperson* (*spokesman* being used approximately forty-three percent to sixty percent of the time), *layman/layperson* (*layman* being used fifty percent to sixty-two percent of the time), and *fireman/firefighter* (*fireman* being used approximately forty-eight percent to sixty-seven percent of the time). Although the use of male-

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[68] THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE, *supra* note 56.

[69] *Id.* at Usage Note for *person*; Bureau of Labor Statistics, U.S. Dept. of Labor, *Fire Fighting Occupations*, *in* OCCUPATIONAL OUTLOOK HANDBOOK, http://www.bls.gov/oco/pdf/ocos158.pdf (last visited Apr. 5, 2007).

[70] There were eighty-four women out of a total 540 Congressional Representatives (15.6 %) in the 109th Congress (2005-2007) and seventy-seven women out of 540 Congressional Representatives (14.26 %) in the 108th Congress (2003-2005). MILDRED L. AMER, WOMEN IN THE UNITED STATES CONGRESS: 1917-2006 (2006). *See also* Women in Congress, http://womenincongress.house.gov/data/wic-by-congress.html?cong=109 (last visited Apr. 5, 2007).

gendered words hovers around fifty percent, this should not be interpreted as gender-balanced and equal language use. Recall that the study is assessing the differential usage of male-gendered/subtly sexist language versus gender-neutral language, not male-specific versus female-specific terms (if that were the case, a 50-50 usage ratio might represent some sort of balance). Thus, it indicates that male-gendered words are used as often as gender-neutral alternatives. An empirical conclusion that language is clearly inclusive of both women and men would require universal or at least dominant use of the gender-neutral word option.[71]

Notably, there are two examples (out of the nine word pairs studied) in the 2004-2006 data of the dominant use of the gender-neutral language alternative: *draftsman/drafter* (where *drafter* is used approximately ninety-three percent to ninety-four percent of the time), and *reasonable man/reasonable person* (where *reasonable person* is used approximately ninety-two percent to ninety-six percent of the time). As we subsequently explain, the shift from *reasonable man* to *reasonable person* is understandable in part because of a legal debate that brought to the legal community's attention the sexist implications of the term *reasonable man*.[72] It is also interesting that most of the terms that show significant movement toward the more gender-neutral version, such as *reasonable person*, *drafter*, and *layperson*, do not indicate roles that are particularly associated with status and power. In contrast, the words which exhibit the most persistence as male-gendered words, such as *chairman*, *businessman*, and *congressman*, are societal roles which are associated with status and power. It is possible that legal professionals unconsciously continue to imagine men rather than women in these roles, and therefore use the male-gendered title in order to be consistent with their expectations. As we discussed earlier, the social science research supports the idea that our language reflects our thought processes.[73]

C. Changes in Word Usage Over Time

Surprisingly, there was a lack of significant change in language usage between the 1994-1996 and the 2004-2006 time frames. In general,

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[71] Even if gender-neutral language were used exclusively, the underlying male-biased association with some of these words may take quite a while to be nullified. *See* Merritt & Kok, *supra* note 20, at 155.

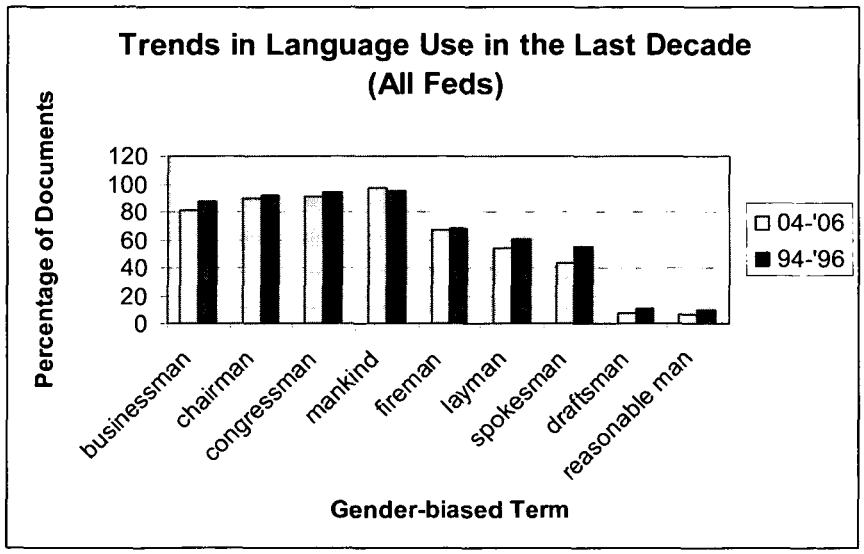
[72] *See infra* discussion accompanying notes 91-103.

