

## Inherent bias must be acknowledged



Supreme Court nominee Sonya Sotomayor insists her "wise Latina" comment does not mean she will be biased on the bench. Commentator Betsey Stevenson says biased decision-making is inevitable, but can be overridden if its existence is acknowledged.

Betsey Stevenson, assistant professor of business and public policy at the Wharton School of Business. (<http://bpp.wharton.upenn.edu>)

### TEXT OF COMMENTARY

**KAI RYSSDAL:** Today was the last day of Sonia Sotomayor's Supreme Court confirmation hearings. From her perspective, it seemed to be smooth sailing. But if we hadn't heard it before, the news-consuming public certainly got its fill of the phrase "wise Latina" this week.

Judge Sotomayor apologized for any misunderstanding. She tried to put the comments into context. But commentator Betsey Stevenson says the nominee may not be that different from the rest of us.

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**Betsey Stevenson:** Supreme Court nominee Sotomayor's comments about her life experience as a "wise Latina" have been juxtaposed against those of Chief Justice Roberts, who once said that a judge's job is to "call balls and strikes," like a baseball umpire. The implication is that, Roberts is unbiased since most people believe that umpires are impartial. Certainly umpires make mistakes, but these mistakes are not driven by their race or ethnicity.

But is this right? Researchers agree that it's difficult to sustain bias in professional sports arenas. But they also believe, like the old adage about New York, if bias can make it there, it can make it anywhere. So two separate teams of economists recently studied baseball umpires. And they learned something pretty startling: An umpire is more likely to call "strike" than "ball" when he's of the same race or ethnicity as the pitcher. And as a result, your team is more likely to win if the umpire is the same race as the pitcher.

In sports, unlike the Supreme Court, there's an objective truth. And by comparing these umpires' calls with the pitch location data recorded by computers, researchers confirmed that it's the umpire making mistakes, favoring his own group. Similar research analyzing basketball referees also found that fewer fouls are called against white players when the refs are also white.

These three independent studies all find evidence of biased decision-making in a highly scrutinized arena with clear right and wrong answers. If our biases trip us up even when making simple decisions -- like calling ball or strike, foul or charge -- then I really worry about how they may affect the more complex judgments made by any Supreme Court justice.

Whether he admits it or not, a wise white man brings a different perspective to the bench, just as much as a wise Latina woman. Biases exists. Problems arise when we are unaware of them. If we acknowledge our bias, we can to work to override it. But by ignoring the reality, we will continue to tilt our calls towards those who look like us.

**Ryssdal:** Betsey Stevenson teaches at the Wharton School at the University of Pennsylvania.