

## Benevolent Stereotyping: Killing Careers With Kindness?

*By Melissa Berry*

*“She just returned from maternity leave and probably won’t want to travel right now. I’ll send Steve to cover the deposition.”*

*“I’d invite her to join us to have drinks with the client, but she probably wants to get home to her kids.”*

*“Working with this client requires thick skin. She’s too nice.”*

**H**ave you ever heard comments like these? The apparent kindness of these comments masks an underlying cognitive bias. Known as “benevolent” stereotyping or sexism, this seemingly considerate thought pattern and accompanying behavior is a form of subtle gender bias.

In contrast to hostile stereotyping, which every employee should know is unwelcome, benevolent stereotyping often flies under the radar. Yet decisions made based on benevolent stereotyping can adversely affect the short-term and long-term career development of women lawyers. This hidden bias can create barriers to advancement, contribute to attrition, and lead to a lower percentage of women partners and firm leaders.

### Good Intentions Can Sometimes Be Bad (for Careers)

This unprecedented year reminds us that goodwill and true kindness should be valued. Some actions that seem well-intended on the surface, however, may be rooted in traditional gender role stereotypes, paternalism, or assumptions about women’s capacities. A

person holding traditional stereotypes does not necessarily see the negative impact when they act from bias; they may even believe they are acting in the person’s best interest. But that does not mitigate the harmful effects of benevolent bias. For example, if a department head assumes that a woman partner would not be interested in a leadership role because she has a family, stereotypes and normative judgments about motherhood have come into play in the decision-making process.

Stereotypes about women’s parenting roles are reinforced by parallel stereotypes about men that assume a lack of domestic or caregiving responsibilities. Indeed, if a father’s familial status is considered at all, the traditional stereotype leads to the opposite assumption: a “good” father is one that provides for his family, which makes him a dedicated and dependable employee. These mutually reinforcing stereotypes create a self-fulfilling cycle that can persist even in the face of gender-neutral policy changes. An example is parental leave. If women are taking leave but men are not encouraged to, then a gap exists between policy and practice; the norms and behaviors have not shifted despite the change in policy. A more subtle example is men being rewarded for being responsive because they were checking email or otherwise available during leave.

### Another Brick in the (Maternal) Wall

Benevolent bias, together with other well-documented biases against mothers such as the negative competency and commitment bias, are bricks in the “maternal wall” described in the ABA’s 2019 report, *You Can’t Change What You Can’t See* (see Resources). Despite

benevolent intent, actions based on assumptions can lead to divergent paths and opportunities based on gender and familial status. Decisions influenced by benevolent bias can lead to reduced opportunities to develop skills and relationships with colleagues and clients. Cumulatively, these decisions negatively impact women's promotion, compensation, and access to leadership roles. In trying to protect women, this sugar-coated bias is slowly chipping away at careers.

The long-term effects of "gender policing in a benevolent tone," as aptly described by Professor Joan Williams of the University of California-Hastings and Director of the Center for WorkLife Law, are many. They include attrition, low rates of women equity partners, and fewer women in leadership roles. Short-term effects are also detrimental but less visible, such as a lessened sense of support or belonging for the affected individuals.

When women feel like they have to cover the fact that they are a parent, they cannot bring their whole selves to work. The pandemic ripped off the cover for many of us; remote working makes us all a bit more vulnerable as we reveal our homes and families to coworkers.

The struggles of our working parents are real, and, as recently confirmed by the ABA's 2019 report, *Walking Out the Door* (see Resources), it's no secret that a disproportionate amount of domestic work still falls on women attorneys. COVID-19 has caused us to re-examine the meaning of work-life integration and the realities of being an attorney and a parent. We also should consider how nonparents are impacted; the assumption that a single woman is more committed and more available to work is another stereotype to be combatted. Let's encourage courageous conversations about these issues.

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## Beyond Binary Thinking

While benevolent bias historically has arisen from traditional binary gender stereotypes, it's not a stretch to extend the concept to the non-binary or gender non-conforming context. Anyone who does fit traditional stereotypes may be subject to "thoughtful" but inappropriate assumptions. Similarly, LGBTQ+ attorneys or people with disabilities may be affected by erroneous assumptions about whether they may be interested in particular opportunities.

Intersectionality introduces further complexity about overlapping social categorizations and identities such as ethnicity, religion, marital status, familial status, veteran status, immigration status, socioeconomic status, age, disability, gender identity, gender expression, and sexual orientation. What opportunities may a benevolently biased colleague fail to offer to an associate of color who also identifies as LGBTQ+?

## Breaking Down Benevolent Bias

The simple way to break down benevolent bias is to directly ask the person rather than making assumptions about them based on gender, family, or other status. In our professional roles, we can help to minimize or eliminate the harmful effects of benevolent stereotyping by working at the institutional, group, and individual levels. In addition to encouraging direct communication, other potential bias-interrupting actions include:

- Revise trainings on bias and discrimination to include benevolent stereotyping. It's especially important that gatekeepers to career advancement are sensitive to this issue. Help partners, practice group leaders, and committee members to understand benevolent bias, recognize it, and interrupt it when they see it.
- Conduct listening sessions or survey attorneys to learn about your firm's culture. If your firm has a Women's Initiative or affinity group, leverage their collective knowledge and lived experiences to better understand what's working and what could be improved.

- Adopt policies and best practices that reduce biases in decision-making. For example, revamp “tap on the shoulder” practices to self-nomination/expression of interest processes. Identify gaps between policy and practice.

- Ensure a critical mass of women partners in key leadership roles, such as the advancement committee, compensation committee, executive committee, and practice group leaders. Consider adopting the Mansfield Rule (see Resources) and participating in the certification program to provide accountability.

- Examine the work assignment system and monitor work distributions to ensure greater equitable allocation of prime work assignments. Benevolent bias can result in women receiving nonbillable “office housework” or low-value assignments to “protect” them from challenging, competitive work.

- Review performance evaluations with an eye toward praise that may be based on benevolent stereotyping. Specifically discuss this type of bias when training attorney evaluators.

- Provide resources to caregivers to relieve pressures from family obligations, such as flexible arrangements, emergency childcare, and concierge services.

- Introduce attorneys and law students to techniques for identifying stereotype threats and benevolent bias and managing their impact on career development. A great resource is *Breaking Through Bias: Communication Techniques for Women to Succeed at Work*, by Andrew S. Kramer and Alton B. Harris (see Resources: *Breaking Through Bias*).

These strategies are a jumping off point toward fostering a more equitable and inclusive workplace environment.

## Resources

You Can't Change What You Can't See, ABA report, 2019:

[www.americanbar.org/products/ecd/ebk/358942050](http://www.americanbar.org/products/ecd/ebk/358942050)

Walking Out the Door, ABA report, 2019:

[www.americanbar.org/groups/diversity/women/initiatives\\_awards/long-term-careers-for-women/walking-out-the-door](http://www.americanbar.org/groups/diversity/women/initiatives_awards/long-term-careers-for-women/walking-out-the-door)

Mansfield Rule:

[www.diversitylab.com/mansfield-rule-4-0](http://www.diversitylab.com/mansfield-rule-4-0)

*Breaking Through Bias: Breaking Through Bias: Communication Techniques for Women to Succeed at Work*, by Andrew S. Kramer and Alton B. Harris, Biliomotion 2016.

## About the Author

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