[73] *See* discussion *supra* Parts I.A, I.B.

the data does not support the significant improvement we might have expected given legal educators' and professionals' declarations of wanting and welcoming more women to the legal field in the past decade. In fact, the data suggests a stagnation or plateauing of progression toward gender-neutral language in the last decade, and even some hint of a regression among certain groups.[74]

Table A provides comprehensive data on all three databases. Graph 1 below illustrates the change in federal judicial opinions, although similar patterns are found in lawyers' briefs and law reviews. Overall, among the federal cases, there was only slight improvement towards gender-neutral language in the last decade. The average decrease in the use of the male-gendered word option in our word pairs was 4.7%. The use of *spokesman* decreased the most (11.8% decrease), the use of *mankind* actually increased 2.3%, but the more typical example was the 3.3% decrease in the use of *congressman*. Thus, *congressman* was used 94.3% of the time in federal cases during the 1994-1996 time frame and 91.0% of the time during the 2004-2006 time frame.

Graph 1. Use of Gendered Words in Federal Cases in the Last Decade



[74] *See* discussion *infra* Parts II.C, II.D.

This relative lack of change in the last decade prompted us to study the use of male-gendered versus gender-neutral words over a longer time period in order to gain some historical perspective. We selected three word pairs: one where the male-gendered word was dominant (*businessman/ businessperson*), one where the male-gendered word was used about fifty percent of the time (*layman/layperson*), and one where the gender-neutral word was dominant (*reasonable man/reasonable person/reasonable woman*)[75] during the 2004-2006 period, and then investigated their use in federal cases over a forty-year period.[76] Beginning in 1964 with the enactment of key civil rights legislation in employment and education, this period tracks major societal reappraisals of gender rights and significant increases of women into professional occupations, including the legal profession.

The occurrence of these word pairs in judicial opinions in two-year intervals in each of the preceding four decades is documented in Table B, and the percentage of use of the male-gendered terms is depicted in Graph 2. Each word pair had a distinct history, suggesting that the usage of male-gendered words and gender-neutral alternatives has not followed one general trend. For instance, the use of *businessman* has been very persistent over time, changing very little in the past forty years (dropping only seventeen percent). At that rate, it would take 240 years for the term to become obsolete. The use of *layman* decreased from one hundred percent to fifty-four percent over this period, indicating incremental but slow progress given the length of time. In contrast, the use of *reasonable man* decreased dramatically in the same time period, with a drop of over forty percent between the 1974-1976 and the 1984-1986 time periods. Today, *reasonable person* is used almost universally. Based on our sampling of words, however, this significant drop in the use of *reasonable man* is the exception among male-gendered words. Referring to Graph 2 and Table B, it also appears that the cases during 1974-1976 through 1994-1996 reflected a period of possible change in the use of male-gendered versus gender-neutral words (perhaps mirroring heightened societal and legal awareness of gender

[75] *Reasonable woman* was included in the statistical analysis here because of the term's importance in understanding the historical analysis.

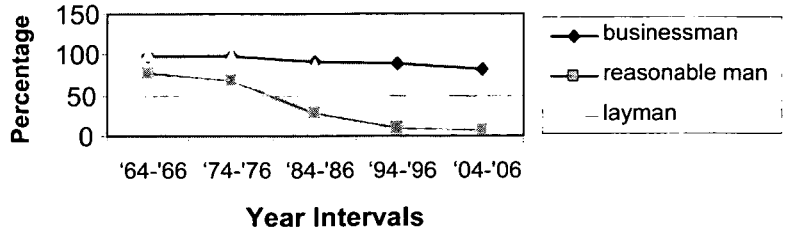
[76] While one could study all the word pairs and all the databases, the intent of this component of the study was to be illustrative. Studying a representative portion of the word pairs in greater detail allows us to learn more about them in particular, and to consider generalizing what we learn to all of the word pairs. Given the same general patterns across the databases for both the 2004-2006 and the 1994-1996 time periods (see Table A), it is likely that the legal briefs and the law reviews databases would show similar historical patterns as the federal cases database.

issues and sex discrimination, as well as receptivity to change). Some male-gendered words were apparently affected by this "window of opportunity" while others were not. As we will discuss,[77] the history of the use of *reasonable man/reasonable person/reasonable woman* illustrates this possibility.

