

# Opinion • Commentary

## Half the Story

**B**Y PRETENDING to be gender-neutral, the Maryland Special Joint Committee on Gender Bias in the Courts has done a disservice. It is not my purpose to deny the existence of gender bias against women, but rather to challenge the insignificance the committee attached to gender bias against men.

Suppose a judge handling the bankruptcy of a department store

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By Jack Kammer

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that had been driven to insolvency by shoplifting agreed to let the store stay in business, but with the requirement that all female shoppers — and only female shoppers — sign a police log upon entering. Rightly, such a ruling would be roundly criticized as gender bias.

Now, suppose a judge handling the licensing of a day-care center plagued with allegations of child abuse agreed to let the center stay open, but only with the requirement that all males — and only males — sign a police log upon entering. This is not hypothetical. It happened in 1987; the ruling is still in effect at the Bo Peep Day-care Center in Bel Air.

The gender-bias committee received testimony on this incident during its hearings, but there was no mention of it in its report. Asked why, a panel member said weakly that its report had no section in which to include such a situation, and finally attempted to dismiss it by pointing out that the analogy to the bankruptcy case is incorrect because bankruptcies are heard by federal, not state, judges. The committee should more honestly have said: "We are not interested in gender bias against men."

The committee's sources of information were biased. Questionnaires, described by a member, Rosalyn B. Bell, an appellate judge, as the committee's "most important source of information," were distributed to all female lawyers in

the state but only to a sample of male lawyers. The questionnaires, according to the committee report, "were drafted using the New York gender-bias questionnaire as a model." But that form was drafted for a survey exclusively interested, according to its name, in "Women in the Courts."

The failure of courts to enforce visitation orders against custodial parents who interfere with what is typically the child's relationship with a non-custodial father is among the greatest aggravations divorced fathers face. When the committee was asked why its report had a section on enforcing child-support payment orders, but not on enforcing visitation orders, the response was, "We had no data." Again, the committee could have been more direct: "We sought no data."

In fact, the report's only recommendation on interference with visitation is for courts to "recognize that withholding of visitation is only a factor in awarding custody, and is not determinative." Thus, one of the greatest problems men face in court is tersely minimized, and worse, practically legitimized.

The report's double standard establishes the fairness of the "typical" custody case and then describes atypical cases as "rare." In other parts of the report, the fact that judges, for instance, do not typically call lawyers "babe" was no bar to vigorously criticizing the occasions on which it happens.

The most serious gender bias in the report, consistent with its feminist agenda, is its treatment of domestic violence against women. The committee considers the specter of male violence against women sufficient reason to prejudice men's chances of winning custody, to excuse the refusal of a mother to allow a child to see its father, and to recommend the establishment of a "battered-woman's syndrome" defense for women who kill men.

Only the committee's sexism supports the notion that domestic violence is overwhelmingly a male

phenomenon. Impressive scientific evidence to the contrary is available to those conscientious and open-minded enough to seek it. The November-December 1987 issue of *Social Work*, for instance, includes a thorough summary of the research on the problem and concludes that "domestic violence is a two-way street."

The article, written by Drs. R.L. McNeely and Gloria Robinson-Simpson, discusses a number of studies that conclude there is no difference between the sexes in the frequency or severity of domestic violence. The authors point out the error of studies purporting to show that women are victims in 98 percent of domestic violence incidents, the figure cited by one of the committee's members in releasing the gender-bias report. Such surveys "invariably are based on . . . law-enforcement records, but . . . these studies are flawed . . . because men are less likely to lodge official victimization reports."

The committee's report attaches great significance to the testimony of a woman whose story of domestic victimization was utterly disre-

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**Men, too, face gender bias in the courts. Last week's one-sided special report by a state commission will exacerbate it.**

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garded in court. The judge reportedly said, "since I would not let that happen to me, I can't believe that it happened to you." Intended by the committee as evidence of judges' skepticism toward women victims of domestic violence, the incident is even more powerful as an indication of how such judges would regard a man complaining of

being physically harmed by a woman, and why male victims seldom venture forward.

In "Silent Crisis," a book clearly sensitive to the real problem of domestic violence against women, Roger Langley decries the way false victims hurt the credibility of actual victims: "Some women have skillfully manipulated the rules of our society to victimize their husbands. Women seeking divorces have been instructed by their attorneys 'on ways to anger males' in order to provoke an attack to help establish grounds for a more favorable . . . divorce settlement."

The barest mention of such unhappy facts is beyond the report's regard for truth and balance. Instead, the report seeks to install handles by which women can manipulate the system to their advantage with even greater impunity.

The committee urges recognition of the "battered-woman syndrome" defense for those standing trial for killing their spouses. In the *Journal of Criminal Justice* S.D. Rittenmeyer suggests that "The [battered-woman] defense, by exploiting . . . traditional stereotypes . . . licenses the quick use of deadly force by a specialized group . . . bestowing upon the abused wife the unique right to destroy her tormentor at her own discretion."

The Special Joint Committee on Gender Bias in the Courts has been a shameless farce. As Maryland's Chief Judge Robert C. Murphy wrote in his charge to the group, "A fair and efficient justice system can ill afford in its administration even the slightest perception of purposeful discrimination, whatever its source." The people of Maryland should reject the report and demand that the committee be reconstituted to serve authentically the purpose the former committee only pretends to honor.

Mr. Kammer, a former executive director of the National Congress for Men, hosted a radio talk show in Baltimore, "In a Man's Shoes." He is a free-lance writer specializing in men's issues.