Table B. Use of Gendered and Nongendered Language in Federal Cases Over 40 years (Select Word Pairs)

	'64-'66		'74-'76		'84-'86		'94-'96		'04-'06	
	N	%	N	%	N	%	N	%	N	%
businessman	239	98.4	362	97.8	604	90.7	609	87.9	646	81.4
businessperson	7	2.9	11	3.0	78	11.7	103	14.8	165	20.8
Overlap	3	1.3	3	0.8	16	2.4	18	2.7	17	2.2
Total N	243	100	370	100	666	100	725	100	794	100
layman	238	100	313	98.7	382	86.6	382	60.8	611	54.3
layperson	0	0	10	3.2	70	15.9	277	44.1	568	50.4
Overlap	0	0	6	1.9	11	2.5	31	4.9	53	4.7
Total N	238	100	317	100	441	100	628	100	1126	100
reasonable man	172	78.2	356	69.0	457	27.2	388	9.5	510	6.3
reasonable person	57	25.9	190	36.8	1307	77.8	3852	93.8	7790	96.1
reasonable woman	0		0		2		44		39	
Overlap	9	4.1	30	5.8	84	5.0	133	3.2	197	2.4
Total N	220	100	516	100	1680	100	4107	100	8103	100

Graph 2. Use of Gendered Words in Federal Cases Over Forty Years (Selected Words)



[77] *See* discussion *infra* Part III.B.

D. Word Usage Among Judges, Lawyers, and Legal Scholars

Referring back to the 2004-2006 data in Table A, the data clearly indicates the same general patterns in the usage of male-gendered words across all three databases of federal cases, law briefs, and law reviews. In other words, judges, lawyers, and legal scholars demonstrate in their writings the dominant use of the male-gendered word option over the gender-neutral word option in the same four word pairs (*businessman/businessperson*, *chairman/chairperson*, *congressman/congressperson*, and *mankind/humankind*), although the degree of dominance among some word pairs varies slightly.[78] For another three word pairs (*fireman/firefighter*, *layman/layperson*, *spokesman/spokesperson*), each group also demonstrates substantial use of the male-gendered term and substantial use of the gender-neutral term. In contrast, these groups use dominantly the gender-neutral word option in the final two word pairs (*reasonable man/reasonable person*, *draftsman/drafter*). Thus, the norms for word usage are strikingly similar across all three groups. There appears to be an unarticulated consensus about the use of male-gendered words versus gender-neutral words in the legal community. In this way, the use of male-gendered words fits typical characteristics of subtle sexism: male-gendered language is not recognized as sexist because it is not perceived as unusual or intentionally harmful; instead, there seems to be a common understanding and acceptance of its use in the ordinary course of our professional lives.

When comparing the 2004-2006 data with the 1994-1996 data, however, there are some interesting observations about the journals and law reviews in comparison to the other databases. The authors of law reviews, who tend to be law faculty, seem the least predictable in their evolving use of male-gendered versus gender-neutral words. While judges and lawyers, in their judicial opinions and legal briefs, have consistently demonstrated a small but positive movement toward the use of gender-neutral words in the last decade,[79] law review authors demonstrated more eclectic behavior. For example, there was some progression in law reviews toward gender-neutral language with some of the word pairs;[80] however, the use of the male-

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[78] *E.g.*, *businessman* is used approximately seventy-eight percent in law reviews, eighty-one percent in federal cases, and eighty-six percent in legal briefs.

[79] With one exception: the use of *mankind* in federal cases remained essentially the same (94-96.9% use).

[80] The *fireman/firefighter*, *layman/layperson*, and *reasonable man/reasonable person* word pairs showed this progression.

gendered word in law reviews was either the same or actually went up slightly in the last ten years among five word pairs (*businessperson/man*, *chairperson/man*, *congressperson/man*, *humankind/mankind*, *spokesperson /man*). While the differences were usually small, the law reviews also had the highest percentage of the use of the male-gendered words in 2004-2006 among four of the word pairs (*chairperson/man*, *spokesperson/man*, *drafter/draftsman*, *reasonable person/man*). For instance, law reviews had a 14.7% use of *reasonable man* as compared to 6.3% use in judicial opinions and 10.8% use in legal briefs. This is especially interesting because the *reasonable person/man* word pair represents a dominant use of the gender-neutral term.[81]

It would be particularly troubling if law faculty, as the primary source of law review articles, exhibit the highest use of subtly sexist male-gendered generics or if they are the most laggard in making progress in the use of nonsexist language—both possible interpretative extensions of the data above. Law faculty are viewed as models for appropriate professional conduct, and are influential as the educators of generations of lawyers, judges, and future teachers. As substantiated by the social science research, their use of male-gendered words unintentionally sends exclusionary messages to female students, reinforces the use of subtly sexist language among all students, and inhibits progress toward a more gender-equal educational and professional environment.

III. IMPLICATIONS AND PROPOSALS FOR REFORM

Researchers have found that male-gendered generics are exclusionary and harmful. Given these researchers' findings, it is ironic and unexpected that the use of these words in the legal community is so prevalent. At the same time, the ongoing use of male-gendered words is not surprising given that subtle sexism may be both unintentional and normative. Thus, while some judges, lawyers, and legal scholars may not intend to be sexist, they are being sexist. Furthermore, while they are using sexist language, those around them may not consider it negative, unusual, or even noteworthy. It may be that a person's use of some gender-neutral terms such as *she or he* or the use of *she* generically in combination with the use of *he* generically obscures or distracts us from that same person's concurrent use of male-gendered generics such as *chairman* and

[81] *See* Table A. It could be that some legal scholars, as the authors are doing here, use the term *reasonable man* when criticizing its use or commenting on its history. It is doubtful, however, that the four percent use above that of lawyers or the eight percent use above that of judges is accounted for by the number of such "critical" articles.

congressman. Some male-gendered generics have simply become normative in our everyday legal conversations.[82]

A. Reluctance to Change

A community-wide shift from the use of male-gendered generics to gender-neutral terms is not necessarily as easy as it sounds. Social scientists are exploring why individuals continue to use male-gendered generics, particularly given the empirical research substantiating its exclusivity and potentially harmful effects. Janet Parks and Mary Ann Roberton, building on an earlier model by Maija Blaubergs, identified a whole host of reasons that individuals give for continuing to use sexist language and for resisting nonsexist language.[83] Some reasons are based on convenience; for instance, some believe that the change is too difficult given people's habits. Other explanations are based on deference to authority or tradition. They include these rationales: that the use of male-gendered generics is traditional, historically authentic, or consistent with the words' origins; or, in the alternative, that authoritative individuals such as teachers, bosses, or parents

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[82] The data discussed in this Article does not necessarily predict the language usage for any particular group of professors, judges, or practitioners. For example, the impressions of a particular set of law students may be that their faculty are more inclined to use nonsexist language (e.g., using *she* more than *he*) than the empirical evidence would suggest. It is possible that in certain situations (e.g., certain law school classes or even certain law schools), the use of nonsexist language is the norm, and therefore that that situation is an exception to the language patterns indicated in the empirical research. Such exceptions have a variety of possible explanations. It is possible that certain students consciously or unconsciously select courses where the professors are more inclined to be gender-conscious in their use of language, and therefore do not represent the typical faculty member. It may also be that faculty use nonsexist language in their classroom teaching (given the social norms), but do not do so in the writings (given the professional norms). Finally, it may be that the law students' impressions do not reflect what actually occurs. People are more likely to remember experiences that fit their expectations, and law students may expect their professors to use "progressive language." Through their "selective memory," students informally gauging the use of gender-neutral language in the classroom will be highly attentive to examples of *she*, and will remember those instances to be more common than they actually were. *See, e.g.*, HENRY GLEITMAN ET AL., PSYCHOLOGY 377-78 (6th ed. 2004) (describing the human tendency to particularly recall those occasions in which we or others with whom we identify "behaved well" while neglecting other occasions). For instance, students in one of the authors' seminar on "Gender and Race Dynamics in Law Schools and the Legal Profession" kept a journal of race and gender dynamics in their classes for two weeks. They were surprised at how their predictions differed from the empirical reality.

[83] Parks & Roberton, *Blaubergs (1980) Revisited*, *supra* note 4, at 445-46, 452-53 tbl.1.

use them. Another set of reasons are based on the user's particular beliefs or convictions. These beliefs are wide-ranging, varying from the view that male-gendered generics are not sexist, that sexism is acceptable, that changing infringes on their or others' freedom of speech, or that sexist language and sexism in society are unrelated. In other cases, claims that gender-neutral language is clunky, overly formal, or distracting provide a basis for perpetuating the linguistic status quo. Finally, some people continue to use male-gendered words because they lack knowledge or understanding about the effects of their use.

Some of these reasons belittle concerns about male-gendered generics and other sexist language, as well as disparage individuals who suggest change. For instance, people may consider worrying about sexist language to be trivial, ridiculous, frivolous, or radical.[84] In this way, an element of peer conformity may come into play, where coworkers, clients, and students feel social pressure to follow a male-gendered linguistic norm. Pressure to conform in social situations is widely documented in psychology research, which is significant given the highly social nature of language. For example, researchers find a human tendency to yield to the majority's will.[85] Similarly, there is a recognized social phenomenon known as the "bystander effect":

> [P]otential altruists [are] inhibited not by indifference but rather by important aspects of the social situation. In particular, they [are] inhibited by the presence of other potential altruists, and by their apparent failure to intervene in the same situation. . . . Group situations . . . can inhibit bystander intervention in two ways. First . . . is the dilution or diffusion of responsibility that each person feels because of the presence of others . . . . Second, . . . to the extent that there is ambiguity either about the nature of the situation or the nature of the appropriate response to that situation, the failure of other people to act serves to support interpretations or construals that are consistent with nonintervention.[86]

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[84] Blaubergs, *supra* note 4, at 138.

[85] For instance, in a series of classic studies by Solomon Asch, researchers found that anywhere from fifty percent to eighty percent of individuals in a study yielded to the majority's view at least once, even though the majority endorsed a patently wrong answer. This tendency to conform, called the "Asch Paradigm," has been repeatedly confirmed in other research. LEE ROSS & RICHARD E. NISBETT, THE PERSON AND THE SITUATION: PERSPECTIVES OF SOCIAL PSYCHOLOGY 30-35 (1991).

[86] ROSS & NISBETT, *supra* note 85, at 41.

Janet Swim and Lauri Hyers found these human tendencies in situations where women were confronted with sexist language.[87] In two studies, they explored how women who found sexist remarks objectionable and perceived the speaker as prejudiced still struggled with whether or not to publicly respond. They concluded that the diffusion of responsibility, normative pressures to not respond, social pressures to be polite, and concern about retaliation likely suppressed responding to sexist remarks.[88] While some may admire those who challenge sexism and other forms of discrimination, others will be critical.[89] Female students, for instance, may want to challenge sexist language, but may be hesitant to do so because they believe that their male colleagues will socially ostracize them.[90]

Therefore, in a group setting such as a law school or law firm, where the use of male-gendered generics may be perceived to be traditional, social pressure to conform to the norm and the bystander effect are likely. Thus, even individuals who would be inclined to do so may find it difficult

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[87] Janet K. Swim & Lauri L. Hyers, *Excuse Me—What Did you Just Say?: Women's Public and Private Responses to Sexist Remarks*, 35 J. EXPERIMENTAL SOC. PSYCHOL. 68, 85-86 (1999).

[88] *Id.*

[89] *See, e.g.*, Elizabeth H. Dodd et al., *Respected or Rejected: Perceptions of Women Who Confront Sexist Remarks*, 45 SEX ROLES 567 (2001) (describing admiration for those challenging sexist comments, but noting a potential for their social ostracism as well); Mark E. Johnson & Seana Dowling-Guyer, *Effects of Inclusive vs. Exclusive Language on Evaluations of the Counselor*, 34 SEX ROLES 407 (1996) (noting that students, particularly female students, prefer to see counselors who used nonsexist language).

[90] In the Dodd study, *supra* note 89, students read a transcript of a conversation between two men and one woman who were about to embark on a camping trip. As the three discussed how to assign responsibilities on the trip, one of the men made a clearly sexist remark and the woman was visibly upset. *Id.* at 570-71. In one version of the conversation the woman challenged the remark, while in another version the woman did not. The study participants were then asked among other questions about their impressions of the woman. The researchers found that female students respected the woman more if she confronted the sexist remark than when she did not, while male students' respect for the woman was unaffected by whether or not she confronted the remark. *Id.* at 571-74. They also found female students liked the woman more when she confronted the remark, but male participants liked the woman more when she did *not* confront the sexist remark. Thus, female students may face an unfortunate dilemma of challenging sexist language and being liked and respected by other women, or ignoring sexist language and being liked by men. *Id.* at 574-76.

to use nonsexist language (much less to challenge others' use of sexist language) in the absence of clear institutional and group indications endorsing nonsexist language.

B. Precedent of Change

Yet there is hope. Our research indicates that a few gender-neutral word options are now widely used in the legal community.[91] In some cases, the gender-neutral term superseded the use of the male-gendered generic, even though the male-gendered word was prevalent in earlier years. The case in point is the use of *reasonable person* and *reasonable man*.[92] During 1964-1966, *reasonable man* was used seventy-eight percent of the time in federal cases. In subsequent decades, there was a decline in its use (particularly between 1974-1976 and 1994-1996) in combination with a dramatic increase in the use of *reasonable person* and the limited use of *reasonable woman*, so that in 2004-2006, *reasonable person* is the norm (used ninety-six percent of the time). This dominant use of *reasonable person* instead of *reasonable man* illustrates that the legal community can change, despite its reluctance to do so. In addition, the process by which the community shifted from *reasonable man* to *reasonable person* offers a precedent from which we can learn.

We propose that the legal community's shift can be attributed at least in part to the heightened awareness that the term *reasonable man* might refer to males specifically and therefore be sexist. Historical developments in workplace sexual harassment law are illustrative, although the kind of process described below may have occurred in other areas of the law as well.[93] In the typical sexual harassment lawsuit brought under Title VII of the Civil Rights Act of 1964,[94] a female employee alleges that a male (often her supervisor) has harassed her on the basis of her sex, and consequently has created an illegal hostile work environment.[95] Key legal

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[91] *See supra* discussion accompanying notes 71-72.

[92] *See supra* discussion accompanying notes 72 and 76-77.

[93] In criminal law, corporate law, and tort law, for instance, there are legal standards which are based on reasonableness. As suggested by this study's data, it is likely that the standard was articulated as a *reasonable man* standard in earlier years and has subsequently been rearticulated as a *reasonable person* standard more recently. *See supra* discussion accompanying notes 76-77.

[94] 42 U.S.C. § 2000e-2 (2000).

[95] *See* Ann Juliano & Stewart J. Schwab, *The Sweep of Sexual Harassment Cases*, 86 CORNELL L. REV. 548, 584 (2001) (providing statistical analysis on characteristics of

inquiries in these cases include whether or not the male supervisor's harassment of the female employee was "because of sex," "unwelcome," and "severe or pervasive"—all necessary elements in a plaintiff's hostile environment case.[96]

For a number of years, and particularly during the 1980s and 1990s, there was considerable debate over whose perspective should be used in answering these critical questions.[97] Some jurists and scholars argued passionately and persistently that using a *reasonable man* standard rather than a *reasonable woman* standard in these cases was inappropriate given that the statutory purpose of the employment discrimination laws was to remove discriminatory barriers and harassment on the basis of sex for women. In fact, there were more law review articles written on the topic than there were judicial opinions adopting the *reasonable woman* standard.[98] Moreover, relying on emerging social science research, these scholars and jurists emphasized that men's perspective on what constitutes sexual harassment is distinct from women's perspective, and the choice of standard could quite possibly yield different outcomes to the queries above, and therefore to the legal resolution of the case.[99] Finally, in 1991, the Ninth Circuit in *Ellison v. Brady*[100] adopted a *reasonable woman* standard in cases where the target of the alleged harassment was a woman: "We adopt the perspective of a reasonable woman primarily because we believe that a sex-blind reasonable person standard tends to be male-biased and tends to systematically ignore the experiences of women."[101]

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sexual harassment cases); TERESA M. BEINER, GENDER MYTHS V. WORKING REALITIES: USING SOCIAL SCIENCE TO REFORMULATE SEXUAL HARASSMENT LAW 15-144 (2005) (discussing the sexual harassment laws, including the key elements of a sexual harassment claim).

[96] *See* BEINER, *supra* note 95, at 8-9; Pat K. Chew, *Freeing Racial Harassment Law From the Sexual Harassment Model*, 85 OR. L. REV. 615, 617 n.5 (2006) (summarizing the key elements and the relevant case law).

[97] BEINER, *supra* note 95, at 4-6.

[98] Juliano & Schwab, *supra* note 95, at 584.

[99] BEINER, *supra* note 95, at 46 (citing extensive social science literature).

[100] 924 F.2d 872 (9th Cir. 1991).

[101] *Id.* at 879.

Other federal circuits did not go so far as adopting a *reasonable woman* standard.[102] They presumably thought the standard unnecessary or too radical, or perhaps they were swayed by their concerns about appearing exclusionary of men. However, the judiciary's, the practicing bar's, and legal scholars' collective political consciousness was raised, and they were better informed about the possible disparities in gender perspectives. At least the term *reasonable woman* had entered the legal vernacular and gained some judicial credibility, and the term *reasonable man* and its possible sexist connotations were being questioned. Most judges apparently moved toward a term that they believed addressed the implied sexist nature of the *reasonable man* standard by choosing a *reasonable person* standard.[103] Unlike the *Ellison* court, they presumably interpreted that standard as being inclusive of both reasonable women and reasonable men and that such a standard was the appropriate one in a sexual harassment case regardless of the gender of the plaintiff. The courts' and others' modeling over time of the use of *reasonable person* thus resulted in its current normative use.

The legal community's shift from its use of *reasonable man* to *reasonable person* offers at least two lessons. First, raising the legal community's consciousness and knowledge about other male-gendered words being sexist is essential. In the Swim study on the detection and use of sexist language described above,[104] for instance, the researchers confirmed the striking effect of education on subjects' sensitivity to subtly sexist language. Study participants who were given definitions and specific examples of discriminatory language were almost three times better at detecting it.[105] Moreover, both individuals who agreed and disagreed with modern sexist beliefs benefited equally from the education,[106] suggesting that even those who are progressive about gender issues do not necessarily realize what constitutes sexist language and can profit from more

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[102] Only twenty-five out of 502 sexual harassment case court opinions adopted the *reasonable woman* standard. Juliano & Schwab, *supra* note 95, at 584. Furthermore, the Supreme Court referred to (but did not formally adopt) a *reasonable person* standard in *Harris v. Forklift Systems, Inc.*, 510 U.S. 17 (1993).

[103] This movement is demonstrated *supra* by the data in Table B.

[104] *See supra* discussion accompanying notes 43-46.

[105] Those who received instruction found an average of 11.15 incidents of sexist language, compared to those who did not receive instruction who found only an average of 3.8 incidents. Swim et al., *Understanding Subtle Sexism*, *supra* note 5, at 119-120.

[106] *Id.* at 121 (discussing modern sexist beliefs).

instruction. Thus, while there are numerous resources on nonsexist language,[107] they need to be better utilized.

A second lesson is that it is important for prominent figures and institutions in the legal community to model and advocate the use of nonsexist language, as has been done in other professions.[108] Law faculty and law schools could directly and indirectly encourage the use of nonsexist language.[109] The guide on gender-neutral language provided in this Article's Appendix, for instance, could be copied and distributed to students. Law firms could adopt, in their institutional mission statements, a firm-wide objective to decrease the use of sexist language in the workplace. Professional organizations such as the American Bar Association and the American Association of Law Schools could issue policy statements promoting nonsexist language. Law review boards and legal publishers could adopt standards on the use of nonsexist language.

Given what social scientists have found about the meaning and effects of male-gendered generics and other subtly sexist language, the legal community's ongoing use of this language effectively reinforces our acceptance of its debilitating messages about women. Women are

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[107] For examples, see *supra* note 56.

[108] The American Psychological Association (APA) indicates in its Publication Manual, *supra* note 56, that "[a]s an organization, APA is committed both to science and to the fair treatment of individuals and groups, and this policy requires authors of APA publications to avoid perpetuating demeaning attitudes and biased assumptions about people in their writing." *Id.* at 61. Furthermore, it states:

> Sexist bias can occur when pronouns are used carelessly, as when the masculine pronoun *he* is used to refer to both sexes or when the masculine or feminine pronoun is used exclusively to define roles by sex (e.g., "the nurse . . . *she*"). The use of *man* as a generic noun or as an ending for an occupational title (e.g., *policeman*) can be ambiguous and may imply incorrectly that all persons in the group are male.

Id. at 66. In addition, the APA rules indicate alternatives to the generic use of *he* and the use of words with the *man* suffix or prefix. *Id.* at 66-67, 71 tbl.2.1. *See also* Virginia L. Warren, Guidelines for Non-Sexist Use of Language, www.apa.udel.edu/apa/publications/texts/nonsexist.html (last visited Apr. 4, 2006) (outlining recommendations offered by the American Philosophical Association on eliminating the generic use of male-gendered words in their publications and offering examples of sexist language with nonsexist alternatives).

[109] Dr. Robert Kelley, a professor at the Tepper School of Business at Carnegie Mellon University, for instance, routinely distributes "Guide to Nonsexist Language" to his classes as part of the course syllabus, with brief informal comments on the impact of sexist language and the importance of avoiding potentially offensive sexist language in a business world where clients and colleagues are both women and men. *See supra* note 56.

disadvantaged when male-gendered generics such as *chairman*, *businessman*, *congressman*, and *he* are used to refer to both women and men. The communicator and the receiver automatically imagine men and stereotypically male characteristics, making it more difficult to see women in those roles. Although these messages are often communicated unconsciously, they can result in very real and damaging effects. Employers and clients may be less likely to see women as successful professionals assuming leadership roles. Faculty and classmates may be less likely to see women as worthy law students and future lawyers. Women themselves may begin to believe the underlying message that there is a mismatch between who they are and their chosen career path. Likewise, women may internalize the idea that they are not capable law students, lawyers, faculty, or judges.[110] In these and other ways, subtly sexist language can have significant harmful effects. The legal community's commitment to women entering law schools and succeeding in the profession, therefore, requires us to take affirmative steps toward an alternative nonsexist norm.

[110] Consider, for instance, the research on stereotype threat, which suggests that individuals who are stereotyped by society begin to internalize those stereotypes and perform more poorly than would otherwise be expected. *See, e.g.*, Connie T. Wolfe & Stephen J. Spencer, *Stereotypes and Prejudice, Their Overt and Subtle Influence in the Classroom*, 40 AM. BEHAV. SCI. 176, 181 (1996).

*Appendix: Gender Neutral Language**

Some words perpetuate biased assumptions and demeaning attitudes about people, even when that is not the intention. As the American Psychological Association reminds us, gender bias can occur when the masculine pronoun *he* is used to refer to both sexes. The use of *man* as a generic noun also can be ambiguous, and may imply incorrectly that all persons in the group are male. The list below offers examples for avoiding these problems.

Problematic	***Consider using instead . . .***
Act like a lady and think like a man	Act and think clearly and sensitively
Businessman	Business person/people, executive, merchant, industrialist, entrepreneur, manager
Chairman	Chairperson, chair, moderator, group leader, department head, presiding officer
Coed	Student
Congressman	Member of Congress, congressional representative, congressional rep, congressperson
Craftsman	Craftsperson, artisan
Fatherland, Motherland	Homeland, native land
Foreman	Supervisor
Founding father	Pioneer, colonist, patriot, founder
Gentleman's agreement	Informal agreement, your word, oral contract, handshake
Housewife, lady of the house	Homemaker, consumer, customer, shopper, parent, decision maker
Ladylike, girlish, sissy, effeminate	Tender, cooperative, polite, neat, fearful, weak, illogical, inactive (Both male and female characteristics)
Layman, layman's terms	Lay, common, ordinary, informal, nontechnical
Little lady, better half	Spouse, partner
Maiden name	Birth name
Maid, cleaning lady	Houseworker, housekeeper, custodian
Male chauvinist	Chauvinist
Man, mankind	People, humanity, human beings, humankind
Man a project	Staff a project, hire personnel, employ staff
Man-machine interface	User-system interface, human-computer interface
Man-sized	Husky, sizable, big, large, voracious

Man-to-man defense/talk	Player-to-player, person-to-person, face-to-face, one-to-one
Manly, tomboy	Courageous, strong, vigorous, adventurous, spirited, direct, competitive, physical, mechanical, active, self-confident (Both female and male characteristics)
Manpower	Workforce, personnel, workers, human resources
Man's search for knowledge	The search for knowledge
Mother Nature, Father Time	Nature, time
Mothering, fathering	Parenting, child-rearing
Repairman, handyman	Repairer (Better: plumber, electrician, carpenter)
Salesman	Salesperson, agent, associate, representative, rep, sales force (plural)
Spokesman	Representative, spokesperson, advocate, proponent
Statesman	Political leader, public servant, diplomat
Woman did well for a woman/as well as a man	Woman did well, woman performed competently
Woman doctor, lady lawyer, male nurse	Doctor, lawyer, nurse

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